

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

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

MARCH 18, 2019 CITY COUNCIL AGENDA

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the City Council draft minutes of February 20, 2019 and March 4, 2019.

PROCLAMATIONS:

APPOINTMENTS:

Order 175-18/19 Appointing Hanna Pickering as the Information Technology Director - Sponsored by Jon P. Jennings, City Manager

Hanna will be filling the position of Director of IT following an extensive recruitment and hiring process, as we prepare for the retirement of our long term IT Director Dan Boutilier. Due to the complexity of the City's IT infrastructure, it is necessary to have a period of overlap between the retiring and incoming IT Directors so that continuity of services is maintained. A referred candidate from ProSearch, Hanna brings with her a strong IT leadership background, where she has worked in the fields of financial services, healthcare, and local government. Lastly, we are very pleased to have found a qualified candidate who is also a resident of the City of Portland. As her resume shows, she brings a level of skills and experience that will enable her to successfully lead the IT Department into the future.

Approval is requested to appoint Hanna Pickering to the position of Director of Information Technology for the City of Portland's IT Department at the annual salary rate of \$126,477.00.

Seven affirmative votes are required for passage as an emergency after public comment.

CONSENT ITEMS:

LICENSES:

Order 176-18/19 Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue - Sponsored by Jon P. Jennings, City Manager

Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue.

Application was filed on 2/25/2019. New City and State applications. Location was previously Trattoria Fanny.

Five affirmative votes are required for passage after public comment.

Order 177-18/19 Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street - Sponsored by Jon P. Jennings, City Manager

Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street.

Application was filed on 2/25/2019. New City and State applications. Location was previously Foundation House Triangle Café.

Five affirmative votes are required for passage after public comment.

Order 178-18/19 Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point - Sponsored by Jon P. Jennings, City Manager

Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point.

Application was filed on 2/25/2019. New City and State applications. Applicant currently holds a Distillery with Entertainment without Dance and Outdoor Dining on Private Property at this location.

Five affirmative votes are required for passage after public comment.

Order 179-18/19 Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street - Sponsored by Jon P. Jennings, City Manager

Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street.

Application was filed on 2/14/2019. New City and State applications. Applicant currently holds a Class III license at this location.

Five affirmative votes are required for passage after public comment.

Order 180-18/19 Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street - Sponsored by Jon P. Jennings, City Manager

Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street.

Application was filed on 2/20/2019. New City and State applications. New owners of an existing business.

Five affirmative votes are required for passage after public comment.

Order 182-18/19 Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square - Sponsored by Jon P. Jennings, City Manager

Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square.

Application was filed on 2/25/2019. New City and State applications. Applicant currently holds a Food Service Establishment with Prep.

Five affirmative votes are required for passage after public comment.

Order 183-18/19 Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street - Sponsored by Jon P. Jennings, City Manager

Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street.

Application was filed on 2/19/2019. New City and State applications. New owners of an existing business.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Resolution 11-18/19 Adopting the Fiscal Year 2020 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 2020 annual action plan and appropriates funds to the identified programs.

The 2019/2020 Housing and Community Development Program will report in the Annual Action Plan to HUD a total estimated budget of \$5,133,228 funded by a Community Development Block Grant allocation of \$1,895,922 plus \$120,000 in TIF funding and \$20,000 in Cotton St. proceeds along with \$102,242 in CDBG Housing Program Income; a HOME Consortium Program Grant allocation of \$1,151,710; HOME Program Income of \$74,887; HOME Recapture Funds of \$74,093; Lead Safe Housing Program Income of \$268,741; local Housing Trust Funds of \$1,268,320; and an Emergency Solutions Grant Allocation of \$157,131.

The CDBG 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 public hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing year. 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 local and federal regulations. The first reading and public hearing on this item is on March 18, 2019. Staff is requesting that the second reading and public hearing on this item be held on April 22, 2019, when five affirmative votes will be required for passage after public comment.

Resolution 12-18/19 Supporting Banning All Non-Medical Vaccination Exemptions -- Sponsored by Mayor Ethan Strimling

With more people deciding to not have their children vaccinated for diseases like measles and pertussis or whooping cough, those diseases have begun to spread. A bill before the Maine Legislature would ban any non-medical exemptions for vaccinations required by schools in order to change this trend and especially in order to protect those children with compromised immune systems who are medically unable to be vaccinated. This Resolve supports that bill.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 172-18/19 Approving Federal Aviation Administration 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 of entitlement funding 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 International Jetport has AIP entitlement funding totaling \$3.93 million based upon 925,903 enplaned passengers in 2017. In addition to entitlement funding the Jetport is also seeking AIP discretionary funding of \$3.74 million in federal fiscal year 2019. Two projects have been planned this year which include: the construction of Taxiway B to connect Runway 36 to 29; and the expansion of the terminal aircraft apron to provide an additional aircraft deicing pad, aircraft hold area, and aircraft overnight parking. These projects will be procured under two construction contracts with a total engineer estimated cost for both projects of \$8.52 million.

The AIP funding amount for these projects of \$7.67 million is 90% of the total cost for the project. The balance of \$850,000 is covered locally through the Jetport's operating budget and through state funding of up to 5% of project costs.

This item requires to be read on two separate days. It had its first reading on March 4, 2018. Five affirmative votes are required for passage after public comment.

Order 173-18/19 Setting Public Hearings on Fiscal Year 2020 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program and Emergency Solutions Grant Program - Sponsored by Jon P. Jennings, City Manager

As required under our Housing and Urban Development-approved citizen participation process, Public Hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing fiscal year. The Community Development Block Grant (CDBG) Annual Allocation Committee, appointed by Council, reviewed each application and made funding recommendations. The Committee is given an opportunity to make a presentation to the Council, and citizens may comment on the City's annual plan for the use of CDBG, HOME and Emergency Solutions Grant funds.

This order was approved on March 4, 2018. Staff is recommending that this order be reconsidered and amended to move the second public hearing to April 22, 2019, to allow adequate time at the meeting for public comment. The first public hearing will be held at this meeting on March 18, 2019 and the second, if this ordered is amended, would be on April 22, 2019 at 5:30 p.m., in Portland City Hall, Council Chambers, 389 Congress Street.

A motion to reconsider is required, and then a motion to amend. Five affirmative votes are required for passage as amended after public comment.

ORDERS:

Order 184-18/19 Dedicating Tax-Acquired Land on Holbrook Street as a Land Bank Property Interest - Sponsored by Patrizia Bailey/Co-Chair, Land Bank Commission.

It has been a goal of the Land Bank Commission to protect open space in Portland. At the Land Bank Commission meeting on February 13, 2019, it unanimously voted to recommend to the City Council to place the vacant land, tax-acquired parcels 335-E-11 to 13 in the Land Bank for protection of green space in this area.

See the attached map showing the location of the subject parcels, as well as other Land Bank properties in this area of outer Forest Avenue. The rationale for the Land Bank designation is to protect open space in this area.

Five affirmative votes are required for passage after public comment.

Order 185-18/19 Approving Parking Division Daily Parking Fees for the Queuing Lanes at Ocean Gateway - Sponsored by Jon P. Jennings, City Manager

The Thames Street Parking Lot will be closed from approximately mid-April to mid-October to accommodate a construction staging area for the Thames Street extension project, installation of the 60-inch storm drain pipe and access to the 58 and 100 Fore Street projects. We anticipate parking to be in high demand in this area for businesses, tourists and visitors to the Islands during this time period. Therefore, we are opening a temporary daily parking lot in the queuing lanes at Ocean Gateway in 2019. Parking in the lot will cost \$15 per day (24-hour period), with a 15-day maximum. The lot will be open mid-April 2019 through October 31, 2019 only. We will be installing two multi-space parking meters to accept credit card payments, so no staffing expense will be incurred (beyond adding the lot to existing Parking enforcement routes).

Five affirmative votes are required for passage after public comment.

Order 186-18/19 Approving Communications Union Contract - 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, 2018.

The Communications Employee Association, which is comprised of 32 Telecommunicators and Telecommunications Supervisors, one Fire Alarm Specialist and one Radio Systems Specialist, has reached a tentative agreement with the City. The Administration is requesting a first reading on March 18, 2019. The tentative agreement is within the guidance received by the City Council on November 5, 2018.

The City and the Communications Unit have reached a tentative agreement on a two (2) year contract with a 3.0% general wage increase for Fiscal Year (FY) 2019 retroactive to July 1, 2018 and a 3.0% general wage increase effective July 7, 2019. 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:

- Employees will receive Holiday premium pay for actual hours scheduled for the day of the Holiday, either eight (8) hours or twelve (12) hours.
- \$.10 per hour increase to educational stipends
- \$.10 per hour increase to all shift differentials.
- Add \$.75 per hour to each step of the Supervisor pay scale after implementing 1st year of COLA to provide incentive to become a supervisor
- Increase Field Training stipend from \$1.00 per hour to \$1.35 per hour
- Increase on call pay from \$15 per day weekdays and \$22.50 per day weekends and Holidays to \$16 per day weekdays and \$23.50 weekends and Holidays

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, 2018 through June 30, 2020.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct costs for the two (2) year agreement is approximately \$145,000.

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

Order 187-18/19 Appropriating \$550,000 for Automated Exit Portals at the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

The Portland International Jetport is proposing to make the following improvements.

- Supply and installation of two automated secure exit portals \$375,000
- Security staffing for exit lane during construction \$ 35,000
- Building improvements necessary to accept secure exit portals \$140,000
- Total \$550,000

These improvements will update and replace the existing automated secure exit portal with two new units providing higher throughput, lower operating costs, and greater security.

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

Order 188-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Cumberland Avenue, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Cumberland Avenue. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$99,275.00, and an additional \$14,000.00 for manhole adjustments from a water resources fund.

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

Order 189-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Danforth Street - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Danforth Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Danforth Street. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$176,650.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

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

Order 190-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to India Street - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill India Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves India Street. The agreement obligates the City to pay MaineDOT for \$289,000.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

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

AMENDMENTS:

Order 191-18/19 Amendment to the Portland City Code Chapter 35 Re: Earned Paid Sick Leave - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Belinda Ray, Chair

Over the past 12 years, 47 municipalities, counties, and states have enacted Earned Paid Sick Leave Ordinances (including 13 New Jersey municipalities which were later pre-empted when the state law passed in 2018).

On September 18, 2017, the City Council referred a proposed Earned Paid Sick Time Ordinance, which was brought forward by Mayor Strimling in collaboration with the Southern Maine Workers' Center and the Maine Women's Lobby, to the Council's Health & Human Services and Public Safety committee. On November 27, 2017, the committee had an initial discussion of the ordinance and began working to craft a version of the ordinance designed specifically for Portland.

The committee spent nearly 15 months examining ordinances from other municipalities and states, talking with constituents and area businesses, receiving public comment via email, phone, and in person, and holding two public hearings. On February 26th, the HHS & PS Committee voted 3-0 to forward the ordinance on to the Council with a recommendation for passage.

The ordinance, if enacted, would require all employers with a physical location in the City of Portland to allow all their employees working in Portland (with some limited exceptions) to accrue a minimum of 1 hour of earned paid sick time for every 30 hours worked. Employees would begin earning paid sick time on their first day of employment and would be able to begin using their accrued time after their 70th day of employment or the date this ordinance becomes applicable, whichever is later.

Employees would be eligible to use up to 40 hours of their accrued time annually for the purposes and under the conditions described in the ordinance.

Businesses of all sizes are covered by the ordinance, as are all employees who work at least 120 hours annually for an employer, whether they are full-time, part-time, or seasonal. There are, however, exemptions for some per diem employees, Federal Work Study students, and new businesses, which are exempt from the ordinance for one year from the date of hire of their first employee.

As written, the ordinance would become applicable 180 days after the date of passage.

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

Order 192-18/19 Amendment to Portland City Code Chapter 18 Parks, Recreation and Public Buildings and Ground Re: Formalizing the Boundaries of Boyd Street Gardens - Sponsored by Councilor Belinda Ray

Boyd Street Gardens (a.k.a., Franklin Reserve, a.k.a., Boyd Street Urban Farm) was included in a list of over 50 City properties dedicated as Parks and Public Grounds in 2014 (Order 203-13/14). By dedicating these properties in Chapter 18 of the City Code, the Council ensured that the properties would be subject to the provisions of Article 1B in Chapter 18. These provisions include the following:

- the City will maintain these properties “predominantly in their natural, scenic, open and/or intended condition;” and
- the City will not use, sell, or dispose of any of these properties for non-recreational purposes unless the decision to do so is first reviewed by the Parks Commission, “who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.”

There is no question that Boyd Street Gardens has been dedicated and is subject to these provisions. There has, however, been confusion regarding the boundaries of Boyd Street Gardens. This confusion has led various individuals and groups to wonder if the parcel, or any portion of the parcel, is eligible for housing or other development.

A review of historical documents, the back-up materials for Order 203 13/14, and the City’s Open Space Vision and Implementation Plan provides a solid case for including the entire parcel (022 F023) in the 2014 dedication.

This amendment to Chapter 18, Section 11, formalizes the boundaries of Boyd Street Gardens by including the entire parcel in the dedication language so that there will be no confusion going forward.

In addition to establishing clear boundaries for Boyd Street Gardens, this amendment also adds the name “John Menario Plaza” next to Lobsterman Park, which is what the park was called when it was dedicated. This addition will ensure the parcel is easily identified and recognizable in the list by both its historic and current name.

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

Order 193-18/19 Amendment of Portland City Code Chapter 25 Streets, Sidewalks, and Other Public Places Re: Outdoor Dining Permits - Sponsored by Jon P. Jennings, City Manager

Historically, state law has prohibited the off-site sale of liquor by a licensed establishment unless the sale was on public or privately owned property immediately adjacent to the licensed establishment. It is for this reason that all outdoor dining permits issued by the City for dining on City sidewalks have historically required that outdoor dining areas be limited to the sidewalk space immediately adjacent to the restaurant. That state law was recently amended and now allows establishments with liquor licenses to serve alcohol on municipally owned property not immediately adjacent to the licensed establishment if the municipality has given its approval.

In response to this change in the law, this amendment will create a new outdoor dining permit and set fees for “parklet” outdoor dining spaces that utilize dedicated City parking spaces when sidewalk space immediately adjacent to a licensed eating establishment does not permit outdoor dining. The Amendment is to City Code Section 25-27. It is proposed as a pilot project with a limited number of available spaces initially to allow careful monitoring by staff to ensure public safety and to ensure that initial guidelines and restrictions constitute best practices when it comes to regulation of these spaces.

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

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

EXECUTIVE SESSION:

MINUTES ARE DRAFT UNTIL APPROVED BY THE CITY COUNCIL AT THE FOLLOWING MEETING.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Strimling called the meeting to order at 5:30 P.M. (Councilor Thibodeau arrived during Order 156, Councilor Mavodones absent).

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

Motion was made by Councilor Costa and seconded by Councilor Batson to recess the meeting of the City Council and convene the Annual Meeting of the Corporator of the Portland Development Corporation. Passage 7-0.

Special Meeting of the Corporator of Portland Development Corporation

Order 156-18/19 Amending the Portland Development Corporation By-laws - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair

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

Order 157-18/19 Proposing Brownfields Assessment Program Guidelines, and Amending Guidelines for the Brownfields Revolving Loan Fund Program and the Brownfields Closeout Fund - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair

Motion was made by Councilor Duson and seconded by Councilor Cook or passage. Passage 8-0.

Motion was made by Councilor Ray and seconded by Councilor Duson to adjourn the Annual Meeting of the Corporator of the Portland Development Corporation and reconvene the regular meeting of the City Council. Passage 8-0.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

February 4, 2019 Draft City Council Minutes.

Motion was made by Councilor Ray and seconded by Councilor Costa for approval of the February 4, 2019 City Council minutes.

Passage 8-0.

PROCLAMATIONS:

APPOINTMENTS:

Order 158-18/19 Appointing Members to Various Boards and Commissions - Sponsored by the Nominating Committee, Councilor Pious Ali, Chair

Motion was made by Councilor Ali and seconded by Councilor Costa for passage.

Passage 8-0.

CONSENT ITEMS:

LICENSES:

Order 159-18/19 Granting Municipal Officers' Approval of Austin Street Brewery LLC dba Austin Street Brewery LLC. Application for a Class III & IV FSE with Entertainment without Dancing and Outdoor Dining on Private Property at 109 Fox Street - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau for passage.

Passage 8-0.

Order 103-18/19 Granting Municipal Officers' Approval of Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the Condition of No Amplified Entertainment Outdoors - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Ray and seconded by Councilor Batson for passage.

Passage 8-0.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Resolution 10-18/19 Calling upon the United States Congress to Propose a

Constitutional Amendment to Restore Fair Elections - Sponsored by Ethan K. Strimling, Mayor

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

UNFINISHED BUSINESS:

Order 96-18/19 Approving Purchase and Sale Agreement with Waterstone Properties Group, Inc. - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Costa and seconded by Councilor Batson to postpone Order 96 to the April 8th City Council meeting. Passage 8-0.

Mayor Strimling took Order 151 out of order.

Order 151-18/19 Authorizing Adoption of Cultural Plan Update of 2018 - Sponsored by the Planning Board, Sean Dundon, Chair.

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

Order 140-18/19 Amendment to Portland City Code Chapter 14 Re: Marijuana Medical and Adult Use Regulations - Sponsored by the Planning Board, Sean Dundon, Chair.

Motion was made by Councilor Cook and seconded by Councilor Ali to amend Order 140 by adding "Sec. 14-412. Approvals and required permits.

For purposes of Chapter 14, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing or testing facility use operating under 28 M.R.S. § 101 et seq. Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may operate without the applicable state and City license."

Passage 8-0.

Motion was made by Councilor Ray and seconded by Councilor Cook to amend Order 140
Sec. 14-411. Marijuana Use Regulations

by deleting in section 2. after within " 200" and adding "300", in this same section striking out "nearest property line of the respective marijuana related use and" adding "the nearest outer wall of the building housing the marijuana cultivation, manufacturing, or testing facility" and finally adding to the same paragraph "If the marijuana related facility leases a room or suite of rooms within a building, including without limitation, individual units within a shopping mall, the nearest outer wall of the room or suite of rooms within which the facility is located shall constitute the nearest outer wall of the building housing that facility"

Passage 8-0.

Motion was made by Ray and seconded by Councilor Dusen to amend order 140 by striking out :

Sec. 14-47 Definitions.

Third paragraph starting with the word, " Accessory sales of incidental accessories are permitted, but no food or beverage that is not marijuana product may be sold on the premises." and by adding "A marijuana retail store may sell products in accordance with 28-BM.R.S.A. subsection 504 except that marijuana retail

sore may not sell products containing alcohol or tobacco. A marijuana retail store may not permit entry to a person under 21 years of age and must ensure that persons under 21 years of age do not enter its licensed premises. A marijuana retail store may not sell any item to a person under 21 years of age."

Motion was made by Councilor Thibodeau and seconded by Councilor Costa to amend the amendment by striking out "A marijuana retail store may sell products in accordance with 28-M-B M.R.S.A. subsection 504 except that a marijuana retail store may not sell products containing alcohol or tobacco. A marijuana retail store may not permit entry to a person under 21 years of age and must ensure that person under 21 years of age do not enter its licensed premises. A marijuana retail store may not sell any items to a person under 21 years of age. Passage of amendment to the amendment 8-0.

Motion was made by Councilor Ray and seconded by Councilor Cook for passage of the amendment as amended. Passage 8-0.

Motion was made by Councilor Cook and seconded by Councilor Ray to amend order 140 by adding at the end of the definition of a marijuana retail store: "A marijuana retail store shall not include a registered dispensary." Passage 8-0.

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

Order 150-18/19 Approving Two-Party Agreement between Portland and the Maine Department of Transportation Re: Washington Avenue Final Engineering and Construction - Sponsored by Jon P. Jennings, City Manager.

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

Order 152-18/19 Authorizing General Obligation Bonds to Finance a Portion of the City's Fiscal Year 2020 Capital Improvement Program in an Amount not to Exceed \$40,100,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair

Motion was made by Councilor Costa and seconded by Councilor Ray to amend Order 152 by striking "\$100,00. from Separated bike lanes and \$200,000.00 from Franklin Street Design Completion and construction". by adding "\$125,000.00 to the Traffic Signals Upgrade Program, 125,000 to sidewalk rehabilitation/accessibility and adding \$50,000 to pavement preservation. Passage 8-0.

Motion was made by Councilor Cook and seconded by Councilor Duson to amend Order 152 by Eliminates or reduces funding for several projects totaling \$1,020,000.00.

Motion was made by Councilor Cook and seconded by Councilor Duson to divide the amendment. Passage 8-0.

Motion was made by Councilor Cook and seconded by Councilor Ray to remove \$25,000 from the \$185,000 for Parking Meters.

Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Cook and seconded by Councilor Duson to remove \$200,000.00 for the State of Maine Room and Customer Service Areas A/C Installation in City Hall. Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Cook and seconded by Councilor Batson to remove \$25,000.0 for the Fort Allen Gazebo. Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Cook and seconded by Ray to remove \$50,000.00 from the Riverton Playground Replacement. Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Cook and seconded by Councilor Ray to remove \$200,000.00 from Dougherty Athletic Field. Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Cook and seconded by Councilor Ray to remove \$125,000.00 from Separated bike lanes. Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Cook and seconded by Councilor Ray to remove \$225,000.00 from Traffic Signals Upgrade Program. Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Cook and seconded by Councilor Duson to vote on "Removing \$60,000. 00 for Public Art and \$60,000.000 from the Landbank" together. Passage 8-0.

Motion was made by Councilor Cook and seconded by Councilor Duson to remove \$60,000.000 for Public Art and \$60,000.00 from the Land Bank. Motion failed 1-7 (Duson, Ali, Costa, Ray, Thibodeau, Batson, Strimling).

Motion was made by Councilor Costa and seconded by Councilor Ray for passage of amendment as amended. Passage 8-0.

Motion was made by Councilor Costa and seconded by Councilor Thibodeau for passage as amended. Passage 7-1(Cook)

Order 153-18/19 Appropriating Bond Proceeds and Unassigned Fund Balance in an Amount not to Exceed \$42,100,000 for the City's Fiscal Year 2020 Capital Improvement Program - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

Motion was made by Councilor Costa and seconded by Councilor Ray to amend Order 153 by reallocating \$200,000 from Franklin Street Design Completion and Construction and reallocating \$100,000.00 Separated Bike Lanes to \$125,000.00 to Traffic Signal Upgrade Program,\$125,000.00 to Sidewalk Rehabilitation/Accessibility and \$50,000.00 to Pavement Preservation Program. Passage 8-0.

Motion was made by Councilor Costa and seconded by Councilor Ray for passage as amended. Passage 7-1(Cook).

Order 154-18/19 Amendment to Portland City Code Chapter 12 Re: Abandoned Bicycles - Sponsored by Councilor Belinda Ray

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

Order 155-18/19 Amendment to Portland City Code Chapter 12 Re: Expanding E-Card Program - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair.

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

ORDERS:

Order 160-18/19 Accepting the Donation of \$300,000 from Maine Medical Center - Sponsored by Jon P. Jennings, City Manager

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

AMENDMENTS:

Order 161-18/19 Amendment to the Zoning Map Re: Section of Forest Avenue to Community Business B-2B - Sponsored by the Planning Board, Sean Dundon, Chair.

This is a first reading.

Order 162-18/19 Amendment to the Portland City Code Chapter 14 Re: Drive-throughs in the B-2, B-2b and B-2c Community Business Zones - Sponsored by the Planning Board, Sean Dundon, Chair

This is a first reading.

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

Councilor Cook made a comment regarding the meetings in July and August, she wondered if the meetings should be changed in the City Charter.

Motion was made by Councilor Costa and seconded by Councilor Ray to adjourn. Passage 8-0, 9:45 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

EXECUTIVE SESSION:

MINUTES ARE DRAFT UNTIL APPROVED BY THE CITY COUNCIL AT THE FOLLOWING MEETING.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Strimling called the meeting to order at 5:40 P.M. (All Councilors Present)

ANNOUNCEMENTS:

RECOGNITIONS:

Arts in the Chamber, Dinah Minot, Artistic Director, Hear Here Recap

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

PROCLAMATIONS:

APPOINTMENTS:

Order 163-18/19 Appointing Long Creek Watershed Management District Directors Curtis Bohlen and Douglas Roncarati - Sponsored by Jon P. Jennings, City Manager

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

CONSENT ITEMS:

Order 164-18/19 Declaring July 27, 2019 the 17th Annual Greater Portland Festival of Nations - Sponsored by Jon P. Jennings, City Manager

Order 165-18/19 Declaring August 3, 2019 the Picnic Craft Fair Festival - Sponsored

by Jon P. Jennings, City Manager

Order 166-18/19 Declaring August 25, 2019 the Pet Rock in the Park 2019 Festival - Sponsored by Jon P. Jennings, City Manager

Motion was made by Councilor Batson and seconded by Councilor Thibodeau for passage of the Consent Items. Passage 9-0.

LICENSES:

Order 167-18/19 Granting Municipal Officers' Approval of Black Tie Inc. dba Black Tie Company @PMA Application for a Class I FSE at 7 Congress Square - Sponsored by Jon P. Jennings, City Manager

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

Order 168-18/19 Granting Municipal Officers' Approval of General Gardens LLC dba Flood's Application for a Class I FSE at 747 Congress Street - Sponsored by Jon P. Jennings, City Manager

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

Order 169-18/19 Granting Municipal Officers' Approval of The Sustainability Lab dba Fork Food Lab Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street - Sponsored by Jon P. Jennings, City Manager

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

Order 170-18/19 Granting Municipal Officers' Approval of Sun Tiki Studios LLC dba Sun Tiki Studios LLC Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue - Sponsored by Jon P. Jennings, City Manager

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

Order 171-18/19 Granting Municipal Officers' Approval of Marshview LLC dba Brewery Extrava Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street - Sponsored by Jon P. Jennings, City Manager

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

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 161-18/19 Amendment to the Zoning Map Re: Section of Forest Avenue to Community Business B-2B - Sponsored by the Planning Board, Sean Dundon, Chair.

Motion was made by Councilor Mavodones and seconded by Councilor Batson to table Order 161 until the vote on Order 162. Passage 9-0.

Motion was made by Councilor Costa and seconded by Councilor Duson to remove Order 161 from the table. Passage 9-0.

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

Order 162-18/19 Amendment to the Portland City Code Chapter 14 Re: Drive-throughs in the B-2, B-2b and B-2c Community Business Zones - Sponsored by the Planning Board, Sean Dundon, Chair

Motion was made by Councilor Ray and seconded by Councilor Costa.

Motion was made by Councilor Ali and seconded by Councilor Cook to postpone Order 162 to the April 22, 2019 City Council Meeting. Motion failed 4-5 (Duson, Costa, Ray, Thibodeau, Batson).

Motion was made by Councilor Thibodeau and seconded by Councilor Duson to reconsider Order 162 postponement. Passage 7-2 (Costa, Ray).

Motion was made by Councilor Ali and seconded by Councilor Cook to postpone Order 162 to the April 22, 2019 City Council Meeting. Passage 7-2 (Costa, Ray).

ORDERS:

Order 172-18/19 Approving Federal Aviation Administration Airport Improvement Program Grants - Sponsored by Jon P. Jennings, City Manager

This is a first reading.

Order 173-18/19 Setting Public Hearings on Fiscal Year 2020 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program and Emergency Solutions Grant Program - Sponsored by Jon P. Jennings, City Manager

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

**Order 174-18/19 Authorizing Finance Director To Accept Donations For The
Portland Community Support Fund - Sponsored By Jon P. Jennings, City Manager**

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

AMENDMENTS:

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

EXECUTIVE SESSION:

Motion was made by Mayor Strimling and seconded by Councilor Duson to adjourn.
Passage 9-0, at 8:46 P. M.

A TRUE COPY.

Katherine L. Jones, City Clerk

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 6, 2019

SUBJECT: Order 175-18/19 Appointing Hanna Pickering as the Information Technology Director - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

(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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Hanna will be filling the position of Director of IT following an extensive recruitment and hiring process, as we prepare for the retirement of our long term IT Director Dan Boutillier. Due to the complexity of the City's IT infrastructure, it is necessary to have a period of overlap between the retiring and incoming IT Directors so that continuity of services is maintained. A referred candidate from ProSearch, Hanna brings with her a strong IT leadership background, where she has worked in the fields of financial services, healthcare, and local government. Lastly, we are very pleased to have found a qualified candidate who is also a resident of the City of Portland. As her resume shows, she brings a level of skills and experience that will enable her to successfully lead the IT Department into the future.

Approval is requested to appoint Hanna Pickering to the position of Director of Information Technology for the City of Portland's IT Department at the annual salary rate of \$126,477.00.

Seven affirmative votes are required for passage as an emergency after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Hanna Pickering Resume

Prepared by:

Date: 3/6/2019



Hanna Pickering

Objective

Support and develop technical talent; build dedicated, change-ready teams; guide them with clear strategic and tactical direction; and ensure they enjoy consistent, metric-proven success doing meaningful work.

Employment History

Central Maine Healthcare Director of Technical Services (May 2016 to June 2018)

- General Duties: IT service management, staff and vendor management. Strategic and capital improvement planning/ road-mapping, IT legal contracting, budgetary forecasting and budget management. Agile program/ project management of infrastructure modernization (40+ concurrent projects), agile project management of 5+ concurrent high visibility IT projects. Sold and managed outsourced IT services to CM's business partners. Information security program management in compliance with PCI, NIST, ITIL, HIPAA, CMS. Responsible for data confidentiality, integrity and availability. Managed 30 onsite staff (Field Engineering, Infrastructure, IT Purchasing, Security Administration, Telecom). Introduced daily huddle (scrum) to support agile work model.
- Responsible for:
 - Core systems: database stacks (SQL, pSQL), operating systems (Windows, VMWare), IT management systems (ITSM, Orion ipMonitor, AV, MDM), remote access (multiple Citrix farms, RDP), network (Cisco devices/ firmware, Orion Solarwinds)
 - Security systems: encryption, Nessus scanning, directory services, Cisco Firepower IDS/IPS & ISE, web filtering
 - Communications systems: mailflow (exchange, encryption), SharePoint, telecom, call-center, critical alerting
 - Data transit/ integration: HL7, SQL and Windows jobs, sftp
- Matrix-managed 80 additional FTE equivalent from leveraged teams (Help Desk, Managed Services, SQL DBA, Information Security and Risk Management & remote hosted EMR and HL7 Interface)
- Teams serviced 3,500 users and 17,000 device assets at three hospitals and 60 physician practices across Central Maine.
- Responsible for contracting, milestone approvals and project managing eighteen-month, \$3 million wireless network refresh to prepare 60+ Central Maine Healthcare facilities for wireless Electronic Medical Record (EMR) computing.
- Translated business strategies of new Central Maine Healthcare senior team into IT strategies and prioritization guide-lines. Engaged staff of 30 in developing task lists to support the dramatic strategic transformation.
- Identified need for and developed formal data management strategies, established data engineering practice, rationalized database inventory and commissioned SQL data warehouse as central organizational structure over institutional data sets.

Cerner Sr Client Leader (May 2016 to June 2018)

- General Duties: Implemented and managed outsourced IT services (Cerner ITWorks) for client, billing \$483,000 monthly. Managed client relationship and commitments using KPIs, SLAs, and contract/ scope change (sales order) management. Trained staff on Cerner IT standard work (ITIL). Responsible for site budget and performance with weekly updates and metrics reported to headquarters. Compliance with HIPAA, ITIL and CIS standards.
- Built partnerships with 150+ offsite colleagues to develop and support onsite team and client's technology needs, troubleshooting, and changing strategic direction.
- Implemented Cerner IT management service, supplying the team with performance and service quality targets and metrics benchmarked to ITIL and 25 other Cerner ITWorks client operations.
- Developed CIS-compliant server hardening practice and promoted to 25 other healthcare organizations nationally in support of standardization strategy introduced by Senior Management.
- Managed relocation of twenty+ application and system stacks from Troy, MI to two different data centers in Missouri and Maine, a key activity in new client on-boarding. Catalogued and rebuilt 60+ data jobs for new transmission routes.

Systems Engineering Senior IT Project Manager (Jan 2014 to May 2016)

- General duties: PM 20+ concurrent infrastructure or business analysis programs/ projects by PMI (PMP) standards. Compliance with NIST and CIS standards.
- Developed intranet sites, key documents, and procedures for Project Management Office re-launch.
- IT Projects addressed these systems:
 - Core systems: database stacks (SQL), operating systems and SANs (Windows, VMWare, Cisco UCS, HP), IT management systems (ITSM, AV, MDM), remote access (Citrix, RDP), network (Cisco and Meraki devices/ firmware)
 - Security systems: encryption, Nessus scanning, directory services, Cisco Firepower IDS/IPS, web filtering
 - Communications systems: mailflow (exchange, encryption), SharePoint, Cisco telecom and call-center
 - Data transit/ integration: SQL and Windows jobs, sftp
- Projects included seven-month \$650,000 network overhaul for Massachusetts health care provider, Active Directory upgrades for hospital and municipal environments, 90+ Cisco firewall firmware upgrades for managed services division.
- Effected security-driven architecture redesign for SAAS HIE application of Healthix in the role of technical business analyst and project manager. Incremental rewrite of the firewall configuration closed down 72K+ attack vectors. 50+ RedHat and Windows servers were re-IP'd, hardened and cloned and addressed with new directory structures in order to create 3 fully segregated CIS compliant networks while maintaining critical healthcare accessibility and functionality.
- Remediated or built from scratch information security programs for 3 clients including: controlled documents (e.g. policies, procedures and standards); end-user training; self-audit task lists and schedules; risk and impact analyses and mitigation planning; business continuity, security incident response and IT DR planning and testing.

Systems Engineering Outsourced CIO (Jan 2014 to May 2016)

for H.M. Payson (18 months, 12 hrs/ wk)

- General duties: IT Advisory reporting to CEO and Board of Directors, including strategic and capital improvement planning, vendor management, solution shopping/ selection. IT legal contracting, budgetary forecasting and budget management. Responsible for information security program, including internal audits and staff trainings, compliant with Sarbanes Oxley, SEC Cyber-Security (sweep preparedness), HIPAA, MBFI and GLBA.
- IT advisor to compliance program overhaul, ensuring new information security policies were right-sized and achievable.
- Commissioned systematic reorganization of fileshare to address navigation and retention challenges.

for Somerset County (6 months, 16 hrs/ wk)

- General duties: Managed onsite staff incl. IT purchasing, Helpdesk, Field Engineers as well as vendor resources. Sold and managed outsourced IT services for municipal clients. Technical recruitment.
- Teams supported 24 x 7 services with specialized user requirements such as Sherriff's office patrol cars, Emergency Management Services (dispatch), and the county jail.

for Daymark Energy Advisors (6 months, 12 hrs/ wk)

- General duties: IT Advisory Including strategic and capital improvement planning/ road-mapping, vendor management, solution shopping/ selection. IT legal contracting, budgetary forecasting and budget management. Vendor management. Compliance with NIST and HIPAA standards plus highly confidential business information.
- Developed five-year tech strategic plan coordinated with newly developed business plans focused on improving security and enabling a highly mobile workforce.
- Established information security program (policies, standards, end-user guidelines & training).
- Created accountability model to address service issues from outsourced IT vendor.
- Developed data archiving strategy to support a highly mobile workforce, leveraging on premise and cloud-based resources.

Stone Coast Fund Services Head of Technology (Oct 2008 – Dec 2013)

- General duties: Staff management of 15 direct reports, 20+ vendors (incl. engineering, helpdesk, hosting and managed services, application administrators, telecom, SIEM) under management. Agile project manager of 10+ concurrent projects/ 30 sprints concurrently. Information security program compliant with Sarbanes-Oxley, NIST, HIPAA.
- Responsible for:
 - Core systems: database stacks (SQL), operating systems, IT management systems, remote access, network
 - Communications systems: mailflow (exchange, encryption), SharePoint, wikis, telecom, call-center, critical alerting
 - Data transit/ integration: ETL, SQL and Windows jobs, sftp
 - Web hosting and development: .Net, C#, aspx, agile development using MS Team Foundation Server
 - Reporting & Data management/ warehousing: SSRS, cron jobs and more
- Founded technology department in 2008, including proprietary application development practice, building multi-skilled team while establishing set methodologies for the work.

- Purchased/ coordinated \$250K+ vendor projects to reorganize, virtualize prod and DR networks.
- Specified requirements for home-built data warehouse, integrating and/or reconciling 10+ proprietary and five 'off the shelf' systems, some SAAS and others hosted.
- Championed all IT concerns in due diligence inspections by 'big four' audit firms, regulator audits, and voluntary service provider certifications known as SSAE16 SOC 2 Level 2.

Stone Coast Fund Services Consultant (July 2006 - Nov 2008)

- General duties: IT Advisory/ stakeholder management incl. staffing recommendations, project management, work plan development (WBS), systems configurations, data ETL and systems integrations, testing and validation.
- Agile project management of five 6+ months projects, including a seven-month, \$750,000 project to convert 120 companies onto new accounting system and 3 data warehouses for Numeric Investors. Work teams from four different companies and different client departments.

Education: University of St Andrews, Scotland; Masters of the Arts, Honors

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 26, 2019

SUBJECT: Order 176-18/19 Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue - Sponsored by Jon P. Jennings, City Manager

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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue.

Application was filed on 2/25/2019. New City and State applications. Location was previously Trattoria Fanny.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Quiero
2. 20190226130613583

Prepared by:

Date: 2/26/2019

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

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue.

Alejandra Herrera
Quiero Café LLC co-owner
14 Forest street
Saco, ME 04072
207-523-9646

February 20th, 2019

Mayor and Members of the City Council.
389 Congress street
Portland, ME 04101

Quiero Café LLC would like to present this letter of intent to inform you our interest in submitting an application to open our second location at 3-5 Deering Avenue, Portland, ME 04102; where the casual Italian restaurant Trattoria Fanny used to be at.

We are a husband and wife owned restaurant that's located at 8 Pepperell Square, Saco, ME 04072. We opened our doors on May 1st. 2017. Our menu offers fresh Latin Street Food and drinks made to order in a casual environment with reasonable prices. We open everyday for lunch and dinner and we attempt to do the same here in Portland, offering pick-up service as well.

We believe that Quiero Café Portland would be a great addition to the West End providing and expanding homemade Latin flavors.

We have great expectations on the success of our new branch in this developing city, and excited to be able to grow with it.

Sincerely,

Alejandra Herrera and Carlos Guzman.

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):	Quiero Café LLC.	Phone:	207-523-9646
Location Address:	3 Deering Av. Portland, ME	Zip:	04102
If new, what was formerly at this location:	Trattoria Fanny		
Mailing Address:	3 Deering Av. Portland, ME	Zip:	04102
Contact Person:	Carlos A. Guzman	Phone:	954 618-3527
Contact Person Email:	CABETO60@HOTMAIL.COM		
Manager of Establishment:	Carlos A. Guzman	Date of Birth:	12/05/1983
		Phone:	954 618-3527
Owner of Premises (Landlord):	Jane Levi		
Address of Premises Owner:	P.O. Box 233, Millerton, NY	Zip:	12546

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	
Quiero Café LLC.		8 Pepperell Square, Saco, ME Zip: 04072	
Contact Person:	Alejandra P. Herrera	Phone:	207 523-9646
Principal Officers	Title	Date of Birth	Residence Address
Alejandra P. Herrera	Owner	01/27/1983	14 Forest St. Saco, ME 04072
Carlos A. Guzman	Owner	12/05/1983	14 Forest St. Saco, ME 04072

About Your Establishment

Class of Liquor License:	Class I <u>Class I</u>		
Type of food served:	<u>Latin Street Food.</u>		
Please circle all that will be served:	<u>Beer</u>	<u>Wine</u>	<u>Liquor</u>
Projected percentage of sales:	Generated from Food: <u>85 %</u>	Generated from Alcohol: <u>15 %</u>	
Hours & days of operation:	<u>Open Every day / lunch & dinner, Seasonal Hours.</u>		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	<u>Y</u> /N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y/ <u>N</u>
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y/ <u>N</u>
Will you permit dancing on the premises?	Y/ <u>N</u>
Will you permit dancing after 1:00 a.m.?	Y/ <u>N</u>
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/ <u>N</u>
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/ <u>N</u>
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/ <u>N</u>
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	Y/ <u>N</u>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y/ <u>N</u>
If Yes, please explain:	

I Carlos A. Guzman 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 02/22/19

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

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

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

PRESENT LICENSE EXPIRES _____

NEW application: ☒ Yes ☐ No

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

Requested inspection date: _____ Business hours: 11-5 10-9 / Sun 10-2

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| ☒ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☐ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☐ BED & BREAKFAST (Class V) |
| ☐ CLUB w/o Catering (Class V) | ☐ CLUB with CATERING (Class I) | ☐ GOLF COURSE (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Wuiero Cafe LLC</u>			Business Name (D/B/A) <u>Wuiero Cafe LLC</u>		
APPLICANT(S) -(Sole Proprietor) <u>Alejandra P. Herrera</u> DOB: <u>01/27/83</u>			Physical Location: <u>3-5 Deering Av.</u>		
<u>Carlos A. Garman</u> DOB: <u>12/05/83</u>			City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04102</u>
Address <u>14 Forest St.</u>			Mailing Address <u>3-5 Deering Av.</u>		
City/Town <u>Saco</u>	State <u>ME</u>	Zip Code <u>04072</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04102</u>
Telephone Number <u>207-523-9646</u>		Fax Number	Business Telephone Number <u>207-523-9646 cell</u>		Fax Number
Federal I.D. # <u>81-4618080</u>			Seller Certificate #: or Sales Tax #: <u>1184568</u>		
Email Address: Please Print <u>ALEJANDRA.WUIERO.CAFE@GMAIL.COM</u>			Website: <u>WUIEROCAFEMAINE.COM</u> WUIERO.CAFE.ME		

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: N/A.
- State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
- Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
If Yes, please complete the Corporate Information required for Business Entities who are licensees.

- Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

CAR-2018-10997 Wuiero Cafe LLC (Use an additional sheet(s) if necessary.)
 License # _____ Name of Business _____
8 Pepperell Square Saco, ME
 Physical Location _____ City / Town _____

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

6. If manager is to be employed, give name: CAMILA SOHM

7. Business records are located at: 14 Forest St. Saco, ME 04072.

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

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

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
ALEJANDRA PAOLA HERRERA	01/27/83	VALPARAISO, CHILE
CARLOS ALBERTO GUZMAN	12/05/83	PURIFICACION, COLOMBIA
CAMILA SOHM	04/17/1993	MEDELLIN, COLOMBIA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
HERRERA: SACO, ME.		
GUZMAN: SACO, ME. & PORTLAND, ME.		
SOHM: BIDDEFORD, ME. & PORTLAND, ME.		

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Jane Levi
P.O. Box 233, Hillerton, NY 12546

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) We are a latin street food restaurant, 40 sits, self service on food.

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

17. 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? 0.2 miles.

Which of the above is nearest? Sacred Heart Church.

18. 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: Credit Card (Chase) & line of Credit (To bank).

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 02/22, 20 19
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Alejandra P. Herrera
Print Name

Signature of Applicant or Corporate Officer(s)

Carlos A. Guzman
Print Name

FEE SCHEDULE

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

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

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

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



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: Wuiero Cafe LLC.
2. Doing Business As, if any: Wuiero Cafe
3. Date of filing with Secretary of State: 11/16/2016 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:
N/A
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Alejandra P. Herrera	65 Scammon St. Saco, ME 04072 14 Forest St. Saco, ME 04072	01/27/83	Owner	50
Carlos A. Guzmán	14 Forest St. Saco, ME 04072	12/05/83	Owner	50

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

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

7. 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 ☒

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

Name: N/A

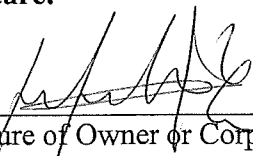
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Owner or Corporate Officer

02/22/19

Date

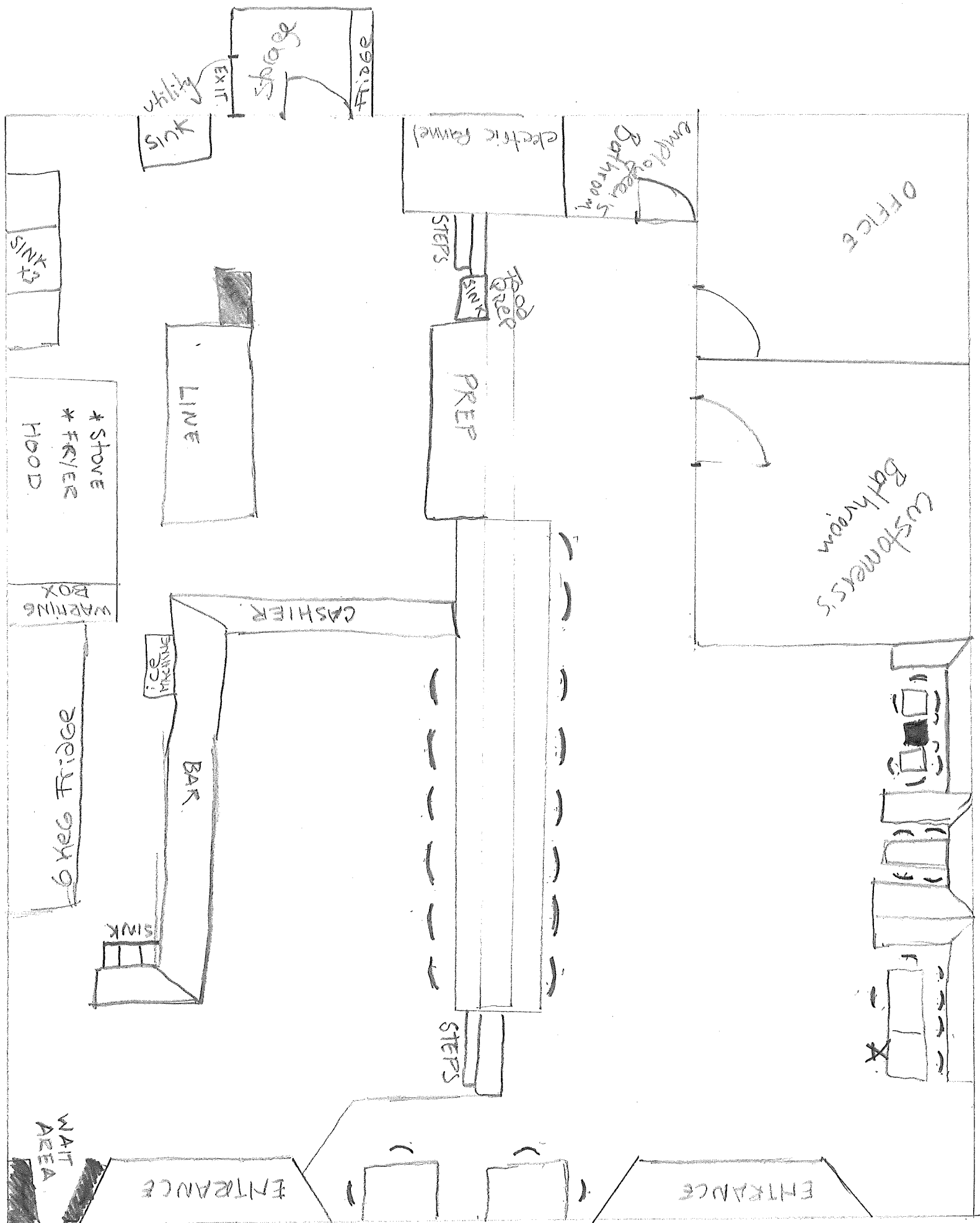
Alejandra P. Herrera

Print Name of Owner or Corporate Officer

Print Name of Owner or Corporate Officer

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



A TASTE OF LATINOAMERICA...

TAMALES CHICKEN, PORK OR VEG.....	\$4.50
SWEET CORN AREPA TOPPED WITH CHEESE.....	\$4.50
TOSTONES w/GUISO, QUESO FRESCO & GUACAMOLE.....	\$7.00
YUCA w/QUESO FRESCO & GARLIC AIOLI.....	\$6.00
SWEET PLANTAINS w/QUESO FRESCO.....	\$6.00
QUESADILLA -JUST CHEESE	\$4.50
-MUSHROOM Spinach & Oregano.....	\$6.00
-CHORIZO Spicy Sausage, Potato & Red Peppers	\$6.00
-BURGER Ground Beef, Tomato & PICKLES	\$7.00
CUBAN SANDWICH.....	\$7.50
PULLED PORK, HONEY HAM, SWISS CHEESE, YELLOW MUSTARD, GARLIC AIOLI & SLICED DILL PICKLES	\$7.50
HOT DOG CHILENO	\$8.00
CHOPPED TOMATO, SAUERKRAUT, SMASHED AVOCADO, MAYO	\$8.00
HOT DOG COLOMBIANO	\$8.00
MELTED MOZZ. SWEET PINEAPPLE SALSA, WHITE ONION, SALSA ROSADA(KE/MAYO), QUESO FRESCO, POTATO CHIPS CRUMBS, QUAIL EGGS	

EMPANADAS..... \$3.50 EA

CARNE Beef, Rice, Tomato, Scallions
POLLO Chicken, Rice, Tomato, Scallions
PINO Ground Beef, Olives, Raisins, Egg
CHORIZO Spicy Sausage, Potato, Red Peppers
PUERCO PULLED PORK & PLANTAINS
PIÑA PINEAPPLE, HAM & CHEESE
SWEET Cheese, Guava
CHAMPINON Mushrooms, Spinach, Cheese, Oregano
TOMATE Tomato, Spinach, Cheese, Corn, Basil
FRIJOL Black Beans, Egg, Rice, Tomato, Scallions

SMOOTHIES..... 20 oz \$4.50 / 24 oz \$5.50

VERDE(GREEN)Pineapple, Apple, Celery, Cucumber, Lemon, Cider, Ginger, Kale.
NARANJA(ORANGE)Carrot, Carrot Juice, Orange, Apple, Cider, Mango, Kale.
ROJO (RED) Berry mix, Beets,Honey, Kale, Chia Seeds, Simple Syrup.
AMARILLO (YELLOW)Banana, Pineapple, Mango, Apple, Vanilla Almond Milk.
MORADO (PURPLE)Berry Mix, Banana, Vanilla Almond Milk, Oats, Almonds.
BLANCO (WHITE)Banana, Oats, Vanilla Almond Milk, Cinnamon, Chia.
ROSA (PINK) Coconut Milk, Strawberries, Banana, Oats, Honey.

LINEADES..... 16oz \$4.50

WITH MANGO
WITH MINT
WITH PINEAPPLE
WITH COCONUT
WITH STRAWBERRY

TROPICAL JUICES..... 16oz WATER \$4.00 / MILK \$4.50

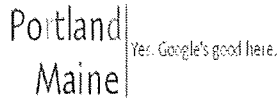
MARACUYA (PASSION FRUIT)
GUANABANA (SOURSOP)
MANGO
LULO
PIÑA

COLD BREW

AGUA AROMATICA

HOT DRINKS

AMERICANO
LATE
CAPPUCCINO
AREQUIPE
CAMPESENO
DEL CAMPO
REGULAR
CAFE CON LECHE
BREVE
MILK



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Quiero Cafe

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

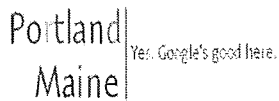
Tue, Feb 26, 2019 at 10:14 AM

A Class A Restaurant (Class I) is a permitted use in the B-2b Zone under section 14-182 with the condition that "restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m. unless otherwise authorized by the City Council" in Chapter 14, City Code of Ordinances.

On Monday, February 25, 2019 at 11:34:54 AM UTC-5, Jessica Hanscombe wrote:

Good Morning

Please see the attached application. This will go before council on 3/18. Thank you Jessica
Jessica Blais Hanscombe
Licensing and Registration Coordinator
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Quiero Cafe

Kevin Cashman <kevindc@portlandmaine.gov>

Mon, Feb 25, 2019 at 4:57 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@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 Mon, Feb 25, 2019 at 11:34 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application. This will go before council on 3/18. Thank you Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

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 #: MIQ99D892152

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-25) :

Inquiries Name(s) CARLOS GUZMAN (1983-12-05)

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D892148

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-25) :

Inquiries Name(s) ALEJANDRA HERRERA (1983-01-27)

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

February 26, 2019

Quiero Café LLC
3 Deering Avenue
Portland ME 04102

Re: Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue.

Dear Carlos Guzman,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 18, 2019 at 5:30 p.m.**, for the review of application for a Class I FSE at 33 Deering 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 item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 18, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 26, 2019

SUBJECT: Order 177-18/19 Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street - Sponsored by Jon P. Jennings, City Manager

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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street.

Application was filed on 2/25/2019. New City and State applications. Location was previously Foundation House Triangle Café.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20190226130909697
2. Coals.docx

Prepared by:

Date: 2/26/2019

William Etzel
Coals
114 Preble St
Portland, ME 04101

February 2, 2019

Mayor and City Council
City of Portland
389 Congress St.
Portland, Maine 04101

Dear Mayor and City Council,

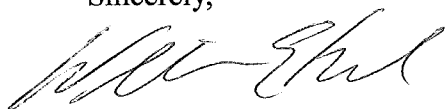
We are writing to introduce ourselves to you and inform you of our intent to open a full service restaurant at 114-118 Preble St. in Portland.

We, William Etzel, Oswald Morales, and Nicholas Restaino have been owners, and/or employees of Coals Restaurant with two locations in Westchester County, NY. for over six years. Our restaurants have served the residents and families of the Tri-state area, offering delicious food made from quality ingredients at a modest price. We have formed positive relationships with community organizations and welcome the chance to be active advocates for the city of Portland.

Coals specializes in grilled pizza, a twist on the traditional pie as it is thin, cooked on a grill and finished with superior toppings. In addition to gaining rave reviews for our pizza, Coals has also won awards for our burgers and chicken wings. We have bar service with a special focus on craft beers.

Mr. Etzel has maintained a family residence in Maine for nearly 50 years and is proud to call Maine his second home. Mr. Morales has now relocated to Portland. We hope you consider our request as we already look forward to adding to Portland's already great reputation as one of the best food cities in America.

Sincerely,

A handwritten signature in dark ink, appearing to read 'William Etzel', written in a cursive style.

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):	Coals	Phone: (646)	220-5193
Location Address:	114-118 Preble St. Portland, ME	Zip:	04101
If new, what was formerly at this location:	Foundation House Triangle Cafe		
Mailing Address:	176 Bay St. Bronx, NY	Zip:	10464
Contact Person:	William Etzel	Phone: (646)	220-5193
Contact Person Email:	coals.pizza@yahoo.com		
Manager of Establishment:	William Etzel	Date of Birth:	4/8/68
		Phone: (646)	220-5193
Owner of Premises (Landlord):	Jennifer Furman (114 Preble Block)		
Address of Premises Owner:	PO Box 779 Portland, ME	Zip:	04104

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
Coals 4 LLC		176 Bay St. Bronx, NY	
		Zip:	10464
Contact Person:	William Etzel	Phone: (646)	220-5193
Principal Officers	Title	Date of Birth	Residence Address
William Etzel	President	4/8/68	176 Bay St. Bronx, NY 10464
Oswaldo Morales	Vice President	3/17/1976	33 Carleton St. Portland ME 04101
Nicholas Restaino	Treasurer	5/29/1970	164 Wolfpit Ave. Norwalk, CT 06851

About Your Establishment

Class of Liquor License:	Class I		
Type of food served:	Pizza, hamburgers, appetizers, salads, soup		
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor		
Projected percentage of sales:	Generated from Food: 70%	Generated from Alcohol: 30%	
Hours & days of operation:	Mon-Thurs 5 pm - 11 pm, Fri-Sat 11:30 - 12 am, Sun 12 - 9 pm		

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y
Will you permit dancing on the premises?	☒ Y
Will you permit dancing after 1:00 a.m.?	☒ Y
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	4/22/19
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒ Y
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y
If Yes, please explain: <u>Oswaldo Morales 12/1/2003 OP MV Impaired by alcohol</u> <u>License suspension, fine New York</u>	

I, William Etzel 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: President Date: 2/24/2019

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

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

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES ☐ NO ☐	

PRESENT LICENSE EXPIRES: _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: **April 15, 2019**

Requested inspection (New Licensees/ Ownership Changes Only) Date : _____ Business hours: _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| ☒ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☐ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☐ BED & BREAKFAST (Class V) |
| ☐ GOLF COURSE (Class I,II,III,IV) | ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING |
| ☐ OTHER: _____ | | |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name:			Business Name (D/B/A)		
Coals 4 LLC			COALS		
176 Bay Street			Physical Location: 114 Preble Street		
City/Town	State	Zip Code	City/Town	State	Zip Code
Bronx	NY	10464	Portland	ME	04101
			Mailing Address		
			City/Town State Zip Code		
Telephone Number Fax Number			Business Telephone Number Fax Number		
(646) 220-5193					
Federal I.D. #			Seller Certificate #: or Sales Tax #: 1197647		
833365890					
Email Address: coals.pizza@yahoo.com Please Print			Website: www.coalspizza.com		

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: **N/A**

2. State amount of gross income from period of last license:

ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

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

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

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

5. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License #

Name of Business

Physical Location

City / Town

6. If manager is to be employed, give name: Oswaldo Morales

7. Business records are located at: On-Site/Electronic

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

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

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Oswaldo Morales	03/17/1976	NY
11. Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Name: <u>Oswaldo Morales</u>	City: <u>Portland, ME</u>	State: <u></u>
	<u>White Plains, NY</u>	
Name: <u></u>	City: <u></u>	State: <u></u>

12. 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: Oswaldo Morales Date of Conviction: 12/1/2003

Offense: Op mv impaired by alcohol Location: NY

Disposition: Fine/Suspension (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name:

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

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

Jennifer Furnam, 114 Preble Block, PO Box 779, Portland, ME 04101

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

Restaurant with Bar Area

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

YES ☐ NO ☒ Applied for: 02/07/2019

18. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house,

B0087873.1

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? Portland High School .30--- Sacred Heart 307 Congress St. .70

Which of the above is nearest? Portland HS 284 Cumberland Avenue .30

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

If YES, give details: _____

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

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

Dated at: Portland ME on 2/25, 20 19
Town/City, State Date


Signature of Applicant or Corporate Officer(s)
William Etzel
Print Name

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Print Name

FEE SCHEDULE

FILING FEE: (must be <u>included</u> on all applications).....		\$ 10.00
Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III & IV	Malt & Vinous Only	\$ 440.00
	CLASS III & IV: 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 V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	



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: Coals 4 LLC
2. Doing Business As, if any: Coals
3. Date of filing with Secretary of State: 01/07/2019 State in which you are formed: NY
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 %
William Etzel	176 Bay St., Bronx, NY 10464	4/08/1968	President	70%
Oswaldo Morales	33 Carleton St., Portland, ME 24 Hunt Pl, White Plains, NY	3/17/1976	V.P.	20%
Nicholas Restaino	164 Wolfpit Ave, Norwalk, CT	5/29/1970	Treasurer	10%

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

Yes x No ☐

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

Name: Oswaldo Morales

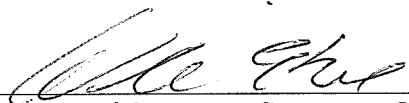
Date of Conviction: 12/1/2003

Offense: op mv impaired by alcohol

Location of Conviction: NY

Disposition: Fine/Suspension

Signature:


Signature of Owner or Corporate Officer

2/25/19
Date

William Etzel
Print Name of Owner or Corporate Officer

Submit Completed Forms To:

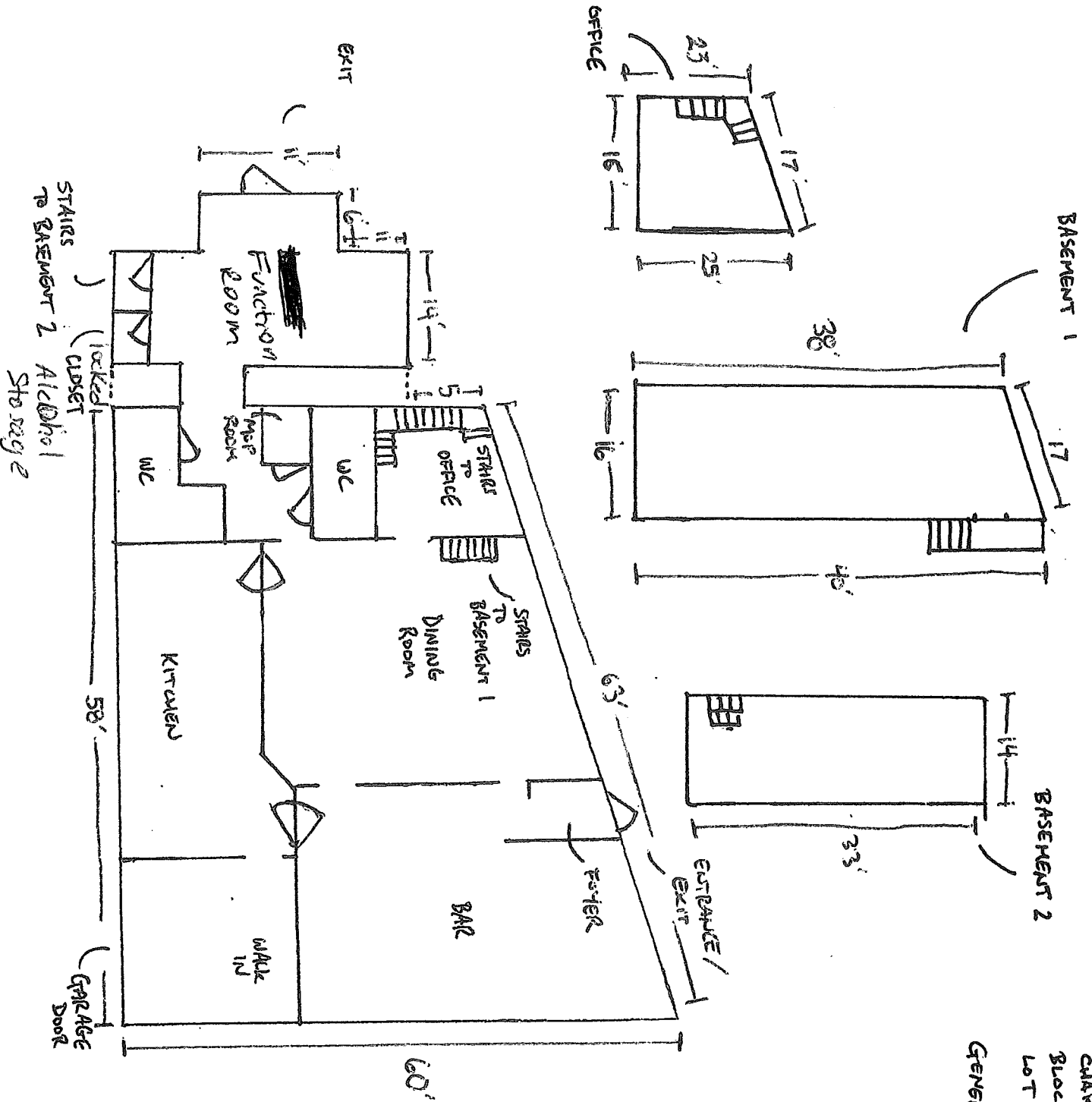
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

CHART : 33

Block: 0

Block: 0

GENERAL DIMENSIONS





APPETIZERS

MIXED OLIVES 4.00

MIXED GREENS 8.50

*with honey-balsamic vinaigrette and grape tomatoes
add gorgonzola cheese to your salad 3.00*

CAESAR SALAD 9.50

with our own creamy dressing, grilled italian bread and grana padano

ARUGULA SALAD 9.50

with pears, walnuts, grana padano and sherry vinaigrette

CRISPY BRUSSELS SPROUTS 8.50

with walnuts, raisins and grana padano

COALS SPICY GRILLED WINGS

Classic Buffalo 11.00

Maple Rosemary 12.00

COALS FRIES 4.00

GRILLED PIZZA

pizzas are prepared and served individually, so please enjoy them while they're hot

MARGHERITA 13.00

fresh mozzarella, tomato, pecorino and basil

SMOKEY JOE 16.00

fontinella, smoked mozzarella, tomato, pecorino, sweet coppa and red onion

HEAVEN SCENT 14.00

aged provolone, fresh mozzarella, tomato, fresh garlic

DEAN MARTIN 15.50

fontinella, fresh mozzarella, tomato, pepperoni and pecorino

VEGAN 15.50

grape tomatoes, hummus, red onion, spicy olive oil and arugula

PURE BLISS 16.00

fresh mozzarella, ricotta, tomato, basil pesto and pecorino

RUSTIC 16.00

fontinella, fresh mozzarella, roasted mushrooms, truffle oil, grana padano and garlic

MUST HAVE 15.50

fresh mozzarella, ricotta, grana padano and vincotto

MARLON 16.00

fresh mozzarella, tomato, pecorino, arugula, roasted peppers and spicy oil

COALS BURGER

8 OZ. HAND FORMED FRESH GROUND BEEF 14.00

with your choice of asiago or vermont cheddar, includes fries

SWEETS

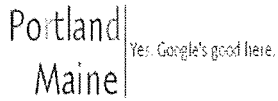
NUTELLA PIZZA 7.50

COALS FLUFFERNUTTER 8.00

nutella and mascarpone cheese

S & S CHEESCAKE WITH HOME MADE BUTTERSCOTCH 8.00

FOOD ALLERGIES? PLEASE NOTIFY YOUR SERVER OR THE MANAGER



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Coals

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Tue, Feb 26, 2019 at 10:39 AM

A Class A Restaurant (Class I) is a permitted use in the B-7 Zone under section 14-182 in Chapter 14, City Code of Ordinances. No further conditions.

On Monday, February 25, 2019 at 1:38:46 PM UTC-5, Jessica Hanscombe wrote:

Good Afternoon

Please see the attached application for a Class I FSE. This will go before council on 3/18. Thank you

Jessica

Jessica Blais Hanscombe

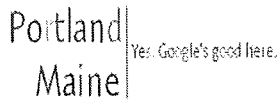
Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Coals

Kevin Cashman <kevindc@portlandmaine.gov>

Mon, Feb 25, 2019 at 4:58 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@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 Mon, Feb 25, 2019 at 1:38 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for a Class I FSE. This will go before council on 3/18. Thank you

Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

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 #: MIQ99D892146

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-25) :

Inquiries Name(s) OSWALDO MORALES (1976-03-17)

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 #: MIQ99D892155

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-25) :

Inquiries Name(s) **WILLIAM ETZEL (1968-04-08)**

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 #: MIQ99D892150

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-25) :

Inquiries Name(s) **NICHOLAS RESTAINO (1970-05-29)**

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

February 26, 2019

Coals 4 LLC
176 Bay Street
Bronx NY 10464

Re: Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street.

Dear William Etzel,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 18, 2019 at 5:30 p.m.**, for the review of application for a Class I FSE at 114 Preble 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 item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 18, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street. Sponsored by Jon P. Jennings, City Manager.

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

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

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 26, 2019

SUBJECT: **Order 178-18/19 Stroudwater Spirits LLC dba Stroudwater Distillery.
Application for a Class A Lounge with Entertainment without Dance and
Outdoor Dining on Private Property at 4 Thompson's Point - Sponsored by Jon
P. Jennings, City Manager**

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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point.

Application was filed on 2/25/2019. New City and State applications. Applicant currently holds a Distillery with Entertainment without Dance and Outdoor Dining on Private Property at this location.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Stroudwater Distillery.docx
2. 20190227085411041

Prepared by:

Date: 2/26/2019

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

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

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

**Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge
with Entertainment without Dance and Outdoor Dining on Private Property at 4
Thompson’s Point.**

Jeff Johnson
4 Thompson's Point
Portland, ME. 04102
Northstarjj33@gmail.com

February 14, 2019
Mr. Ethan Strimling
Mayor City of Portland

Dear Mr. Strimling and Members of the City Council,

My name is Jeff Johnson, the owner of Stroudwater Distillery. I am submitting this letter with the intent to acquire a Class A (Class X) Lounge License.

Stroudwater Distillery currently has a Small Maine Distillery, Retail Food Establishment, Commercial Food Processor, Outdoor Dining on Private Property, and Entertainment without Dance License. Our intention upon acquisition of a Class A Lounge License is to improve our guest experience, by offering small plates and bites. We also wish to provide small private and public events while offering Beer and Wine in addition to our Distilled Spirits.

We have created a dining menu that we believe will suit our guests as well as complement our cocktails.



Sincerely,
Jeff Johnson

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):	Stroudwater Distillery
Location Address:	4 Thompson's Point Suite 104-105
If new, what was formerly at this location:	
Mailing Address:	4 Thompson's Point Suite 104-105
Contact Person:	Jeff Johnson
Contact Person Email:	NorthStarjj33@gmail.com
Manager of Establishment:	Shannon Kennedy
Owner of Premises (Landlord):	Forefront Brick North LLC
Address of Premises Owner:	4 Thompson's Point Portland, ME

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

Name of Owner(s)	Date of Birth	Residence Address
Jeff Johnson	3/7/64	36 Liberty Way, Portland, ME 04103

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

Corporate Name	Corporate Mailing Address
Stroudwater Spirits LLC	1236 Congress St. Portland
Contact Person:	Jeff Johnson
Principal Officers	Title
Jeff Johnson	CEO/owner

About Your Establishment

Class of Liquor License:	<u>Class A</u>		
Type of food served:	<u>Class A - Small Plates</u>		
Please circle all that will be served:	<u>(Beer)</u> <u>(Wine)</u> <u>(Liquor)</u>		
Projected percentage of sales:	Generated from Food: <u>10%</u>	Generated from Alcohol: <u>90%</u>	
Hours & days of operation:	<u>Tues - Sun noon - 8pm + Sat 9am - 8pm</u>		

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

I Jeff Johnson 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 BO/FOUNDER Date 7/22/19

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: \$295 ☐ Entertainment with Dancing: \$529 ☐ After-Hours (1 a.m. to 3 a.m.): \$595

Business Information			
Business Name (d/b/a):	Stroudwater Distillery	Phone:	207 530-7811
Location Address:	4 Thompson's Point, Portland, ME		Zip: 04103

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: distillery, tasting room, events space and sometimes we like to have a band play or a comedian	
Will music be electric, acoustical, (or both?) (Circle)	
Will amplification be used?	Y/N
If yes, where and at what level?	70
Will music be played (Circle all that apply): <u>Inside</u> Outside	
Will you permit dancing on the premises?	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
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):	

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 Manager Date 02/25/19

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
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

**Outdoor Dining Permit on Private Property
 Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☒ Outdoor Dining on Private Property \$125.00 ☐ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	Stroudwater Distillery	Phone:	207 536-7811
Location Address:	4 Thompson's Point	Zip:	04102
Mailing Address:	4 Thompson's Point	Zip:	04102
Contact Person:	Shannon Kennedy	Phone:	207 8083363
Contact Person Email:	Shannon@Stroudwaterdistillery.com		
Manager of Establishment:	Shannon Kennedy	Date of Birth:	03/08/84
Owner of Premises (Landlord):	Forefront Brick North LLC	Phone:	207 8083363
Address of Premises Owner:	4 Thompson's Point Portland ME	Zip:	04102

Owner Information

Corporate Name		Corporate Mailing Address	
Stroudwater Spirits		1234 Congress St Portland ME 04102	
Contact Person:	Jeff Johnson	Phone:	207 272-7327
Principal Officers	Title	Date of Birth	Residence Address
Jeff Johnson	CEO/Founder	3/7/64	36 Liberty Way Portland ME 04103

About Your Establishment

Class of License:	A
Type of food served:	Small Plates
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	Tues - Sun noon - 8pm Sat 9am - 8pm
Number of Tables	5
Number of Chairs	16

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

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.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

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.

Signature [Signature] Title Manager Date 2/25/2019

For Administrative Use Only

Amount: _____	Request Date /	Approval	Notes: _____
Date Paid: _____	FD: _____	/	_____
CC _____ CA _____ CK _____	Health: _____	/	_____
	PD: _____	/	_____
Amount: _____	PR: _____	/	_____
Date Paid: _____	Treasury: _____	/	_____
CC _____ CA _____ CK _____	Zoning: _____	/	_____

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

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

PRESENT LICENSE EXPIRES _____

NEW application: ☒ Yes ☐ No

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

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

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|---|---|--|
| ☐ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☒ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☐ BED & BREAKFAST (Class V) |
| ☐ CLUB w/o Catering (Class V) | ☐ CLUB with CATERING (Class I) | ☐ GOLF COURSE (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Stroudwater Spirits L.L.C.</u>			Business Name (D/B/A) <u>Stroudwater Distillery</u>		
APPLICANT(S) -(Sole Proprietor) <u>Jeff Johnson</u>			DOB: <u>3/7/04</u>		
DOB: _____			Physical Location: <u>4 Thompson's Point</u>		
Address <u>1236 Congress St</u>			Mailing Address <u>4 Thompson's Point Suite 104-105</u>		
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04108</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04108</u>
Telephone Number <u>207-272-7327</u>		Fax Number _____	Business Telephone Number <u>207-536-7811</u>		Fax Number _____
Federal I.D. # <u>383980845</u>			Seller Certificate #: or Sales Tax #: <u>38398084500</u>		
Email Address: Please Print <u>Northstarjj33@gmail.com</u>			Website: <u>Stroudwaterdistillery.com</u>		

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
- State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
- Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
If Yes, please complete the Corporate Information required for Business Entities who are licensees.

- Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

SMD-2014-18 Stroudwater Spirits LLC (Use an additional sheet(s) if necessary.)

License #	Name of Business	City / Town
<u>4 Thompson's Point</u>	<u>Portland</u>	
Physical Location		

5. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐
6. If manager is to be employed, give name: Shannon Kennedy
7. Business records are located at: 4 Thompson's Point, Portland, ME 04102
8. Is/are applicant(s) citizens of the United States? YES ☐ NO ☒
9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Jeff Johnson	3/7/1964	Hamilton, ON Canada
Shannon Kennedy	3/3/1984	Shreveport, LA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Portland, ME		
Portland, ME		

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒
- Name: _____ Date of Conviction: _____
- Offense: _____ Location: _____
- Disposition: _____ (use additional sheet(s) if necessary)
12. Will any law enforcement official benefit directly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____
13. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐
14. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Forefront Brick North, LLC One Canal Plaza Suite 500, Portland 04101
15. Describe in detail the premises to be licensed: (On Premise Diagram Required) Testing Room, Event Space + Patio
16. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☐ Applied for: _____
17. 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 miles + 1.6 miles
Which of the above is nearest? Church of Holy Spirit
18. 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: Equity 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 2/23, 20 19
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Jeff Johnson

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

FEE SCHEDULE

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

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

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

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

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



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: Stroudwater Spirits LLC
2. Doing Business As, if any: Stroudwater Distillery
3. Date of filing with Secretary of State: 9/22/15 State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

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

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Jeff Johnson	312 Liberty Way Portland, ME 04103	3/7/64	CEO Founder	70%

(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. 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 ☒

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

Name: _____

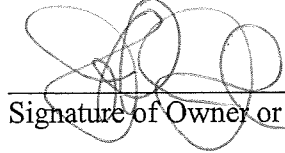
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Owner or Corporate Officer

Date

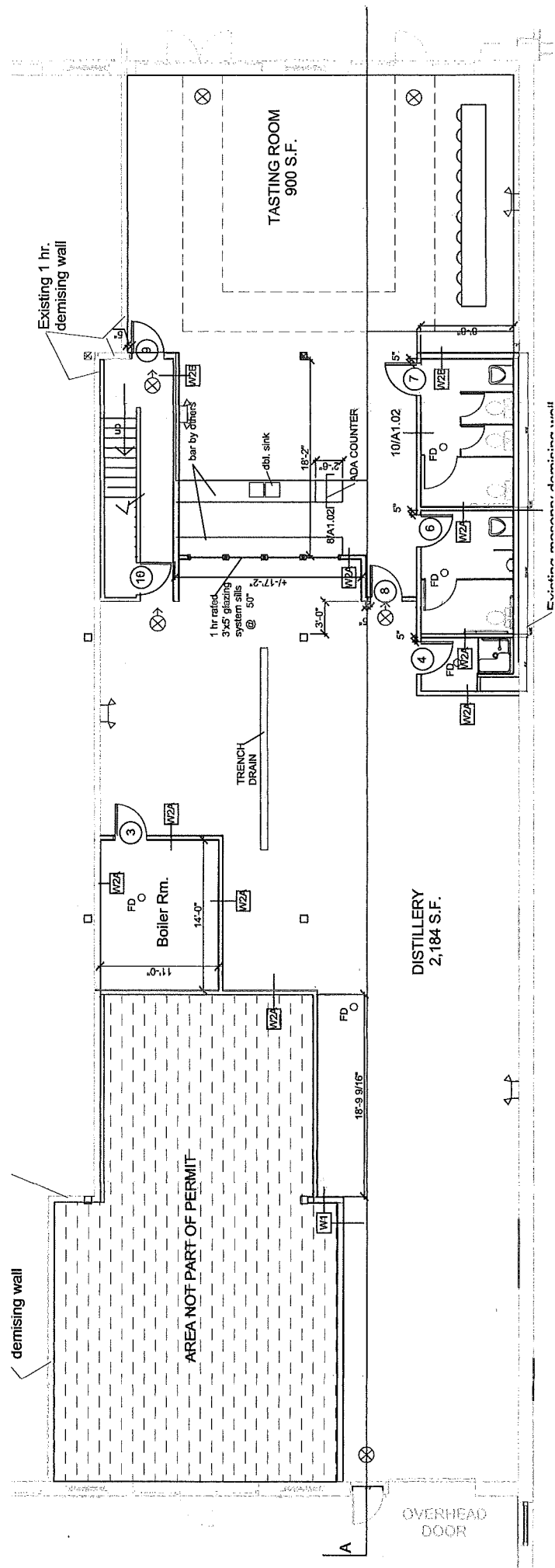
8/22/19

Jeff Johnson

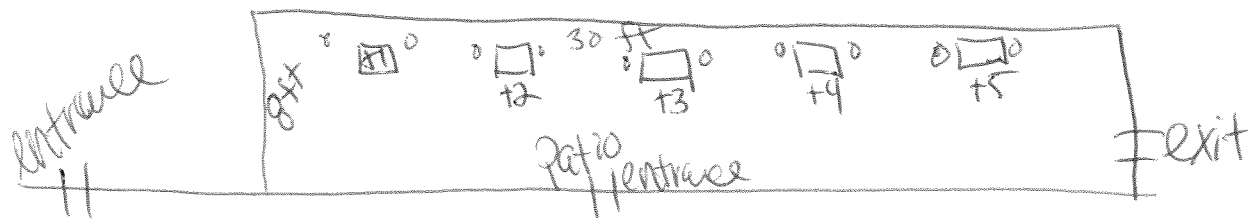
Print Name of Owner or Corporate Officer

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



Stroudwater Distillery Patio



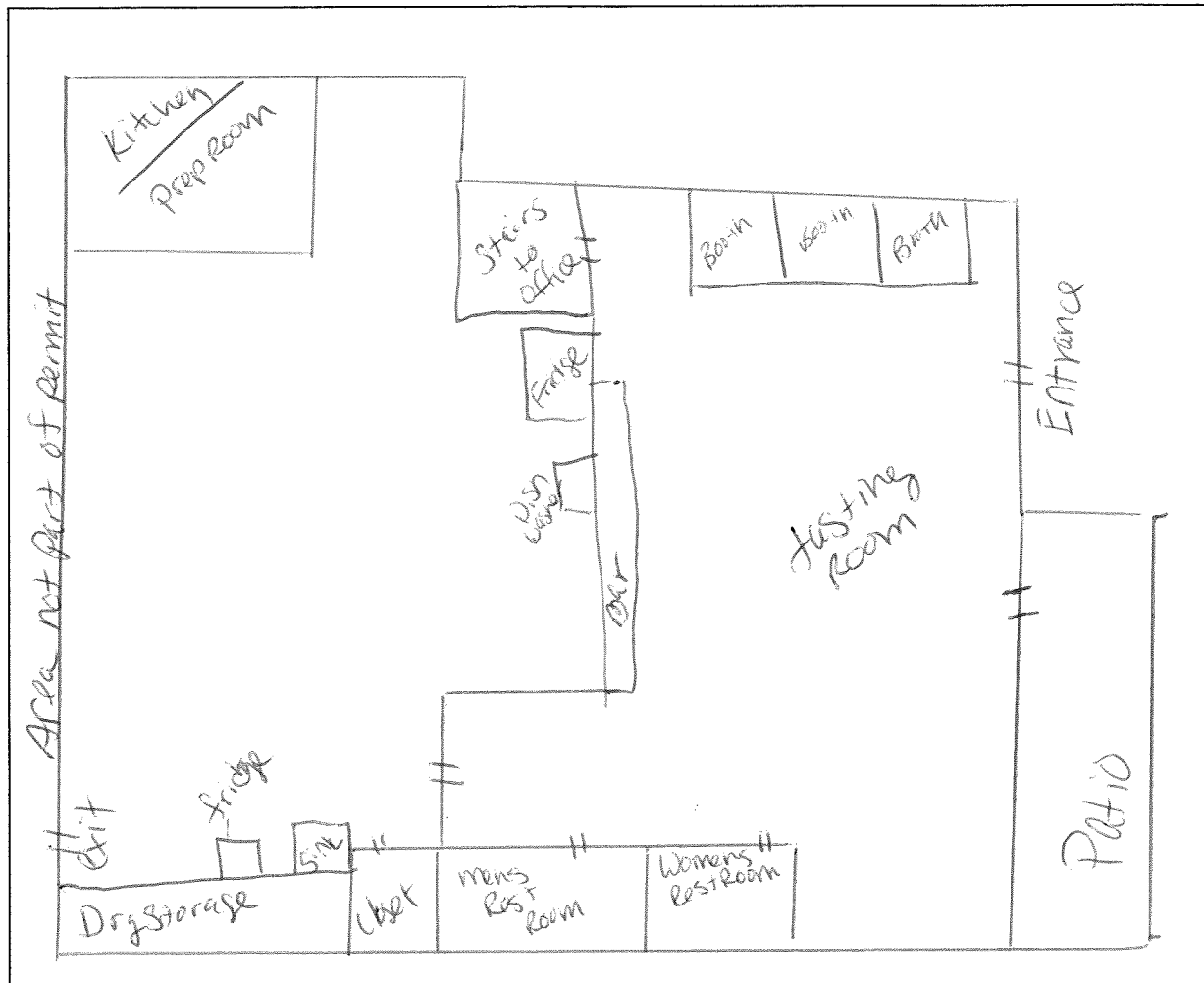
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347 (overnight)
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov



ON PREMISE DIAGRAM (Facility Drawing/ Floor Plan)

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

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas with the following: • Entrances • Office area • Kitchen • Storage Areas • Dining Rooms • Lounges • Function Rooms • Restrooms • Decks • All Inside and Outside areas that you are requesting approval.



**SOUPS & SALADS****KAMASOUPTRA**

Veggie Chili \$5/\$8
Vegan and Gluten Free

Soup Du Jour \$5/\$8
Soup of the Day

Endive Salad \$14
Citrus Cherve, Candied Walnuts
& Mustard Vinaigrette

SPUNTINI

THE CHEESES \$16

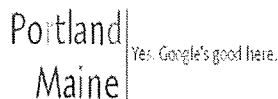
THE MEATS \$18

NOSHING \$22

PANINI

TURKEY & CHEDDAR \$12
ARUGULA, RED ONION, SAFFRON AIOLI

HAM & SWISS \$12
GRAIN MUSTARD & PEPPER JELLY



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Stroudwater Distillery

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Feb 26, 2019 at 5:22 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@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 Tue, Feb 26, 2019 at 8:27 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for a Class A lounge. This is an upgrade. This will go before council on 3/18. Please advise. Thanks Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman

Portland Police Department

Patrol Division

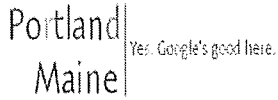
109 Middle St

Portland, Maine 04101

(O) 207-756-8294

kevindc@portlandmaine.gov.

Hours - Saturday thru Tuesday (4pm-2am)



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Stroudwater Distillery

cstacey <cstacey@portlandmaine.gov>

Tue, Feb 26, 2019 at 11:07 AM

To: Zoning <zoning@portlandmaine.gov>

Cc: bnp@portlandmaine.gov, dbuck@portlandmaine.gov, nicholsd@portlandmaine.gov, petrucellid@portlandmaine.gov, ecobb@portlandmaine.gov, jjs@portlandmaine.gov, brennanj@portlandmaine.gov, kevindc@portlandmaine.gov, lac@portlandmaine.gov, sreynolds@portlandmaine.gov, tw@portlandmaine.gov, treasury@portlandmaine.gov, vwm@portlandmaine.gov, jhanscombe@portlandmaine.gov

A Class A Lounge (Class X) is a permitted use in the B-5 Zone under section 14-230.1 in Chapter 14, City Code of Ordinances. No further conditions.

On Tuesday, February 26, 2019 at 8:27:03 AM UTC-5, Jessica Hanscombe wrote:

Good Morning

Please see the attached application for a Class A lounge. This is an upgrade. This will go before council on 3/18. Please advise. Thanks Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov



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

February 26, 2019

Stroudwater Spirits LLC
4 Thompsons Point
Portland ME 04102

Re: Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point.

Dear Jeff Johnson,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 18, 2019 at 5:30 p.m.**, for the review of application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point. 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 item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 18, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 26, 2019

SUBJECT: Order 179-18/19 Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street - Sponsored by Jon P. Jennings, City Manager

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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street.

Application was filed on 2/14/2019. New City and State applications. Applicant currently holds a Class III license at this location.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. The Chadwick.docx
2. 20190226132242757

Prepared by:

Date: 2/26/2019

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

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

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

**Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast
at 140 Chadwick Street.**

Portland, Maine



Yes. Life's good here.

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

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	The Chadwick Phone: 207-774-5141
Location Address:	140 Chadwick Street Zip: 04102
If new, what was formerly at this location:	
Mailing Address:	same Zip:
Contact Person:	E. Scot Fuller-Beatty Phone:
Contact Person Email:	innkeeper@thechadwick.com
Manager of Establishment:	same Date of Birth: 5/17/81 Phone: 207-357-6800
Owner of Premises (Landlord):	same
Address of Premises Owner:	same Zip:

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

Name of Owner(s)	Date of Birth	Residence Address
E. Scot Fuller-Beatty	5/17/81	same

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

Corporate Name		Corporate Mailing Address	
Newfangled Retreats, Inc.		same Zip:	
Contact Person:	E. Scot Fuller-Beatty	Phone:	207-357-6800
Principal Officers	Title	Date of Birth	Residence Address
E. Scot	President		same
Fuller-Beatty		5/17/81	

About Your Establishment

Class of Liquor License:	IV Bed & Breakfast		
Type of food served:	Breakfast, Complimentary snacks & fruit.		
Please circle all that will be served:	Beer ☒	Wine ☒	Liquor ☒
Projected percentage of sales:	Generated from Food: 1000 1000	Generated from Alcohol:	2500
Hours & days of operation:	8am - 9pm		

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: Bed & Breakfast - Breakfast only	
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?	
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): Bed & Breakfast / New England Retreats	
Is any principal officer under the age of 21? 140 Chadwick Street	☒
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒
If Yes, please explain:	

I, E. Sutcliffe-Beatty 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 E. Sutcliffe-Beatty Title President Date 2/14/19

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

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

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES ☐ NO ☐	

PRESENT LICENSE EXPIRES: _____

NEW application: ☐ Yes ☒ No

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

Requested inspection (New Licensees/ Ownership Changes Only) Date : _____ Business hours: _____

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☐ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL, FOOD OPTIONAL (Class I-A) ☒ BED & BREAKFAST (Class V)
☐ GOLF COURSE (Class I,II,III,IV) ☐ TAVERN (Class IV) ☐ QUALIFIED CATERING
☒ OTHER: Bed & Breakfast Class V

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Newfangled Retreats, Inc.</u>	Business Name (D/B/A) <u>The Chadwick</u>
APPLICANT(S) –(Sole Proprietor) DOB:	Physical Location: <u>140 Chadwick Street</u>
DOB:	City/Town State Zip Code <u>Portland ME 04102</u>
Address <u>140 Chadwick Street</u>	Mailing Address <u>same</u>
City/Town State Zip Code <u>Portland ME 04102</u>	City/Town State Zip Code
Telephone Number Fax Number <u>207-774-5141</u>	Business Telephone Number Fax Number <u>207-774-5141</u>
Federal I.D. # <u>45-3930041</u>	Seller Certificate #: or Sales Tax #: <u>1154314</u>
Email Address: Please Print <u>innkeeper@thechadwick.com</u>	Website: <u>www.thechadwick.com</u>

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: 4
- State amount of gross income from period of last license:
 ROOMS \$ 233,892 FOOD \$ 840 LIQUOR \$ 2357
- Is applicant a corporation, limited liability company or limited partnership? YES ☐ NO ☒
 If Yes, please complete the Corporate Information required for Business Entities who are licensees.
- Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

5. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License # _____ Name of Business _____

Physical Location _____ City / Town _____

6. If manager is to be employed, give name: E. Scot Fuller - Beatty

7. Business records are located at: 140 Chadwick Street, Portland, ME 04102

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

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

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
<u>E. Scot Fuller - Beatty</u>	<u>5/17/81</u>	<u>VT</u>

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

Name: _____	City: _____	State: _____
Name: _____	City: _____	State: _____
Name: _____	City: _____	State: _____

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

16. Describe in detail the premises to be licensed: (On Premise Diagram Required) 140 Chadwick Street Portland, ME 04102 Bed & Breakfast

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

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

Which of the above is nearest? School

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

If YES, give details: _____

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

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

Dated at: Portland, ME on Feb 14, 20 19
Town/City, State Date

E. Scot Fuller-Beatty Please sign in blue ink
Signature of Applicant or Corporate Officer(s) Signature of Applicant or Corporate Officer(s)
E. Scot Fuller-Beatty _____
Print Name Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications).....		\$ 10.00
Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III & IV	Malt & Vinous Only	\$ 440.00
	CLASS III & IV: 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 V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	



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: Newfang led Retreats, Inc.
2. Doing Business As, if any: The Chadwick
3. Date of filing with Secretary of State: 11/15/11 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: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
S Scot Fuller-Beatty	140 Chadwick Street Portland, ME 04102	5/17/81	President	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. 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

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

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

E. Scot Fuller - Beatty
Signature of Owner or Corporate Officer

2/20/19
Date

E. Scot Fuller - Beatty
Print Name of Owner or Corporate Officer

Submit Completed Forms to:

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

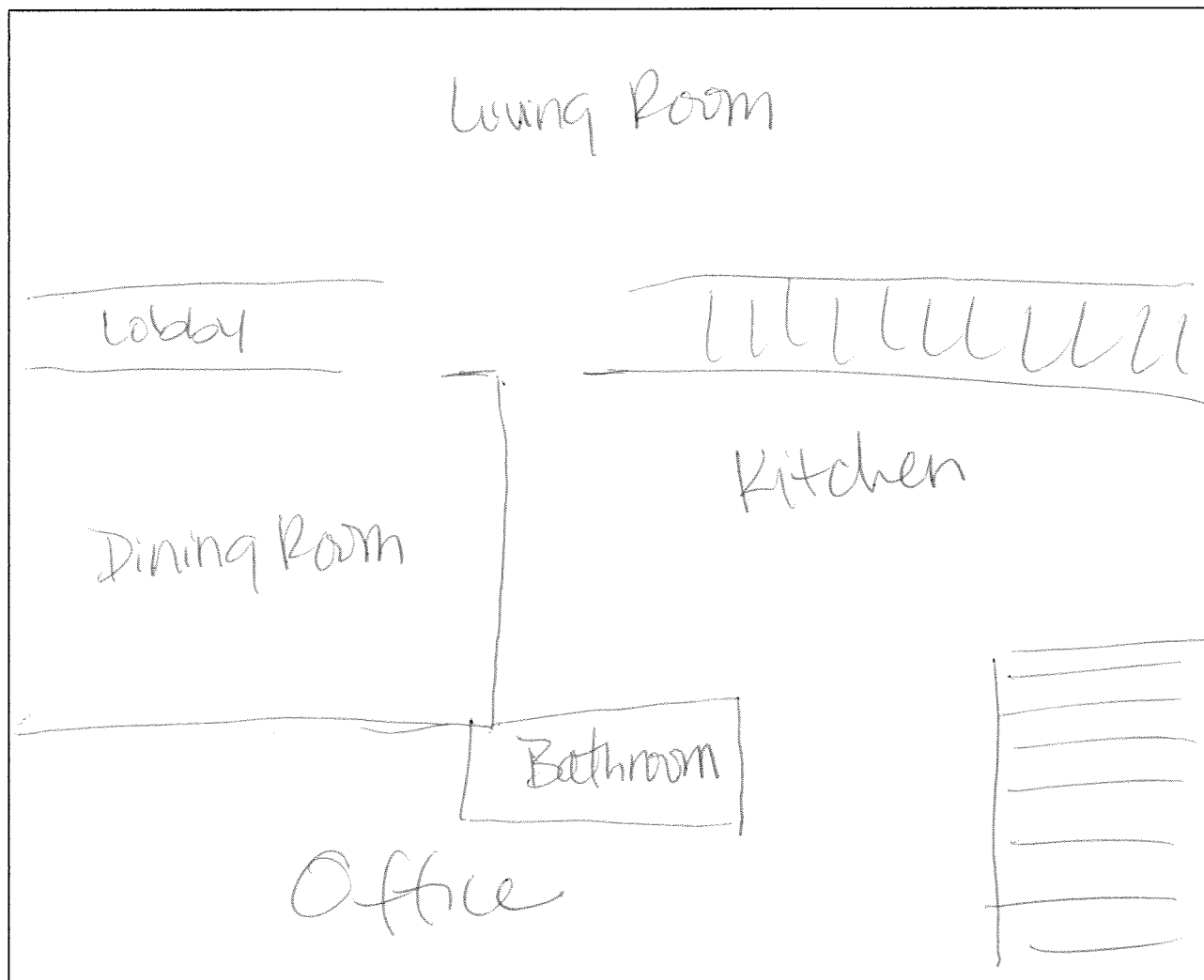
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347 (overnight)
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

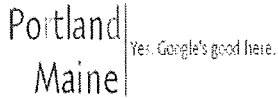


ON PREMISE DIAGRAM (Facility Drawing/ Floor Plan)

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

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas with the following: • **Entrances** • **Office area** • **Kitchen** • **Storage Areas** • **Dining Rooms** • **Lounges** • **Function Rooms** • **Restrooms** • **Decks** • **All Inside and Outside areas that you are requesting approval.**





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: The Chadwick

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Feb 16, 2019 at 4:51 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Fri, Feb 15, 2019 at 9:18 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good morning

Please see the attached application. They are upgrading from a Class III to a Class V Bed and Breakfast. This will go before council on 3/18, please advise. Thanks Jess

Jessica Blais Hanscombe
Licensing and Registration Coordinator
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 #: MIQ99D884246

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-15) :

Inquiries Name(s) **E SCOT FULLER BEATY (1981-05-17)**

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

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

February 26, 2019

Newfangled Retreats Inc
140 Chadwick St
Portland ME 04102

Re: Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street.

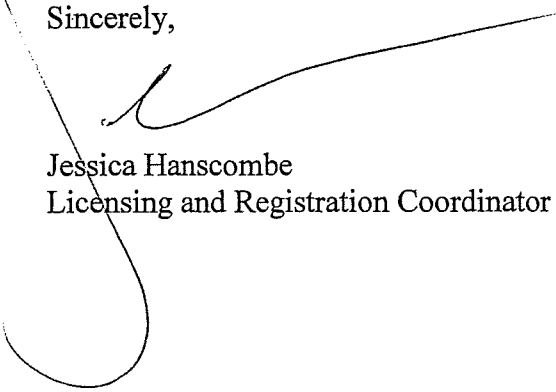
Dear E Scot Fuller Beatty,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 18, 2019 at 5:30 p.m.**, for the review of application for a Class V Bed and Breakfast at 140 Chadwick 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 item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,



Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 18, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 26, 2019

SUBJECT: Order 180-18/19 Eaton's Neck Properties LLC dba The West End Inn.
Application for a Class V Bed and Breakfast at 146 Pine Street - Sponsored by
Jon P. Jennings, City Manager

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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street.

Application was filed on 2/20/2019. New City and State applications. New owners of an existing business.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. 20190226133038508
2. The West End Inn

Prepared by:

Date: 2/26/2019

February 20, 2019

To: The Mayor and Members of the City Council

From: Diane Pace (Eaton's Neck Properties, LLC)

Mr. Mayor and Council Members,

Thank you for your kind attention. My name is Diane Pace, sole member of the LLC, Eaton's Neck Properties. I am selling a small hotel in York Beach, Maine, and I am currently under contract to purchase The West End Inn, at 146 Pine Street in Portland. I am applying for a liquor license for the new property.

This historic inn, with 6 guests rooms, has been operating for years and has consistently been rated #1 on Trip Advisor. We will be offering our guests a lovely buffet breakfast as part of their stay with us. Additionally, we would like to offer our guests (for purchase) beer, wine and spirits, along with cheese and meat boards. Given our location (about a 15 minute walk to the downtown seaport area) I really believe this additional offering will help attract guests to an otherwise quiet, residential neighborhood. The current clientele at The West End Inn tends to be couples, 35-65 years of age, sophisticated, medium to upper income, looking for fine dining and/or a small intimate place for cheeses and a cocktail (these are not guests who tend to gravitate toward bars or rowdy behavior).

While I don't anticipate generating substantial revenue from the sale of beer, wine or spirits, I do believe it will have a positive impact on our occupancy rates and room sales. As we compete among a group of attractive B&Bs in the area, anything we can offer our guests to enhance their stay, and differentiate ourselves from the competition...is important.

I greatly appreciate your consideration.
Kind regards,

Diane Pace

Portland, Maine



Yes. Life's good here.

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

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	THE WEST END INN	Phone:	207 772-1377
Location Address:	146 Pine St. PORTLAND ME	Zip:	04102
If new, what was formerly at this location:	SAME		
Mailing Address:	146 Pine St 762 BARRETT'S MILL RD CONCORD, MA	Zip:	01742
Contact Person:	DIANE PACE	Phone:	781 910 4251
Contact Person Email:	DKPACE @ COMCAST.NET		
Manager of Establishment:	DIANE PACE	Date of Birth:	6/21/59
		Phone:	781 910 4251
Owner of Premises (Landlord):	DIANE PACE		
Address of Premises Owner:	762 BARRETT'S MILL RD CONCORD MA	Zip:	01742

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	
EATON'S NECK PROPERTIES LLC		762 BARRETT'S MILL RD CONCORD MA	
		Zip:	01742
Contact Person:	DIANE PACE	Phone:	781 910 4251
Principal Officers	Title	Date of Birth	Residence Address
DIANE PACE	OWNER	6/21/59	762 BARRETT'S MILL RD CONCORD MA 01742

About Your Establishment

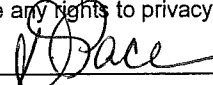
Class of Liquor License:	CLASS FIVE		
Type of food served:	BUFFET BREAKFAST, CHEESE + MEAT BOARDS		
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor		
Projected percentage of sales:	Generated from Food: 10%	Generated from Alcohol: 2%	
Hours & days of operation:	24/7 FOR LODGING - FOOD SERVED 8-8pm Alcohol 8am-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? BUFFET BREAKFAST, MEAT + CHEESE BOARDS AFTER	Y ☒ N
If No, please explain: UNTIL 8pm.	
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? APRIL 15, 2019	
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 DIANE PACE do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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

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

Signature  Title OWNER Date 2-20-2019

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

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

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

PRESENT LICENSE EXPIRES _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: APRIL 15, 2019

Requested inspection date: APRIL 15th → 15th Business hours: 9-5 pm Availability FOR INSPECTION

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|---|---|---|
| ☐ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☐ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☒ BED & BREAKFAST (Class V) |
| ☐ CLUB w/o Catering (Class V) | ☐ CLUB with CATERING (Class I) | ☐ GOLF COURSE (Class I,II,III,IV) |
| ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING | ☐ OTHER: _____ |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>EATON'S NECK PROPERTIES LLC</u>		Business Name (D/B/A) <u>THE WEST END INN</u>	
APPLICANT(S) -(Sole Proprietor) DOB: <u>6-21-59</u>		Physical Location: <u>146 PINE ST. PORTLAND ME 04102</u>	
DOB: _____		City/Town State Zip Code	
<u>762 BARRETT'S MILL RD</u>		<u>762 BARRETT'S MILL RD, CONCORD MA</u>	
Address <u>CONCORD MA 01742</u>		(Mailing Address) <u>01742</u>	
City/Town State Zip Code		City/Town State Zip Code	
<u>781-910-4251</u>		<u>207-712-1377</u> <u>X</u>	
Telephone Number Fax Number		Business Telephone Number Fax Number	
<u>46-3684878</u>			
Federal I.D. # <u>DKPACE @ COMCAST.NET</u>		Seller Certificate #: or Sales Tax #:	
Email Address: Please Print		Website: <u>WWW.WESTENDBB.COM</u>	

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: 6
- State amount of gross income from period of last license: ROOMS \$ 238K FOOD \$ 0 LIQUOR \$ 0
- Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
If Yes, please complete the Corporate Information required for Business Entities who are licensees.
- Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No
If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.
(Use an additional sheet(s) if necessary.)

License #	Name of Business
Physical Location	City / Town

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

6. If manager is to be employed, give name: TBD

7. Business records are located at: 762 BARRETT'S Mill Rd, CONCORD, MA 01742

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

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

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
DIANE PACE	6/21/59	HUNTINGTON, NY
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
CONCORD, MA		

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

I WILL BE NEW OWNER BY MARCH 30, 2019.

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) 6 guest RM B+B

W/ ONE LIVING ROOM, DINING RM, Kitchen + OWNERS QUARTERS

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

17. 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? 385 FEET

Which of the above is nearest? PARISH HOUSE

18. 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 Maine on 2-20-19, 20____
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

FEE SCHEDULE

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

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

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

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

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



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: EATON'S NECK PROPERTIES, LLC
2. Doing Business As, if any: ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~
3. Date of filing with Secretary of State: 9/5/2013 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: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
DIANE PACE	762 BARRETT'S HILL RD CONCORD, MA 01742	6/21/59	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. 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 ☒

8. 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 Owner or Corporate Officer

2-20-2019

Date

DIANE PAGE

Print Name of Owner or Corporate Officer

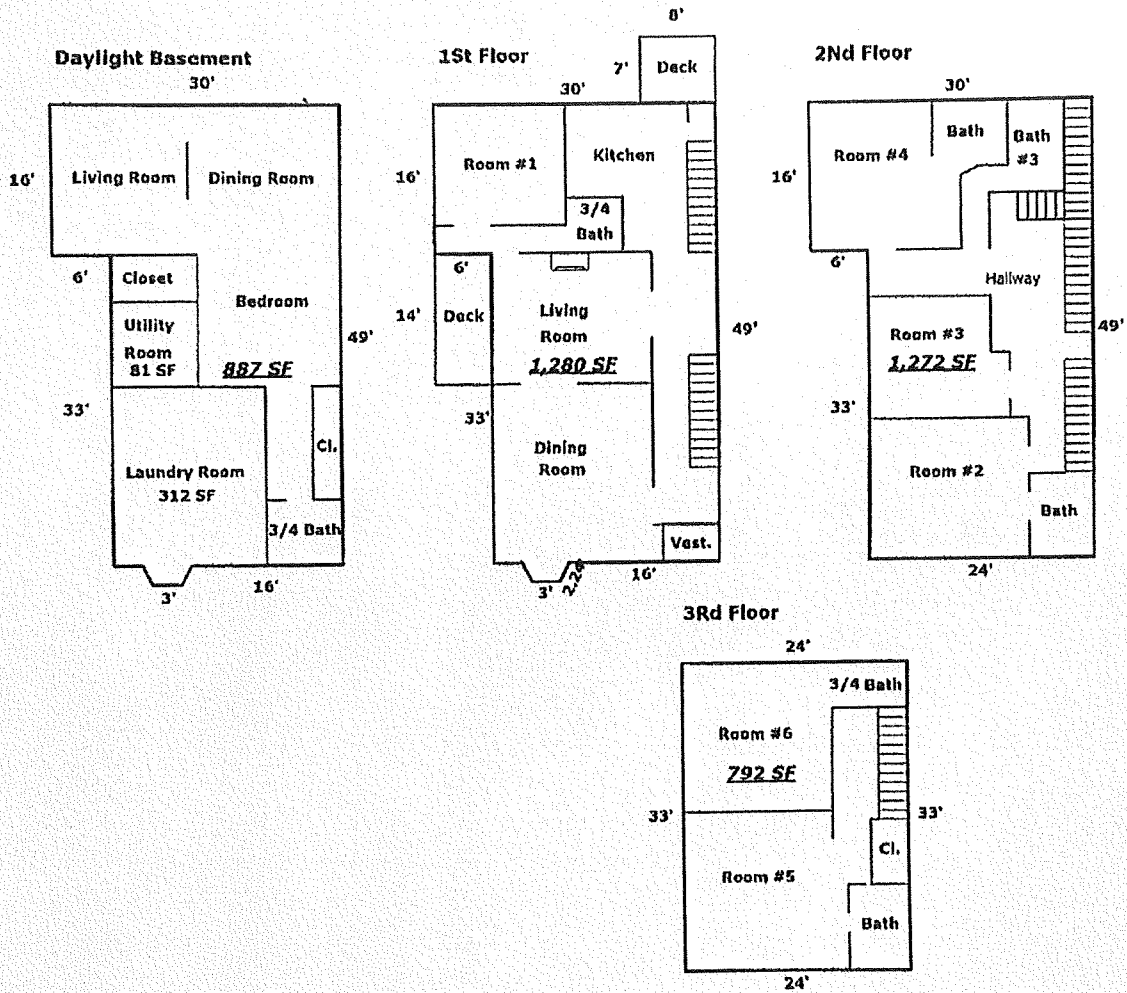
Submit Completed Forms to:

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

Gross Building Area: 4,231 Square Feet

Bed and Breakfast Area: 3,344 Square Feet

Owner's Quarters: 887 Square Feet





WEST END INN

Portland Maine

1871

February 2019 Breakfast Menu

On the Buffet

Freshly Brewed Locally Roasted Organic Coffee

Pumpkin Spice Muffins

Organic Granola

Local Organic Plain Whole Milk Yogurt

Orange Juice

Fresh Fruit

Spinach & Feta Scramble

Steamed Baby Spinach. Feta Cheese.

Couscous with Raisins, Toasted Almonds & Toasted Pinenuts.

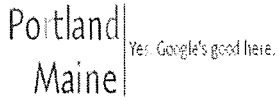
Grape Tomatoes & Olives

North Country Fruitwood Smoked Bacon

*State law requires us to inform you that consuming raw or undercooked foods
may increase your chances of acquiring a food borne illness.*

146 PINE STREET PORTLAND, MAINE 04102

innkeeper@westendbb.com +1.207.772.1377 westendbb.com



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: The West End Inn

cstacey <cstacey@portlandmaine.gov>
To: Zoning <zoning@portlandmaine.gov>
Cc: jhanscombe@portlandmaine.gov

Tue, Feb 26, 2019 at 11:23 AM

A Class V Bed and Breakfast is a permitted use in the R-6 Zone under section 14-136 in Chapter 14, City Code of Ordinances. Alcoholic beverages must be served only to guests of the bed & breakfast. The licensee may not operate a restaurant or drinking establishment for non-guests.

On Thursday, February 21, 2019 at 9:36:23 AM UTC-5, Jessica Hanscombe wrote:

Good Morning

Please see the attached application for a Class V Bed and Breakfast. This will go before council on 3/18.

Please advise. Thanks Jess

Jessica Blais Hanscombe

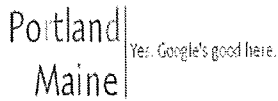
Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: The West End Inn

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Feb 23, 2019 at 4:16 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@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 Thu, Feb 21, 2019 at 9:36 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for a Class V Bed and Breakfast. This will go before council on 3/18.

Please advise. Thanks Jess

Jessica Blais Hanscombe

Licensing and Registration Coordinator

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 #: MIQ99D888767

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-21) :

Inquiries Name(s) DIANE PACE (1959-06-21)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

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

February 26, 2019

Eaton's Neck Properties LLC
762 Barretts Mill Rd
Concord MA 01742

Re: Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street.

Dear Diane Pace

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 18, 2019 at 5:30 p.m.**, for the review of application for a Class V Bed and Breakfast at 146 Pine 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 item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 18, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street. Sponsored by Jon P. Jennings, City Manager.

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

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

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Eaton’s Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 27, 2019

SUBJECT: Order 182-18/19 Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square - Sponsored by Jon P. Jennings, City Manager

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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square.

Application was filed on 2/25/2019. New City and State applications. Applicant currently holds a Food Service Establishment with Prep.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Mr. Tuna.docx
2. 20190227085926713

Prepared by:

Date: 2/27/2019

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

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

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square.

Dear Mayor Strimling and the members of city counsel,

This is a letter of intent to add a beer and wine license to Mr. Tuna at 28 market square.

Sincerely,

Jordan Rubin

owner

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):	Mr. Tuna	Phone:	413 636 9688
Location Address:	28 Monument Sq.	Zip:	04101
If new, what was formerly at this location:			
Mailing Address:	29 Evans St So. Portland	Zip:	ME 04106
Contact Person:	Jordan Rubin	Phone:	413 636 9688
Contact Person Email:	Mr. tunamaine@gmail.com		
Manager of Establishment:	Jordan Rubin	Date of Birth:	4-25-83
Owner of Premises (Landlord):	28MEQ LLC	Phone:	413 636 9688
Address of Premises Owner:	Zip:		

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

Name of Owner(s)	Date of Birth	Residence Address
Ronin Restaurant Group	12/19/2016	29 Evans St. So. Portland, ME

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

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

About Your Establishment

Class of Liquor License:	Malt / Vinous		
Type of food served:	Sushi		
Please circle all that will be served:	☒ Beer	☒ Wine	☐ Liquor
Projected percentage of sales:	Generated from Food: 70%	Generated from Alcohol: 30%	
Hours & days of operation:	Sun - Mon 11-6		

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): mobile food, foodservice establishment	
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, Jordan Rubin, 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 2/26/19

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

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

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

PRESENT LICENSE EXPIRES _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: no

Requested inspection date: ASAP Business hours: _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL, FOOD OPTIONAL (Class I-A) ☐ BED & BREAKFAST (Class V)
☐ CLUB w/o Catering (Class V) ☐ CLUB with CATERING (Class I) ☐ GOLF COURSE (Class I,II,III,IV)
☐ TAVERN (Class IV) ☐ QUALIFIED CATERING ☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Ronin Restaurant Group</u>		Business Name (D/B/A) <u>Mr. Luna</u>	
APPLICANT(S) --(Sole Proprietor) <u>Jordan</u>		Physical Location: <u>28 Monument Square</u>	
DOB: <u>4/25/83</u>		City/Town <u>Portland</u>	State <u>ME</u>
Address <u>29 Evans St ME</u>		Zip Code <u>04101</u>	
City/Town <u>So. Portland, ME</u>		State <u>ME</u>	Zip Code <u>04106</u>
Telephone Number <u>413 636 9688</u>	Fax Number <u>413 636 9688</u>	Mailing Address <u>29 Evans St ME</u>	
Federal I.D. #		City/Town <u>So Portland</u>	State <u>ME</u>
Email Address: Please Print <u>Mr. Luna maine@gmail.com</u>		Zip Code <u>04106</u>	
Seller Certificate #: or Sales Tax #:		Business Telephone Number <u>413 636 9688</u>	
Website:		Fax Number	

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: 1/0

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

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

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

4. Do you own or have any interest in any other Maine Liquor License? ☐ Yes ☒ No

If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

(Use an additional sheet(s) if necessary.)

License #	Name of Business	Physical Location	City / Town

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

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

7. Business records are located at: _____

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

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

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Jordan Rubin	4-25-83	Springfield, MA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
29 Evans St. So. Portland, ME 04106		
35 Bellair Rd. So. Portland, ME 04106		

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) 7 seat counter

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

17. 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? over 500 yds

Which of the above is nearest? school

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

If YES, give details: _____

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

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

Dated at: Portland, ME on 2-26-19, 20 19
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

FEE SCHEDULE

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

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

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

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



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.

- Exact legal name: Ronia Restaurant Group SP
- Doing Business As, if any: Mr. Tuna
- Date of filing with Secretary of State: 12/19/18 State in which you are formed: ME
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

- 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 %
Jordan Rubin	35 Bellaine Rd 29 Evans St	So. Portland 4/25/83	owner	100

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

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

7. 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 ☒

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

Name: _____

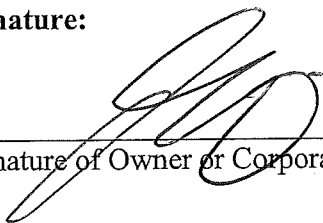
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Owner or Corporate Officer

2-26-19

Date

Jordan Rubin

Print Name of Owner or Corporate Officer

Print Name of Owner or Corporate Officer

Submit Completed Forms to:

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

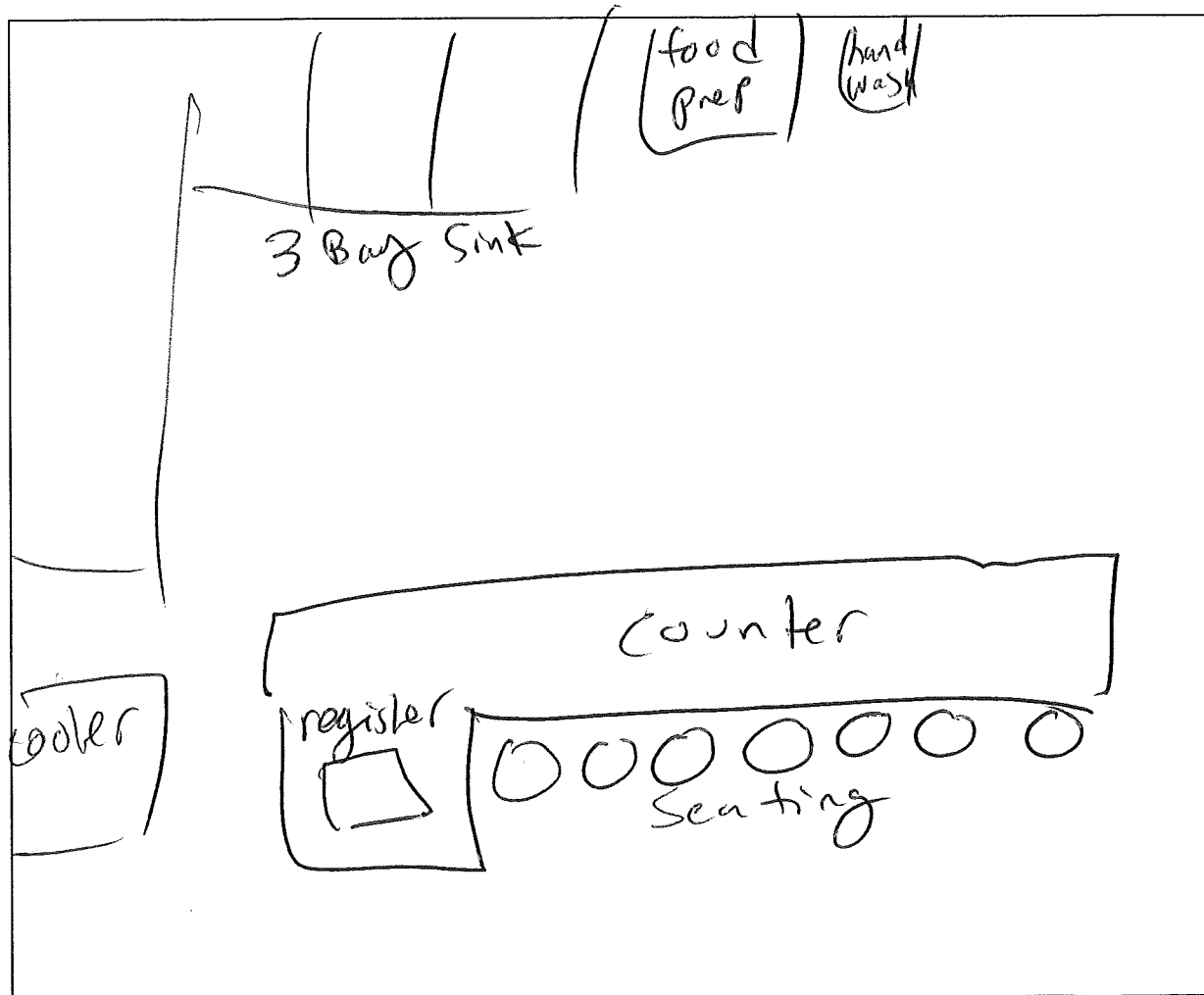
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347 (overnight)
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

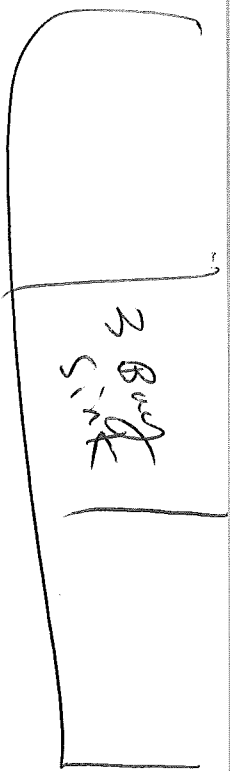


ON PREMISE DIAGRAM (Facility Drawing/ Floor Plan)

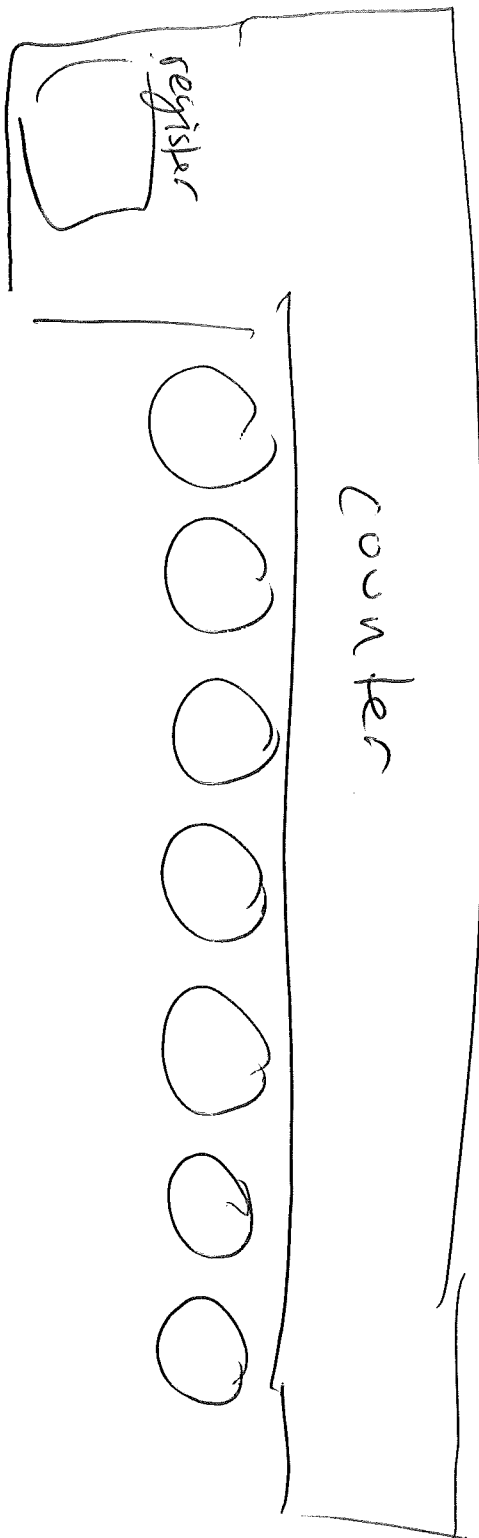
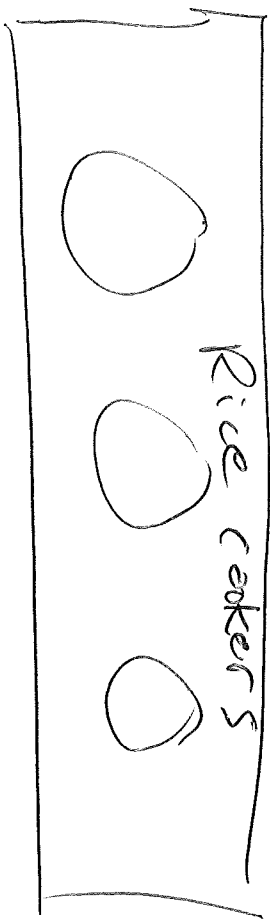
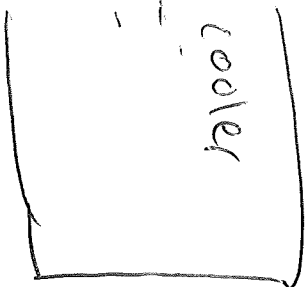
In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas with the following: • Entrances • Office area • Kitchen • Storage Areas • Dining Rooms • Lounges • Function Rooms • Restrooms • Decks • All Inside and Outside areas that you are requesting approval.





refrigerator



MR. TUNA

-MOBILE SUSHI BAR-

PORTLAND • MAINE

Hand Rolls \$6
3 for \$15

SPICY TUNA UME BOSHI|CUCUMBER|TEMPURA FLAKES

SPICY SALMON SWEET CHILI|AVOCADO|SCALLIONS

SPICY SCALLOP&CRAB CUCUMBER|TEMPURA FLAKES

SPICY CRUNCHY SHRIMP PICKLED GINGER & CUCUMBER | TERIYAKI TEMPURA FLAKES

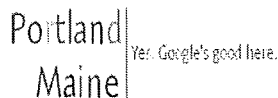
MAINE CRAB YUZU MAYO|AVOCADO|CUCUMBER

VEGGIE UME BOSHI|AVOCADO|CUCUMBER|TEMPURA FLAKES

TUNA TATAKI GREEN CHILI|AVOCADO|TEMPURA FLAKES

SALMON TORO CUCUMBER|SHISO|KIZAME WASABI

📷@mr.tuna_maine



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Mr Tuna

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Feb 26, 2019 at 5:16 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Tue, Feb 26, 2019 at 4:27 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Mr Tuna for an upgrade to a Class III & IV. This will go before council on 3/18. Please advise. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Registration Coordinator
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)



JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Criminal History Record

This criminal history record was produced in response to the following request (Produced on 2019-02-27) :

Inquiries Name(s) JORDAN RUBIN (1983-04-25)

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

February 27, 2019

Ronin Restaurant Group
29 Evans Street
South Portland ME 04106

Re: Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square.

Dear Robert Minervino,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 18, 2019 at 5:30 p.m.**, for the review of application for a Class III & IV FSE at 28 Monument Square. 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 item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 18, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 26, 2019

SUBJECT: Order 183-18/19 Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street - Sponsored by Jon P. Jennings, City Manager

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

Final Action

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street.

Application was filed on 2/19/2019. New City and State applications. New owners of an existing business.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Pizza Villa.docx
2. 20190226131257397

Prepared by:

Date: 2/26/2019

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

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

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street.

**Minervino, Inc.
DBA "Pizza Villa"
940 Congress St.
Portland Maine, 04102
(207) 400-0360
thepizzavillatoo@gmail.com**

**The Mayor and Council Members
City of Portland Maine
389 Congress St.
Portland Maine, 04101**

Dear Mayor and City Council members,

My brother Rob and I, together making up Minervino, Inc., are seeking a liquor license for Pizza Villa. We are taking the business over from Phil and Tony Regios, who are retiring after having owned and operated the Portland neighborhood institution for decades. Our goal is to maintain the same quality pizza and sandwich and full meal menu, as well as beer, wine and spirit offerings, that loyal customers have become accustomed to over the years.

Rob and I currently operate Samuel's Bar and Grill in Morrill's Corner and are owners of Tomaso's Canteen on Hampshire Street. We are excited for this new opportunity, and have worked closely with Maine Medical Center CEO Rich Petersen over the past few months to make the transition in operations at Pizza Villa as seamless as possible once Maine Med's purchase of 940 Congress Street is finalized.

Thank you very much for your consideration of our application.

Sincerely,
Samuel Minervino

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):	PIZZA VILLA		Phone: 207 400-0360
Location Address:	942 9th Congress St		Zip: 04102
If new, what was formerly at this location:			
Mailing Address:	940 Congress St		Zip: 04102
Contact Person:	Robert Minervino	Phone: 207	400-0360
Contact Person Email:	rminerv@maine.rr.com		
Manager of Establishment:	Robert Minervino	Date of Birth: 2-14-62	Phone: 207 400-0360
Owner of Premises (Landlord):	Maine Medical Center		
Address of Premises Owner:	335 Brighton Ave Portland		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	
Minervino Inc.		29 Walton St Portland Zip: 04103	
Contact Person:	Robert Minervino	Phone: 207	400-0360
Principal Officers	Title	Date of Birth	Residence Address
Robert Minervino	President	2-14-62	29 Walton St Portland, Me 04103
Samuel Minervino	Vice President	7-3-57	31 OAKLEY ST Portland, 04103

About Your Establishment

Class of Liquor License:	Class A Class 1	
Type of food served:	Pizza Parlor	
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 60	Generated from Alcohol: 40
Hours & days of operation:	11AM TO 1AM 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: <u>2</u> # of pool tables: _____	
What is your targeted opening date?	3/19/19
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): <u>Samuel's Bar & Grill 1160 Forest Ave</u> <u>Tomaso's Canteen 18 Hampshire St</u>	
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, Robert Minciano 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 President Date 2-15-19

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: \$295 ☐ Entertainment with Dancing: \$529 ☐ After-Hours (1 a.m. to 3 a.m.): \$595

Business Information			
Business Name (d/b/a):	Pizza Villa	Phone:	207 400-0360
Location Address:	940 Congress St.		Zip: 04102

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:	
Restaurant serving Alcohol	
Will music be electric, <u>acoustical</u> , or both? (Circle)	
Will amplification be used?	Y/N
If yes, where and at what level?	
Will music be played (Circle all that apply): <u>Inside</u> Outside	
Will you permit dancing on the premises?	Y/N
Will you permit dancing after 1:00 a.m.?	Y/N
What is your targeted opening date? 3/19/19	
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 owner Date 2-19-19

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

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

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES ☐ NO ☐	

PRESENT LICENSE EXPIRES: _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: 3-19-19

➤ Requested inspection (New Licensees/ Ownership Changes Only) Date : 3-19-19 Business hours: _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- | | | |
|--|---|--|
| ☒ RESTAURANT (Class I,II,III,IV) | ☐ RESTAURANT/LOUNGE (Class XI) | ☐ CLASS A LOUNGE (Class X) |
| ☐ HOTEL (Class I,II,III,IV) | ☐ HOTEL, FOOD OPTIONAL (Class I-A) | ☐ BED & BREAKFAST (Class V) |
| ☐ GOLF COURSE (Class I,II,III,IV) | ☐ TAVERN (Class IV) | ☐ QUALIFIED CATERING |
| ☐ OTHER: _____ | | |

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Minervino Inc.</u>		Business Name (D/B/A) <u>PIZZA VILLA</u>	
APPLICANT(S) –(Sole Proprietor) <u>Robert M. Minervino</u>		DOB: <u>2-14-62</u>	
Physical Location: <u>940 Congress St</u>			
City/Town <u>Portland</u>		State <u>ME</u>	Zip Code <u>04102</u>
Address <u>940 Congress St</u>		Mailing Address <u>same</u>	
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04102</u>	
Telephone Number <u>(207) 400-0360</u>	Fax Number	Business Telephone Number <u>(207) 400-0360</u>	Fax Number
Federal I.D. #		Seller Certificate #: or Sales Tax #:	
Email Address: Please Print <u>Thepizzavillatoo@gmail.com</u>		Website:	

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____

2. State amount of gross income from period of last license:

ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

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

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

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

5. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

- CAL-2016-8079 Tomaso's Canten CAR-2010-7011 Samuel's Bar & Grill
License # _____ Name of Business _____
18 Hampshire St Portland Portland, Me 04101
Physical Location _____ City / Town _____

6. If manager is to be employed, give name: Robert Minervino, Marcus Bailey

7. Business records are located at: _____

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

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

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Marcus A. Bailey	1-11-87	Portland, Me
Robert M. Minervino	2-14-62	Portland, Me.

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

Name: <u>Marcus Bailey</u>	City: <u>Portland</u>	State: <u>me</u>
Name: <u>Robert Minervino</u>	City: <u>Portland</u>	State: <u>me</u>
Name: _____	City: _____	State: _____

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

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

Maine Medical Center 22 Bramhall St. Portland, Me 04102

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

Restaurant serving Alcohol

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

YES ☐ NO ☐ Applied for: 2/19/19

18. 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? USM

19. 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 ☒

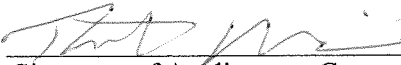
If YES, give details: _____

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, Maine on Feb. 19, 20 19
Town/City, State Date

Please sign in blue ink

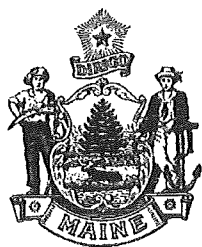

Signature of Applicant or Corporate Officer(s)
Robert M. Minervino
Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications).....		\$ 10.00
Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class III & IV	Malt & Vinous Only	\$ 440.00
	CLASS III & IV: 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 V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	



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: Minervino Inc.
2. Doing Business As, if any: PIZZA VILLA
3. Date of filing with Secretary of State: _____ State in which you are formed: Maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Robert M. Minervino	29 Walton St Portland, Me 04103	2/14/62	President	50%
Samuel T. Minervino	31 Oakley St Portland, Me 04103	7/3/57	vice president	50%

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

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

7. 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

8. 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 Owner or Corporate Officer

2-19-19

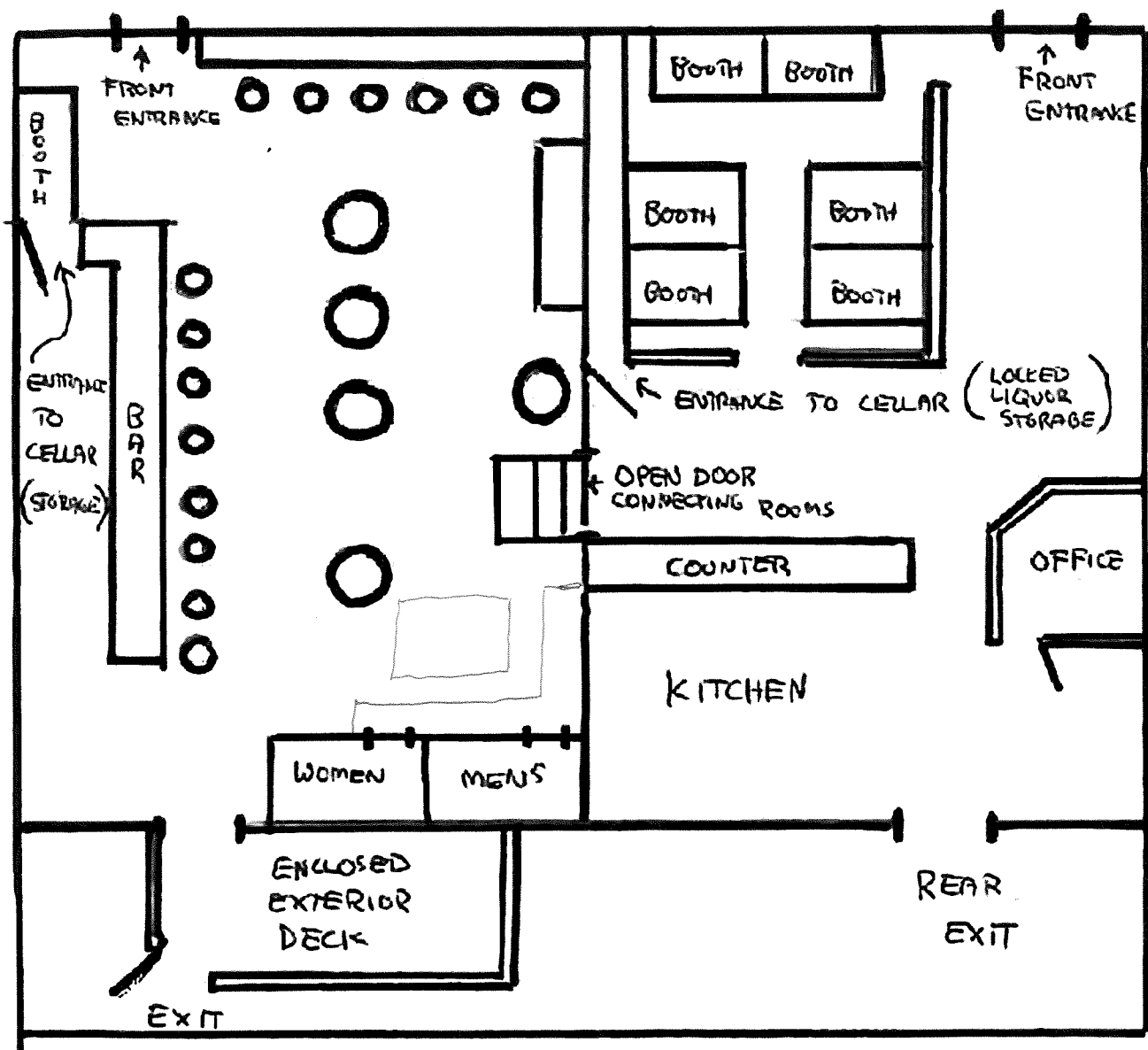
Date

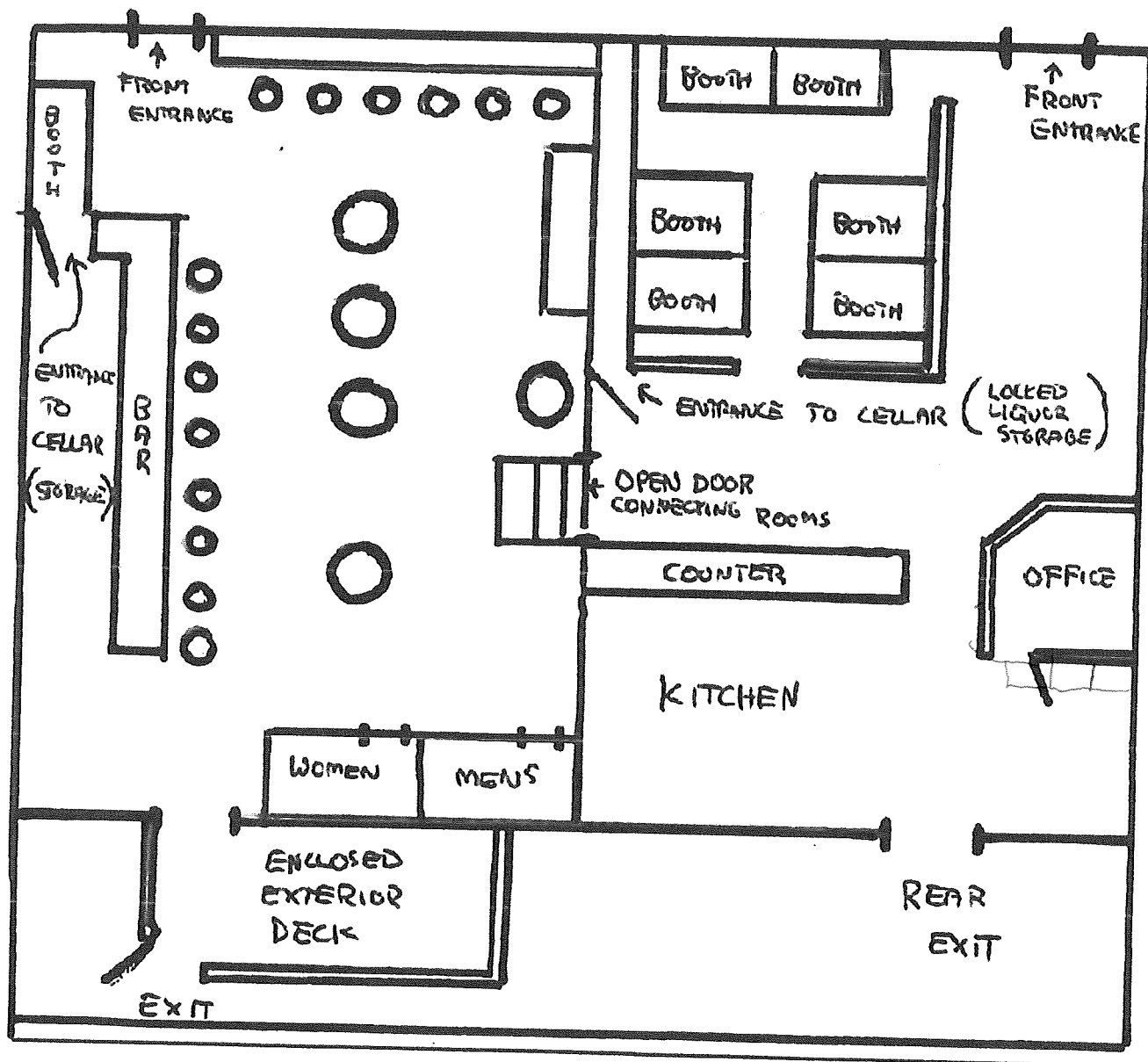
Robert M. Mieserino

Print Name of Owner or Corporate Officer

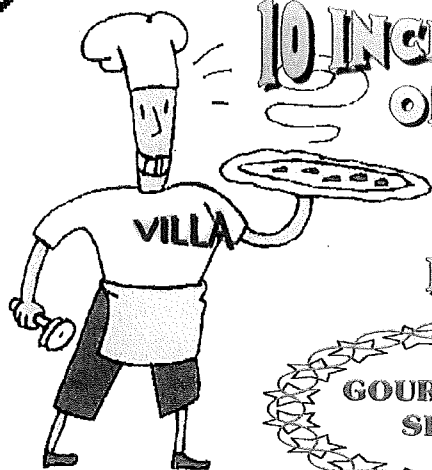
Submit Completed Forms to:

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





PIZZA VILLA



10 INCH CHEESE PIE 7.95

ONE ITEM 8.75
TWO 9.35
THREE 9.95
FOUR 10.50
LOADED 11.50

GOURMET PIZZA SPECIALS 11.25

TOPPING

PEPPERONI
 HAMBURG - MUSHROOM
 GREEN PEPPERS - BROCCOLI
 GREEK OLIVE - SAUSAGE - ONION
 JALAPENO - BLACK OLIVE - SALAMI
 PINEAPPLE - GARLIC & OIL - BACON
 SPINACH - ANCHOVY - FETA
 EXTRA CHEESE - HAM
 TOMATO



CALZONES 9.75
 ANY THREE TOPPINGS

SANDWICHES



	small	large
MEATBALL	6.25	8.25
PASTRAMI	5.75	7.75
EGGPLANT	5.75	7.75
TUNA MELT	5.75	7.75
POORBOY	5.00	6.75
VEGGIE	5.00	6.75
ITALIAN	5.00	6.75
DBL ITALIAN	5.50	7.50
TUNA	5.75	7.75
CHICKEN SALAD ..	6.25	8.25
HAM & CH	4.50	6.25
GENOA & CH	4.50	6.25
ROAST BEEF	6.25	8.25
B.L.T.	5.25	6.75

HOMEMADE SOUPS



CUP 3.95
 BOWL 6.25
 FRIDAYS ONLY
CHOWDER
 CUP 5.00
 BOWL 7.25

SALADS



	small	large
GARDEN	4.75	5.75
GREEK	5.75	7.25
TUNA	5.75	7.25
CHEF	5.75	7.25
CHICKEN	6.00	7.50
CAESAR	5.75	7.25
CHIX CAESAR ..	7.25	9.00



CHICKEN BREAST SANDWICHES

COOK BOOK



CLASSIC	6.50	8.75
PARMESAN	6.50	8.75
CORDON BLEU	6.75	9.00
CLUB	7.00	9.25
CAJUN	6.50	8.75
BUFFALO	6.50	8.75

PASTA



SPAGHETTI PLATE 6.50
 with MEATBALLS ...(each).... .75
 with CHICKEN PARM 10.50
 with EGGPLANT PARM 9.75



THE ABOVE SERVED WITH GARLIC TOAST



ODDS AND ENDS

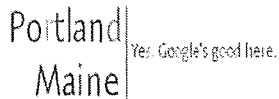
WINGS OF FIRE 9.95
 MOZZARELLA STICKS 6.25
 BROCCOLI BITES..... 6.25
 JALAPENO POPPERS 6.25



774-1777

Cocktails

PORTLAND 940 CONGRESS ST. MAINE



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Pizza Villa

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Feb 23, 2019 at 4:14 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Tue, Feb 19, 2019 at 10:19 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application. This is a change of ownership of an existing business and will go before council on 3/18/2019. Please advise. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Registration Coordinator
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 #: MIQ99D886283

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-19) :

Inquiries Name(s) ROBERT MINERVINO (1962-02-14)

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 #: MIQ99D886278

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-19) :

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

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

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

February 26, 2019

Minervino Inc
940 Congress Street
Portland ME 04102

Re: Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street.

Dear Robert Minervino,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 18, 2019 at 5:30 p.m.**, for the review of application for a a Class I FSE with Entertainment without Dance at 942 Congress Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 18, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street. Sponsored by Jon P. Jennings, City Manager.

FROM: Mary Davis, Division Director

DATE: March 4, 2019

SUBJECT: **Resolution 11-18/19 Adopting the Fiscal Year 2020 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**

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 3/18/2019 **Final Action 4/8/2019**

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

PRESENTATION: (List the presenter(s), type and length of presentation) Lucinda Pyne, Chair of the CDBG Allocation Committee will give a brief presentation on behalf of the Committee. HCD Staff are available for questions.

I. SUMMARY

This Resolution adopts the fiscal year 2020 HUD annual action plan and appropriates funds to the identified programs utilizing CDBG, HOME, ESG and other local resources.

II. AGENDA DESCRIPTION

This Resolution adopts the fiscal year 2020 annual action plan and appropriates funds to the identified programs.

The 2019/2020 Housing and Community Development Program will report in the Annual Action Plan to HUD a total estimated budget of \$5,133,228 funded by a Community Development Block Grant allocation of \$1,895,922 plus \$120,000 in TIF funding and \$20,000 in Cotton St. proceeds along with \$102,242 in CDBG Housing Program Income; a HOME Consortium Program Grant allocation of \$1,151,710; HOME Program Income of \$74,887; HOME Recapture Funds of \$74,093; Lead Safe Housing Program Income of \$268,741; local Housing Trust Funds of \$1,268,320; and an Emergency Solutions Grant Allocation of \$157,131.

The CDBG 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 public hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing year. 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

local and federal regulations. The first reading and public hearing on this item is on March 18, 2019. Staff is requesting that the second reading and public hearing on this item be held on April 22, 2019, when five affirmative votes will be required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Approval of the FY 2020 Allocation of Housing and Community Development Program Resources - CDBG, HOME, ESG and other local resources.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Resolve CDBG Annual Action Plan for FY 2029-2020 3.18.2019
2. 1. Memo to Council budget 19-20
3. 2. City Manager Recommendation Letter 2019
4. 3. Memo budget and cap calculations 2019-2020
5. 4. Allocation Committee Recommendation Letter 19-20
6. 5. Allocation Committee and City Manager allocations 19-20
7. 6. History of CDBG Attachment to Council Memo 19-20
8. 7. Housing Program Budget Memo 03.08.2019
9. 8. ESG budget 19-20 updated

Prepared by:

Mary Davis, Division Director

Date: 3/4/2019

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

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

**RESOLUTION ADOPTING THE FISCAL YEAR 2020 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 \$1,895,922 of Community Development Block Grant (“CDBG”) Entitlement Funds, for the program year 2019-2020 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 \$102,242 in Housing Program income, along with \$20,000 in Cotton Street Proceeds, which is subject to the same regulations as the entitlement funds; and \$120,000 in TIF funds; a HOME Program Grant allocation of \$1,151,710, HOME Program income of \$ 74,887, HOME Recaptured Funds of \$74,093; Lead Safe Housing Program Income of \$268,741; local Housing Trust Funds of \$1,268,320; and \$157,131 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 2019-2020 Consolidated Housing and Community Development Annual Action Plan; and the sums of \$1,895,922 for the Community Development Block Grant Program, plus \$102,242 CDBG Housing Program funding; \$20,000 in Cotton Street Proceeds; \$120,000 in TIF funds; \$1,300,690 for the HOME Program, \$268,741 in Lead Safe Housing Program Income, \$1,268,320 in local Housing Trust Funds and \$157,131 for the Emergency Shelter Grant Program are hereby appropriated for the purposes approved in the attached Plan and budgets as provided in the Attached Exhibit A; 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 2019-2020; 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 \$1,895,922 and to expend \$102,242 in CDBG housing program income funds, \$120,000 in TIF, and \$20,000 in Cotton Street proceeds; \$1,151,710 of HOME Program funds and to expend \$74,887 of program income and \$74,093 of recaptured funds for a total of \$1,300,690; \$268,741 in Lead Safe Housing program income; \$1,268,320 in local Housing Trust Funds; and \$157,131 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 as noted below:
 - (a). If estimated allocations decrease, activities under the CDBG, HOME and ESG Programs be proportionately decreased from the estimated funding levels to match the actual allocation amounts;
 - (b). If estimated allocations increase, activities under the HOME and ESG Programs be proportionately increased to match the actual allocation amounts; and
 - (c). If the estimated CDBG allocation increases, all partially funded projects be proportionately increased until fully funded. If, and once all projects are fully funded, any remaining balance will be proportionately shared among the approved projects.

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 2019-2020 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: Jon P. Jennings, City Manager
Jeff Levine, Planning and Urban Development Director
Mary Davis, Housing and Community Development Director
From: Amanda Methot, HCD Program Manager
Date: March 4, 2019
Re: HUD's Consolidated Annual Action Plan 2019-2020

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 \$5,133,228, which includes allocations from the Department of Housing and Urban Development, program income, and our local funding sources, detailed below:

1.	CDBG	\$ 1,895,922	Expected HUD Allocation 2019-2020
		\$ 9,000	CDBG Housing Program income for Administration
		\$ 0	CDBG Program Income
		\$ 120,000	TIF Funds for Development Activities (\$90,000) and Administration (\$30,000)
		\$ 20,000	Cotton Street Proceeds for Social Service Activities
		\$ 0	CDBG Reprogrammed Funds
		\$ 2,044,922	Total Expected CDBG funds to Allocate for 2019-2020
<i>CDBG Funds by Category for HUD Budget*(does not include TIF & Cotton St proceeds)</i>			
		\$ 388,184	Administration and Planning
		\$ 650,776	Social Services
		\$ 865,962	Development Activity
		\$1,904,922	

Attachments: (1a) CDBG recommendation letter from the City Manager; (1b) Staff Memo to City Manager, (1c) Recommendation Letter from the CDBG Allocation Committee; and (1d) Spreadsheet summarizing the recommendations of the Allocation Committee and City Manager; (1e) Overview of Portland's CDBG program

2.	HOME	\$ 1,151,710	Expected HUD Allocation 2019-2020
		\$ 74,887	Estimated HOME Program Income 2018-2019
		\$ 74,093	Estimated HOME Recaptured Funds 2018-2019
		\$ 1,300,690	Total Estimated HOME funds to Allocate for 2019-2020

Other Housing Funding

CDBG	\$ 93,424	CDBG Housing Program Income Funds
LEAD	\$ 268,741	Lead Safe Housing Program Income Funds
Trust	\$ 1,268,320	Local Housing Trust Funds
	\$ 1,630,485	

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:
\$157,131 Expected HUD Allocation 2019-2020

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



CITY OF PORTLAND
Executive Department
Jon P. Jennings, City Manager

March 8, 2019

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, 2019 to June 30, 2020.

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 the difficult scoring decisions that were made by the Committee. This year, I reviewed all of the applications, carefully considered the Allocation Committee's recommendations, and met with various city departments before forming my recommendations [*City Manager's Recommendations A1*]. As you will see from my recommendations, I tried to align my decisions with the Allocation Committee while still looking at the overall impact these programs have on the City.

1) *Social Services.* This year we had a wide array of competitive social service applications. As in past years, there are more deserving applicants than funds available. The City would need an additional half a million dollars to fund all of these programs. After reviewing the Allocation Committee's recommendations, I made some changes to insure that vital pieces of the city's social service safety net would not be missing. One of those pieces is the Preble Street Food Program. The food program provides necessary food security to homeless individuals in the City. Food security is a basic necessity, without this service, many individuals would go hungry on a daily basis. Reaching partial funding for this program required some tough decisions. I had to reduce funding from three City programs and an additional non-City program that is receiving funding. I understand that doing this will lower the number of individuals these organizations will be able to serve, but not funding the Preble Street Food Program could mean life or death for some of Portland's most vulnerable individuals.

Lastly, in 2017 the City Council allocated \$20,000 in proceeds from the sale of the Cotton Street Lot to be used for CDBG Social Service activities every year until the funds are exhausted. It is my recommendation that the City Council allocate the \$10,000 to the Florence House and \$10,000 to the Joe Kesler Teen Shelter so that both specialized shelters can operate at a sufficient level.

2) *Development Activities.* I was delighted to see that the number of development activity applications almost doubled this year from six to 11. These funds play a critical role in the physical infrastructure and the economic development of our city. I hope more organizations continue to take advantage of this funding opportunity in the future.

My recommendations align with the Allocation Committee's scores. The funds were able to stretch to fully fund nine of the 11 projects. The Elm Street Sidewalk project scored second to last and has a funding gap of \$97,113. I have decided to add the \$90,000 from TIF funding to the help fill the funding gap. The additional funds will bring the total project allocation to \$312,887, reducing the funding gap to \$7,113.

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 \$389,184 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 \$388,184 to meet the estimated FY19-20 cap; therefore, I am recommending full funding to administer the program.

As of the date of this memo, HUD has not announced FY 19/20 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 19/20 allocations would remain at the same level as FY 18/19 allocations. We do not know when the FY 19/20 allocations will be announced, although the federal spending bill requires that HUD notify grantees of the allocations no later than April 16. It is my recommendation that if the allocations decrease, activities under the CDBG, HOME and ESG Programs be proportionately decreased from the estimated funding levels to match the actual allocation amounts. In the event that the allocation is increased, I recommend that HOME and ESG Programs be proportionately increased to match budgeted allocation amounts. If the CDBG allocation increases, I recommend all partially funded projects be proportionately increased until fully funded.

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,



Jon P. Jennings
City Manager



Memorandum

Planning and Urban Development Department
Housing and Community Development Program

To: City Council

Cc: Jeff Levine, Planning and Urban Development Director
Mary Davis, Housing and Community Development Director

From: Amanda Methot, HCD Program Manager

Date: March 5, 2019

Subject: **2019-2020 CDBG Budget and Cap Calculations**

In past years, the CDBG budget submitted as part of the HCD Annual Action Plan matched the local CDBG budget presented on the allocation summary sheet. Starting in 2018, the budget differs due to the replacement of program income with TIF funds and Cotton Street proceeds. Staff would like to take the opportunity to address how these changes impact the overall CDBG budget and cap calculations.

CDBG budget and cap calculations: Each year staff calculate the HUD mandated funding caps for the following CDBG funding categories; Planning and Admin, Development Activities, and Social Services. The budget for our local CDBG program is created once the HUD mandated funding caps have been determined. The CDBG budget combines the CDBG entitlement funds with program income, reprogramed funds, and available local funds. These local resources are not included in the cap calculations nor are they required to be included in the HUD CDBG budget.

In past years, the CDBG program received program income from a parcel of land known as the Cotton Street garage. Following the HUD cap calculations, 20% of the program income went to Planning and Admin, 15% went to Social Services, and 65% went to Development Activities. In 2017 the City sold the Cotton Street parcel. In order to make up the loss of program income funds for each category, the City Council allocated \$120,000 of TIF revenue to be used for Planning and Administration (\$30,000) and for TIF-eligible public infrastructure projects (\$90,000). In addition, the City Council allocated \$20,000 from the Cotton Street proceeds to be used for social service activities.

The budget submitted to HUD in the HCD Annual Action Plan excludes local funding for the purposes of HUD mandated cap calculations. The TIF and Cotton Street funds are excluded from the HUD CDBG budget. The difference in the two budgets will be shown on the HUD's Consolidated Annual Action Plan 2019-2020 memo to the City Council.



March 1, 2019

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 45 of the Community Development Block Grant (CDBG).

On a national level, HUD has not yet released the 2019-2020 allocations, but we are hopeful that the funding will remain level with the previous year's funding, as represented in the table below.

CDBG ALLOCATION	Year 45 FY 19-20
Planning and Administration Cap	\$388,184
Social Service Cap	\$650,776
Development Activities	\$865,962
TOTAL	\$1,905,922

As in past years, the need for CDBG funding continues to exceed the amount of funds available. The total funds requested are \$2,491,800, resulting in a gap of \$585,878 between CDBG funds anticipated 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 of Portland's CDBG Program and the changes that have been made in the allocation process 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 ten years, the CDBG program has undergone significant review resulting 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 review 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 with dates and council order references are available on the City's CDBG website.

APPLICATION PROCESS AND REVIEW

CDBG Applications were made available on October 10, 2018. The mandatory applicant's meeting was held on October 9, 2018 at 5:30pm in Room 24 of City Hall. All applications were due on Tuesday, November 13, 2017 by 4:00pm.

We received eleven (11) Development Activities applications and twenty (20) Social Service applications, along with an Administration and Planning application, for a total of \$2,491,800 in funding requests. There was a total of \$998,075 requested for Development Activities with \$865,692 in anticipated funding, and \$1,104,541 in Social Service requests with \$650,776 of funding anticipated.

Allocation Committee Score Card Changes

As in past years, the Committee found that some of the scoring categories seemed to weigh more heavily toward larger, more established organizations and programs, versus newer or more innovative proposals. Prior to beginning the scoring process, the committee adjusted the scoring matrix within the major scoring categories, while being careful to remain within the guidelines of the City Council's stated goals and priorities. The Committee acknowledges that substantial changes to the scoring framework would require approval from the City Council. We plan to meet after the 2019-2020 allocation process has concluded to consider whether to recommend additional changes to the scoring process that may assist the City Council in formulating its five-year plan for the CDBG process beginning in 2021.

The Allocation Committee Review and Funding Methods

Our Committee first met for this funding year on December 5, 2018. 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 meeting. Each proposal was discussed individually during the meetings. If questions arose, staff documented the questions and forwarded them to the applicant to answer. The answers were then shared with the Committee. Allocation Committee members then scored each application individually, using the scoring matrix structured in accordance with the priorities established by the City Council.

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

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.

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 \$389,184 with the understanding that Administration and Planning funding is limited to 20% of the entire CDBG budget. This year, we anticipate the 20% cap to be 379,184.

Development Activities Funding

The Committee received eleven (11) Development Activities applications, which includes both construction activities and economic development, requesting a total of \$998,075, with only \$860,133 in anticipated funding. 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, with the remaining 15% reserved for outside organizations. 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	Committee Recommendation
COP- Economic Development	BAP- Business Assistance Program for Job Creation	\$205,000	94.17	\$205,000
COP and Portland Downtown	Bicycle and Pedestrian infrastructure improvement project for downtown/bayside	\$23,975	88.34	\$23,975
Mayo Street Arts	Wheelchair Access Ramp	\$75,000	87.18	\$75,000
Port Resources	Port Resources Group Home Rehab	\$75,000	86.34	\$16,100
CEI	PMAP- Portland Microenterprise Assistance Program	\$48,000	86	\$48,000
COP Public Works	Kennebec Street Lighting	\$103,000	78.84	\$103,000

Alpha One	Critical Access Ramp Program	\$40,000	78.66	\$40,000
Learning Works Boys and Girls Club of Greater Portland	Renovation of Historic Education Facility	\$82,000	78.49	\$82,000
	Energy Efficiency Improvements to Portland Club House	\$50,000	76.00	\$50,000
COP Public Works	Elm Street Sidewalk	\$320,000	74.84	\$222,887

This year the Committee was surprised to see a relatively small number of development applications for the second year in a row. Consequently, all but one of this year's pool of applications was recommended for funding.

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. In addition, Amistad is in its second year of a multi-year application and will be funded with level funding from PY 18. A total of \$1,104,541 in Social Service requests were received with only with \$650,776 in funding anticipated. 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 applications, 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	Committee Recommendation
Police Department	Community Policing	\$150,000	Set Aside	\$150,000
Amistad (2 year)	Peer Outreach Worker (POW) Program	\$80,000	Set Aside 2 nd year	\$51,345 (level funding PY 18)
Catherine Morrill Day Nursery	Portland CDBG Child Care Voucher Collaborative	\$83,510	95.833	\$83,510
Milestone	Homeless Outreach and Mobile Engagement (HOME) team	\$114,000	95.000	\$114,000
COP Public Health Division	Mobile Medical Outreach	\$50,000	94.333	\$50,000
Wayside Foods	Direct Service Program	\$34,000	94.167	\$34,000

COP Oxford Street Shelter	Long Term Stayer Community Integration and Landlord Outreach	\$66,868	92.667	\$66,868
Portland Adult Education	New Mainers Resource Center Job Search Support Program	\$49,056	91.667	\$49,056
Spurwink	Spurwink Adult Behavioral Health Opioid Medication Assisted Treatment Program	\$75,444	91.000	\$51,997

Due to the continued decrease in funding, as well as the high number of deserving applicants, the CDBG Allocation Committee found it challenging to prioritize which projects would have the greatest impact. The committee was very focused on understanding the level of need within each community group seeking services. Though many applications contained strong anecdotal evidence of immediate needs, the committee tried to focus on specific performance data, social and societal trends, complementary vs. competing or duplicative programs, and the demand for services from different constituencies in the City.

In particular, the Committee was interested in fostering partnerships between organizations to maximize the impact of their programs. The Committee observed that partnerships reduce duplicative services and provide a positive indicator to ensure a project's outcome. In addition, the committee believes organizations working together are more likely to launch successful, sustainable programs.

ADDITIONAL CONSIDERATIONS

Overall, the Committee believes the Social Service scores reflect a balanced approach to addressing the range of community needs reflected by the applications. However, we want to call attention to the fact that the seven (7) applications falling just below those that received the Committee's recommendation for funding are separated by just over 2 points and were all highly valued by the Committee members as important to the City's overall social service resources. In particular, we recognize that the Committee's scoring conclusions omit any of the Preble Street programs from those recommended for funding, which may be problematic for a number of reasons. We want to emphasize that all members of the Committee acknowledge that the need for these programs is chronic and growing, and that Preble Street has consistently and ably demonstrated its capacity to deliver the needed services to the populations it serves. The Committee would also like to recommend that the Catholic Charities Immigrant Legal Services (ILAP) application be considered for funding in the event that you consider re-allocating any of the recommended funding, or if any additional funding sources are identified. We believe that this service is vital to the growing population of New Mainers, and is not available from other sources. We respect that you may have different priorities from those reflected in the Committee's allocation recommendations, and that you have flexibility that is not afforded by the structure of the Committee's scoring system. We look forward to learning of your and the City Council's conclusions regarding CDBG allocations.

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 spreadsheet 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 March 6 and hearing your response.

Sincerely,

The CDBG Annual Allocation Committee for Program Year 2019-2020

Lucinda Pyne, Chair
Melanie Cahill, Vice Chair
Reverend Kenneth Lewis
D. Kelley Young
Shima Kabirigi
Matthew Purington
Samuel Martin

CDBG Recommendations 2019-2020

[illegible][illegible]

An Overview of Portland's Community Development Block Grant Program

The City of Portland, Maine is an Entitlement Community for the Community Development Block Grant (CDBG) from the federal Department of Housing and Urban Development.

The goal of the CDBG program is to develop viable communities by promoting integrated approaches that provide decent housing, a suitable living environment, and expanded economic opportunities for low and moderate income persons.

The program achieves this goal through the development of partnerships among all levels of government and the private sector, including for-profit and non-profit organizations.

CDBG: Overview

- CDBG is important tools for helping local governments tackle serious challenges facing their communities.
- The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses.
- HUD provides grants on a formula basis to 1180 cities and counties throughout the country.
- Grantees carry out a wide range of community development activities directed toward revitalizing neighborhoods, economic development, creating suitable living environments, providing decent housing, and improving community facilities and services.

CDBG: Goals or National Objectives

1. Benefit low and moderate income persons
2. Prevent or eliminate slum or blighted areas
3. Address an urgent or emergency community need

CDBG: Eligible Activities, including but not limited to:

- Planning and Administration
- Social Services
- Economic Development, Job creation
- Affordable Housing
- Public Infrastructure Improvements: Streets, Sidewalks, Parks, Gardens, Trees, Sewers, etc
- Public Facilities: Neighborhood centers, non-profit centers, and school building conversions for eligible purposes; Rehabilitation of residential and non-residential buildings, energy renovations; Historic Preservation

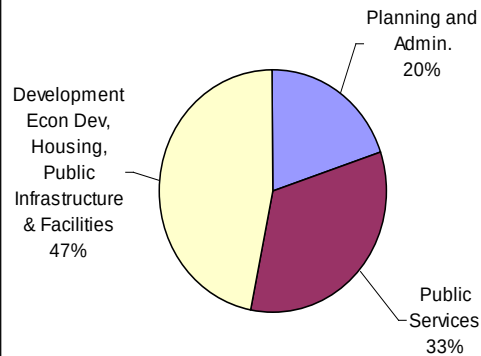
Funding Categories

20% Planning and Administration

33% Social Services

47% Development Activities:

- Economic Development
- Housing
- Public Infrastructure
- Public Facilities



Local Priorities

GOALS

- **Neighborhood Investment and Infrastructure- *Create strong, safe, accessible and vibrant neighborhoods***- Invest in infrastructure to improve neighborhood assets and build strong, safe, accessible and vibrant neighborhoods. Improve accessibility through ADA compliance. Build sidewalks and trails to improve connectivity, increase the use of bicycles as a mode of transportation, and redevelop streetscapes to create shared streets for cars, bikes, and pedestrians that integrate with the fabric of the neighborhood. Support programs that increase safety in neighborhoods for residents and visitors.
- **Housing Availability-*Increase housing availability and affordability***- Increase housing availability and affordability to all Portland residents regardless of income, race, ethnicity, and family size. Encourage housing development by removing barriers to traditional urban housing types while ensuring the inclusion of workforce housing in significant development projects.
- **Economic Opportunity- *Create economic opportunities to transition people out of poverty***- Invest in Portland businesses to enable them to expand to create jobs. Invest in persons wanting to create microenterprises. Engage job seekers in a continuum of services to increase their professional capacity, financial stability, and ability to maintain employment. Focus on difficult to employ populations including homeless, new Americans and single parent head of households. Combine resources and build partnerships between public and private entities to provide opportunities to transition Portland residents out of poverty to sustainable employment and financial stability.
- **Address the Needs of the Growing Homeless Population- *Prevent and reduce homelessness*** - Prevent individuals and families from becoming homeless and entering into the shelter system. Rapidly rehouse those who enter the shelter system. Provide necessary resources to assist vulnerable population's transition out of homelessness, including housing opportunities for chronically homeless or long-term stayers at homeless shelters.

GUIDING PRINCIPLES

- **Consistency.** All projects and programs will be reviewed with respect to the Consolidated Plan and other HUD requirements; City goals, priority impact initiatives, etc.
- **Measurable Community Impact.** Programs and projects will be evaluated based on how well they create a significant and measurable community impact.
- **Location.** Programs and projects should focus on targeted locations within the eligible neighborhoods, for example: neighborhood commerce districts, proximity to new affordable housing development, and identified troubled areas in the neighborhood.
- **Diversity and Inclusiveness.** Programs and projects shall address diversity and be inclusive in order to engage differences and create a culture of belonging.
- **Priority to Lower Incomes.** Priority will be given to projects and programs that serve the lowest income persons.
- **Leveraged Funding.** CDBG cannot be the only source of funding for a program or project; leveraging other funds is essential.
- **Sustainability.** Programs and projects must demonstrate positive impacts on the environment, financially feasible, supportive to the community, and/or energy efficient in approach.

History of the CDBG Program and Priorities

Beginning in 2006 the CDBG program has undergone significant review. In 2006 the City Council created the Housing and Community Development (HCD) Task Force. This Task Force created Ten Recommendations, which were adopted by Council in October 2007. Recommendations included the creation of a Priority Task Force and an ongoing Annual Allocation Committee. The Priority Task Force conducted an in-depth community process that resulted in a new goal, priority impact areas, and guiding principles for the program, which the Council adopted in October 2008. Phased implementation of these Recommendations has occurred over the next two years, being fully implemented in 2010. Further adjustments of the program were made for the 2011 program year.

For Program Year 2008 the following steps were implemented:

Council Order 70-7/08 (HCD Task Force Ten Point Plan)

- Creation of the CDBG Priority Task Force
- Creation of the CDBG Annual Allocation Committee
- Projects are to be completed within two years of being funded

For Program Year 2009 the following steps were implemented:

Council Order 70-7/08 (HCD Task Force Ten Point Plan)

- CDBG Application process should comply with the city's purchasing ordinance

Council Order 91-08/09 (CDBG Priority Task Force Recommendations)

- Application and scoring reflect the goal of building strong, self sustaining neighborhoods by having applications address the priority impact areas and guiding principles.

For Program Year 2010 all recommendations from the HCD Task Force and CDBG Priority Task Force were implemented, including:

Council Order 91-08/09 (CDBG Priority Task Force Recommendations)

- \$20,000 minimum request.
- Small grants available to social services for capacity building with a maximum request of \$7,500 and available to small businesses micro-enterprises for technical assistance with a maximum request of \$7,500.
- Social service basic needs set aside for up to 10% of the HUD allocated CDBG grant.
- Social service multi-year initiatives requests guidelines defined and encouraged.

Additional Changes Implemented

- Economic development job creation request guidelines defined.
- The administration and planning request would be presented to and reviewed by the committee, but would not be voted upon in a competitive environment.

Council expressed concern over the final implementation and requested staff and the Allocation Committee to make recommendations for further improvement. After review by the Community Development Committee, Council reviewed and approved the following changes for Program Year 2011, including:

Council Order 46-10/11 (Staff memo based on recommendation from CDC, and CDCG AC)

- Eliminate the Basic Needs Set-Aside, Social Service Capacity Building and Small Business Start up Grants.
- Lower Minimum Grant award to \$10,000
- Set Maximum Grant awards: \$150,000 for social services, \$250,000 for development activities.
- Create a maximum cumulative award for City applications per funding category: 45% of the social service cap and 85% of the development activities amount.
- Create a set-aside/cap for economic development job creation of \$100,000 within the development activities amount.
- Priority focus areas for current program year per funding category: Work and Shop as a priority impact area focus for social services, and Libbytown CT 20.02 for development activities location focus.
- Create a formal appeals process

2012 Minor adjustments

- Based on pressure and direction from HUD we will be paying our grantees based on a cost per unit of service. Each applicant has provided a cost per unit of service. Funded applicants will be submitting funding requisitions and be paid based on the number of units provided and persons served. This does not apply to construction projects.
- Staff will be administering bonus and penalty points on the applications.
- Priority for Social Service applications is child care. Priorities for Development Activities are job creation and projects located in Libbytown or Census Tract 20.02.

2012 Priority Task Force focused priorities even further:

- To create Sustainable Workforce Development Program(s) that move Portland residents out of poverty into sustained employment and financial stability.
 - 1) Invest in businesses with Portland locations to enable them to expand and create jobs, as eligible by HUD regulations.
 - 2) Provide a continuum of services to increase a Program Participant's professional capacity, financial stability, and ability to maintain employment, through: career advancement services, financial stability and job retention support services.
- Place Program Participant's in newly created sustainable Portland-based jobs.

2013 Working Group determined how to implement the Priorities of the 2012 Task Force:

- Invest 1) in businesses to create net new jobs or 2) to create microenterprise businesses (businesses with less than 5 employees where the owner is LMI Portland)
- Fill 66% of the net new jobs with low to moderate income (LMI) Portland residents.
- Priority will be given to applicants that will hire or serve more LMI Portland residents, homeless persons, New Americans, or single-parent head of households will be given preference.
- Set aside \$400,000 (\$300,000 in Development Funds and \$100,000 in Social Service Funds) for the new Workforce Development Initiative now renamed the Employment Development Program.
- Fund at least two applicants
- Funding requests can be for two years
- Tracking of jobs will be for two years after job creation or microenterprise creation
- Success will be evaluated based on return on investment (CDBG investment vs. increase of income of new employees/ business owners)
- The first round of funding will begin in 2014.

2014

- Bonus points were awarded to child care and Basic Needs applications. The committee reviewed all applications and determined if they should receive the additional bonus points.
- Created a new Request for Proposals seeking a lead agency for the Employment Development Funds in the amount of \$400,000.

2015

- No Bonus Points
- New "Construction only" application
- Targeted Guiding Principles for Development, Economic Development and Construction applications.

2016

- Created New Needs-Goals and Priorities for 2016-2020 Con Plan
- Created Target Neighborhood Investment- Bayside Neighborhood
- No limit on “Public Infrastructure applications”

2017

- Bayside Neighborhood remains Target Neighborhood for Investment

2018

- Updated “Neighborhood Investment and Infrastructure” and “Addressing the Needs of the Growing Homeless Population” on the 2016-2020 Needs-Goals-Priorities Chart

Resources

2006 Shapiro, Boxer-Macomber Memo

2007 HCD Task Force Ten Point Plan, [Council Order 70-7/08](#)

2007 HCD Task Force Report

2009 CDBG Priority Task Force Priorities, [Council Order 91-08/09](#)

2012 CDBG Priority Task Force Recommendations, [Council Order 53-12/13](#)

2013 CDBG Working Group Recommendations, [Council Order 8-13/14](#)

2016 5 Year Consolidated Plan, New Needs-Goals-Priorities, [Council Order 197-15/16](#)

2017 Revisions to the Needs Goals and Priorities Chart, [Council Order 24-17/18](#)

Portland, Maine



Yes. Life's good here.

Mary Davis

Division Director, Housing & Community Development Division

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Mary Davis, Division Director
Housing and Community Development Division

DATE: March 8, 2019

SUBJECT: 2019-2020 Housing Program Budget

SUMMARY OF ISSUE – Review and recommendation to the City Council of the 2019-2020 Housing Program Budget.

REASON FOR SUBMISSION - The Housing Committee recommends the Housing Program Budget to the City Council for final approval.

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 \$20.8 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 \$567,149. Of that amount 10% would be set aside for administrative costs (\$56,715) leaving \$510,434 for program funding. Under the current consortium agreement, the city receives the administrative set-aside along with approximately \$590,000 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 2019-2020. The FY19 federal spending bill was approved on February 15. It requires HUD to notify grantees of their CDBG and HOME allocations within 60 days (by April 16). However, since we do not have the final allocation amounts, we are estimating the HUD HOME allocation at the same level as the previous year (\$1,151,710). \$445,712 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 (single family and multi-family housing)
3. Tenant Based Rental Assistance (TBRA)
4. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

The Housing Rehabilitation Program has a significant balance remaining from FY2019 so we are recommending allowing the program time to spend down that balance and putting additional resources in Affordable Housing Development.

HOME Program Budget	FY 2018-2019 Budgeted (entitlement + program income)	FY 2019-2020 Budget proposal (entitlement + program income)
Administration	\$101,737	\$115,171
Housing Rehabilitation	\$100,000	\$65,000*
Tenant Based Rental Assistance	\$162,000	\$162,000
Affordable Housing Development includes CHDO requirement	\$493,174	\$564,954

*The FY19 Housing Rehab Program has a balance of \$65,000 that will be carried over into FY20.



Mary Davis

Division Director, Housing & Community Development Division

CDBG/HOUSING DEVELOPMENT FUND: HDF is the program income account funded by CDBG housing loan repayments. These funds can only be used for CDBG eligible housing activities. The FY20 budget proposal would fund an emergency loan program to assist eligible households (at or below 80% of the area median income) with repairs that are determined to be an immediate danger to the health or safety of the occupants of the household. This would supplement the remaining balance in the Housing Rehabilitation budget above. In future years, we are exploring moving from the current housing rehabilitation model to an emergency loan model that would focus smaller investments where significant health, safety or related issues exist. FY20 funding would allow us to explore this model while still retaining some Housing Rehabilitation funds.

Housing Development Fund (HDF) Budget	FY 2018-2019 Budgeted	FY 2019-2020 Budget Proposal
Administration	\$51,826	\$0
Housing Rehabilitation	\$165,270	\$93,242*

*\$36,000 of new program income for FY20 + FY19 balance remaining of \$57,242

LEAD SAFE HOUSING (Program Income): Lead Safe Housing Program Income is generated through repayment of loans given under prior Lead Safe Housing Grants. These funds can only be used for lead safe housing eligible activities.

Lead Safe Housing Program Income	FY 2018-2019 Budgeted	FY 2019-2020 Budget Proposal
	\$170,866	\$268,741

HOUSING TRUST FUND: Revenue for the Housing Trust Fund is generated from fees triggered by the City's Housing Preservation and Replacement Ordinance, fee-in-lieu contributions from the Inclusionary Zoning Ordinance and Hotel Inclusionary Zoning fee. Including the current balance of the Housing Trust Fund in the Housing Program Budget gives budget authority for the use of the funds. There are no projects or activities currently identified for these funds. The amount budgeted is the maximum that might be expended in FY20. However, staff continues to recommend a minimum balance in the Trust, so the effective budget would be \$775,820 (\$1,275,820 less \$500,000.) If additional funds are allocated to the Trust based on current discussions, this number might be adjusted based on the outcome.



Mary Davis

Division Director, Housing & Community Development Division

Housing Trust Fund (HTF) Budget	FY 2018-2019 Budgeted	FY 2019-2020 Budget Proposal
	\$913,502	\$1,275,820

STAFF ANALYSIS AND RECOMMENDATION – The proposed Housing Program Budget will be adjusted when HUD announces the fiscal year allocation for the HOME Program. This budget will be forwarded to the full City Council for two Public Hearings (March 18 and April 8), as part of the overall HCD budget. Typically the final budget allocations and Annual Action Plan are submitted to HUD 45 days in advance of the start of the fiscal year (May 15 for the fiscal year beginning July 1, 2019).

At this time staff is requesting Committee approval and recommendation to the City Council of the FY 19/20 Housing Program Budget as outlined above and summarized in the attached spreadsheet. If the HUD allocation amount is different from the estimate used in this budget, program budgets will be adjusted proportionately.

FY 19/20 Housing Program Budget - Attached

2019-2020 HOUSING PROGRAM BUDGET HUD Final Allocation Date: XX, 2019

Total HUD HOME Entitlement Allocation	1,151,710
Portland Program Portion	590,827
Portland Admin Portion	115,171
County Program Portion	445,712

Recommended by HC (x-x) XX, 2019
 Approved by Council XX, 2019
HUD Allocation XX, 2019
 Adjusted for Final HUD Allocation xx.xx.19

REVENUES- Housing Programs

2019-20 HOME Consortium Admin (10% of allocation)
2019-20 HOME Consortium Programming
2018-19 HOME Program Income
2018-19 HOME Program Income Recaptured Funds
2018-19 HOME Program Income and Recapture Deduction for County
Re-Allocated HOME Funds (funding from previous years)
2019-20 CDBG Administration
2019-20 CDBG Programming
2018-2019 Housing Trust Fund
2018-19 HDF Program Income
2018-19 Lead Safe Housing Program Income

REVENUE TOTALS (Portland)

HOME	CDBG	HDF**	LEAD Safe Housing Program Income***	Housing Trust Fund***	TOTAL BUDGET
115,171					115,171
590,827					590,827
74,887					74,887
74,039					74,039
-28,217					-28,217
					0
					0
					0
				1,275,820	1,275,820
		93,242			93,242
			268,741		268,741
826,707	0	93,242	268,741	1,275,820	2,464,510

2019-20 HOUSING Budget by Activity (Portland)

Administration PL1901/QS1901
Housing Rehabilitation (18 Units @ \$15,000/unit) QM1800/QB1800
Homeownership Assistance QJ1900
Tenant-Based Rental Assistance QT1901
Affordable Housing Development QK1900/IN1114
CHDO QL1900
Lead Safe Housing PLL036

HOME	CDBG	HDF**	LEAD Safe Housing Program Income**	Housing Trust Fund**	TOTAL BUDGET
115,171		0			115,171
0		93,242			93,242
0					0
162,000					162,000
450,794				1,275,820	1,726,614
98,742					98,742
0			268,741		268,741
826,707	0	93,242	268,741	1,275,820	2,464,510

** Balance of Previously Budgeted Amounts + New Revenue

*** Balance of Previously Budgeted Amount

2019-20 HOME Consortium COUNTY - approved by MOC on xx.xx.2019

County HOME Program budget provided for reference only; **adjusted for final HUD Allocation xx.xx.19**

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

REVENUES- Housing Programs

2019-20 HOME Consortium Non-Portland Programming
2018-19 HOME County Program Income and Recapture

HOME
County
445,712
28,217
473,929

2019-20 HOUSING Budget by Activity

Housing Rehabilitation (8 projects @ \$15,000/project) QP1900
Home Ownership QQ1900
Affordable Housing Development QD1900
CHDO QR1900

HOME
County
0
0
399,644
74,285
473,929

3 ESG Budget

Proposed 2019-2020 Budget for ESG

Emergency Solutions Grant 2014-2019

Program	ESG Budgeted Funding Amount by Fiscal Year						FY 19-20
	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	
Operations: Homeless Health	\$28,993	\$35,391	\$0	\$0	\$0	\$0	\$0
Essential Services: Family Shelter	\$21,853	\$26,675	\$28,327	\$28,327	\$28,327	\$27,000	\$51,200
Homeless Prevention: Family Shelter	\$21,853	\$26,675	\$52,369	\$52,369	\$52,395	\$51,200	\$27,000
Homeless Prevention: Oxford Street	\$8,972	\$10,952	\$13,800	\$13,244	\$13,262	\$12,950	\$12,950
Rapid Rehousing: Oxford Street	\$35,888	\$43,807	\$55,200	\$55,200	\$55,200	\$54,200	\$54,200
Administration and HMIS	\$5,600	\$6,838	\$12,138	\$12,092	\$12,096	\$11,781	\$11,781
<i>Total (Actual)</i>	<i>\$123,159</i>	<i>\$150,338</i>	<i>\$161,834</i>	<i>\$161,232</i>	<i>\$161,280</i>	<i>\$157,131</i>	<i>\$157,131</i>
<i>Admin/HMIS cap</i>	<i>\$9,237</i>	<i>\$11,275</i>	<i>\$12,138</i>	<i>\$12,092</i>	<i>\$12,096.00</i>	<i>\$12,096</i>	<i>\$11,785</i>

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. There is a need in Portland to expand the essential services with the high number of families arriving. The budget is adjusted to cover 1 FTE, this will allow the case manager to work with 5-10 families (17-34 individuals).
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. The budget will cover .25 of a FTE
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.

NOTE:

We have not received our 2019-2020 allocation from HUD. The 2019-2020 budget is an estimate based off last year's allocation. If our allocation from HUD increases or decreases the funded categories will increase or decrease proportionally.

City Council will take public comment on this budget at the March 18th and April 8th Council Meetings.

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**

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

**RESOLUTION SUPPORTING BANNING
ALL NON-MEDICAL VACCINATION EXEMPTIONS**

WHEREAS, at 5 percent, Maine had the seventh-highest rate of non-medical vaccination opt-outs in the country in 2017-18, according to the federal Center for Disease Control and Prevention; and

WHEREAS, thirty-one Maine public elementary schools report 15 percent or higher rates of unvaccinated kindergarten students, putting those schools and the surrounding community at greater risk of outbreaks of measles, chickenpox and pertussis; and

WHEREAS, Maine experienced an increase in pertussis cases from 410 in 2017 to 446 in 2018; and

WHEREAS, Maine's pertussis rate of 27.7 cases per 100,000 population was the worst in the nation in 2017 and more than five times the national average, according to the United States Centers for Disease Control and Prevention; and

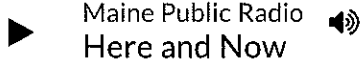
WHEREAS, decades of research and science have proven that immunizations are overwhelmingly safe; and

WHEREAS, the World Health Organization issued a report on February 28, 2019 that said "vaccine hesitancy" has become a global health threat; and

WHEREAS, community ("herd") immunity, which protects everyone, results when healthy people get vaccinated and by doing so protect the health of individuals with weakened or failing immune systems –who have cancer, HIV/AIDS, type 1 diabetes, or other health conditions – who cannot get a vaccination;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Portland hereby supports the approval by the Maine State Legislature of LD 798, submitted by Representative Tipping of Orono, that would ban all non-medical vaccination exemptions, no longer allowing parents to forgo school-required vaccinations for their children unless that child had a medical exemption; and

BE IT FURTHER RESOLVED, that this resolve shall be sent to all members of the Portland Legislative Delegation.



Bill Would End Non-Medical Vaccine Exemptions In Maine

By [AP \(/PEOPLE/AP\)](#) • JAN 18, 2019

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AUGUSTA, Maine - Lawmakers in Maine will consider a bill designed to end non-medical exemptions from childhood vaccinations this year.

Maine has one of the lowest vaccination rates for children entering kindergarten. It's also home the country's highest rate of whooping cough, a dangerous disease that can be limited with the use of an easily available vaccine.

The bill is co-sponsored by Democratic Rep. Linda Sanborn of Gorham, who is a family physician. Another co-sponsor, Democratic Rep. Ryan Tipping of Orono, tells the Portland Press Herald the bill is about "doing all we can for these children."

A bill to make it harder to opt out of vaccines died in 2015. Republican Paul LePage, the governor at the time, vetoed the measure. The Legislature failed to override the veto.

TAGS: [VACCINATIONS \(/TERM/VACCINATIONS\)](#)

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MAY 24, 2018

Advocates think bill to end most exemptions from childhood vaccinations has a shot

 pressherald.com/2019/01/18/bill-would-end-non-medical-exemptions-from-childhood-vaccinations/

By Joe Lawlor Staff Writer

January 18, 2019



A bill that would end non-medical exemptions from childhood vaccinations will go before the Legislature this year, and public health advocates are optimistic about the measure's prospects.

Maine has one of the worst vaccination rates for children entering kindergarten in the nation, and the country's highest rate of pertussis, a vaccine-preventable disease also known as whooping cough.

If approved, Maine would be the fourth state – following California, Mississippi and West Virginia – to ban all non-medical exemptions that allow parents to forgo school-required vaccines for their children.

Related

Vaccination opt-out rate rising among Maine kindergartners, along with the risk of illness

In Maine, current state law permits parents to skip vaccines for their children by signing a form opting out on philosophic and religious grounds. In the 2017-18 school year, 5 percent of Maine children entering kindergarten – about 600 children statewide – had non-medical exemptions for immunizations, state statistics show.

Thirty-one public elementary schools were reporting 15 percent or higher rates of unvaccinated kindergarten students, putting those schools and the surrounding community at greater risk for the return of preventable diseases such as measles, chickenpox and pertussis.

'VACCINE HESITANCY' A GLOBAL THREAT

Dr. Linda Sanborn, a family physician and a Democratic state senator from Gorham, said advocates are focused on protecting children from infectious diseases such as measles. New York City is now experiencing a measles outbreak that started among unvaccinated children, with more than 180 cases in an Orthodox Jewish community, according to news reports. In 2014-15, a measles outbreak in California that started at Disneyland sickened hundreds.

The World Health Organization issued a report Thursday that said "vaccine hesitancy" has become a global health threat.

"We should be doing all we can for these children. Their safety is so important," said Sanborn, a co-sponsor of a bill with Rep. Ryan Tipping, D-Orono.

Tipping said the birth of his daughter a year ago spurred him to think about public policy in different ways.

"When you have a child, it opens your eyes to a lot of issues that should be changed in this world to make it a better place for your kid and all children," Tipping said. "Schools and day cares should be a safe place for children to attend."

A bill to make it more difficult to opt out of vaccines – by requiring a medical professional to consult with parents and sign off on the exemption – died in the Legislature in 2015 after lawmakers upheld a veto by then-Gov. Paul LePage.

Gov. Janet Mills has not stated a position on the bill, but pro-vaccine advocates are confident and made the measure more strict by eliminating all non-medical exemptions rather than requiring another step to opt out, as the 2015 bill would have done.

Mills spokesman Scott Ogden said the governor will examine the merits of the bill.

"Governor Mills will carefully review any legislation to modify current state vaccination policy, and she encourages all parents to have their children vaccinated," Ogden said in a statement. "As a general matter, she believes that vaccinations are critical to protecting the health and welfare of Maine people."

MAINE'S OPT-OUT RATE AMONG HIGHEST

Medical opt-outs in Maine are extremely rare – only 0.3 percent of all vaccine opt-outs were for medical reasons, such as a child with leukemia, according to state statistics.

Maine experienced an increase in pertussis cases in 2018, from 410 in 2017 to 446, according to the Maine Center for Disease Control and Prevention. Several schools reported outbreaks this fall, including in Scarborough, Biddeford and Kennebunk, and the Middle School of the Kennebunks canceled its annual community Thanksgiving dinner in response to pertussis outbreaks.

Maine's pertussis rate of 27.7 cases per 100,000 population was the worst in the nation in 2017 – the latest year for state-by-state comparisons – and more than five times the national average, according to the U.S. Centers for Disease Control and Prevention.

State Rep. Beth O'Connor, R-Berwick, is skeptical of vaccine safety. She believes parents should have a choice to opt out and that banning the exemptions would infringe on parent choice.

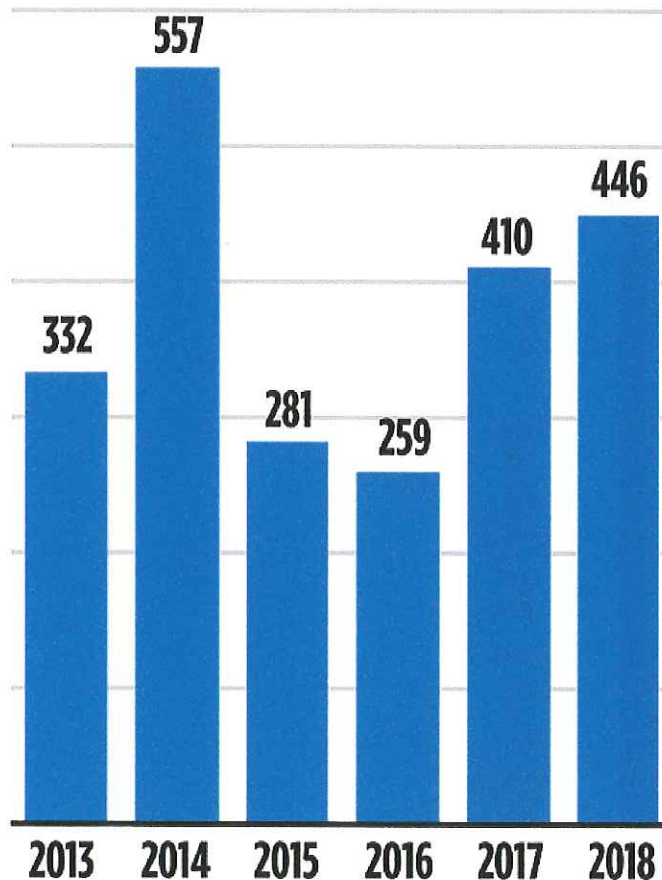
"I think this bill is a very, very bad idea," O'Connor said. "I believe people should have all of these exemptions available to them. This is very important in a free society."

Immunizations are overwhelmingly safe, decades of research has proven, and are not linked to autism. A 1998 study that claimed a link between vaccines and autism has been retracted and disproven.

After the Disneyland outbreak, California eliminated all non-medical exemptions and its school vaccination rates improved substantially, with 99.9 percent of all kindergartners vaccinated for the 2017-18 school year.

Pertussis cases in Maine

Pertussis cases in Maine are at their highest level since 2014. In 2017, Maine had the highest pertussis rate in the nation.



SOURCE: Maine Center for Disease Control

STAFF GRAPHIC | MICHAEL FISHER

At 5 percent, Maine had the seventh-highest rate of non-medical opt-outs in the country in 2017-18, according to the federal CDC. Oregon had the worst vaccination coverage, with 7.5 percent of students entering kindergarten with non-medical exemptions.

BILL APPLIES TO DAY-CARE FACILITIES

Caitlin Gilmet, 38, of Portland said her infant son, Thomas, contracted chickenpox at a day care last spring when he was 5 months old, before he was old enough to be vaccinated. The chickenpox vaccine is typically given to children who are between 12 and 15 months old.

"Chickenpox can be deadly in infants, so it was really scary," said Gilmet, who took Thomas to an urgent care center because he was having difficulty breathing. "I was really worried about him."

Gilmet said it was "infuriating" that children are being put at risk for preventable illness by people choosing not to vaccinate their children. She said beyond the medical risks, when there's an exposure at a day care, children too young to be vaccinated cannot attend the day care for about a month to make sure the disease is not still circulating, which caused a financial hardship and upended people's work schedules.

"People had to really scramble to figure out care for their children," Gilmet said. Tipping's bill also would apply to day cares, he said.

Gilmet is part of a grassroots group, Maine Families for Vaccines, that formed in November and is expected to lobby in favor of the bill.

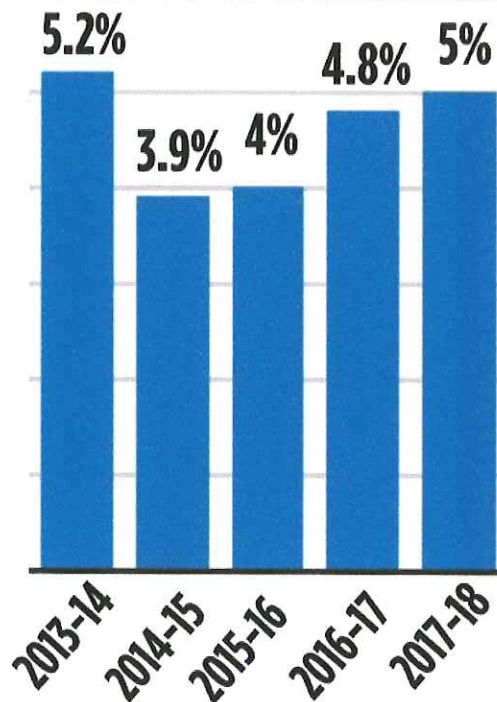
Peter Michaud, a nurse and attorney for the Maine Medical Association, said children who for medical reasons can't be vaccinated, such as those with leukemia, are especially vulnerable to hospitalization or dying if they catch a vaccine-preventable disease.

Michaud said people are opting out of vaccines not because they have a philosophic or religious exemption, but because they incorrectly fear that the vaccines are unsafe.

"People are not getting the vaccines because of a misunderstanding of the science," he said. "Children keep getting sick, avoidably."

Vaccine opt-out

Percentage of Maine kindergartners whose parents opted them out of vaccines for philosophic or religious reasons.



SOURCE: Maine Center for Disease Control

STAFF GRAPHIC |
MICHAEL FISHER

3/4/2019

Advocates think bill to end most exemptions from childhood vaccinations has a shot

Joe Lawlor can be contacted at 791-6376 or at:

Twitter: joelawlorph



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 798

H.P. 586

House of Representatives, February 12, 2019

**An Act To Protect Maine Children and Students from Preventable
Diseases by Repealing Certain Exemptions from the Laws
Governing Immunization Requirements**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TIPPING of Orono.

Cosponsored by Representative TUCKER of Brunswick, Senator WOODSOME of York and Representatives: BICKFORD of Auburn, HUBBELL of Bar Harbor, HYMANSON of York, McDONALD of Stonington, MEYER of Eliot, PERRY of Calais, Senators: GRATWICK of Penobscot, SANBORN, L. of Cumberland.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6355, sub-§3, as amended by PL 2001, c. 326, §2, is repealed.

Sec. 2. 20-A MRSA §6359, sub-§3, ¶B, as amended by PL 2001, c. 326, §6, is repealed.

Sec. 3. 22 MRSA §802, sub-§4-B, ¶B, as enacted by PL 2001, c. 185, §2, is repealed.

Sec. 4. 22 MRSA §8402, sub-§3, ¶A, as amended by PL 2001, c. 645, §10, is further amended to read:

A. The department shall adopt rules regarding the health of staff as required to protect the health and safety of the children. The rules must include a requirement that every 2 years each licensee, administrator or other staff member of the nursery school who provides care for children be declared free from communicable disease by a licensed physician, ~~except that this requirement may be waived for a person who objects on the grounds of sincerely held religious or philosophical belief.~~ Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter H-A 2-A.

Sec. 5. Rules. The Department of Education and the Department of Health and Human Services shall amend their rules to remove any rules exempting persons from immunization requirements because of their religious or philosophical beliefs. Rules adopted by the Department of Education must provide that a student who is covered by an individualized education plan on the effective date of this Act and has elected a philosophical or religious exemption from immunization requirements on or before the effective date of this Act may continue to attend school under that student's existing exemption as long as:

1. The parent or guardian of the student provides a statement from an appropriate medical professional that the medical professional has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

2. If the student is 18 years of age or older, the student provides a statement from an appropriate medical professional that the medical professional has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

SUMMARY

Current law allows exemptions from immunization requirements based on religious or philosophical beliefs for students in elementary and secondary schools and

1 postsecondary schools and employees of nursery schools and health care facilities. This
2 bill removes those exemptions. The bill also directs the Department of Education and the
3 Department of Health and Human Services to remove any immunization exemptions
4 based on religious or philosophical beliefs from their rules and requires the Department
5 of Education to adopt rules allowing a student who is covered by an individualized
6 education plan and has elected a philosophical or religious exemption from immunization
7 requirements to continue to attend school under the existing exemption as long as an
8 appropriate medical professional provides a statement that the medical professional has
9 provided information on the risks and benefits associated with the choice to immunize.

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**

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

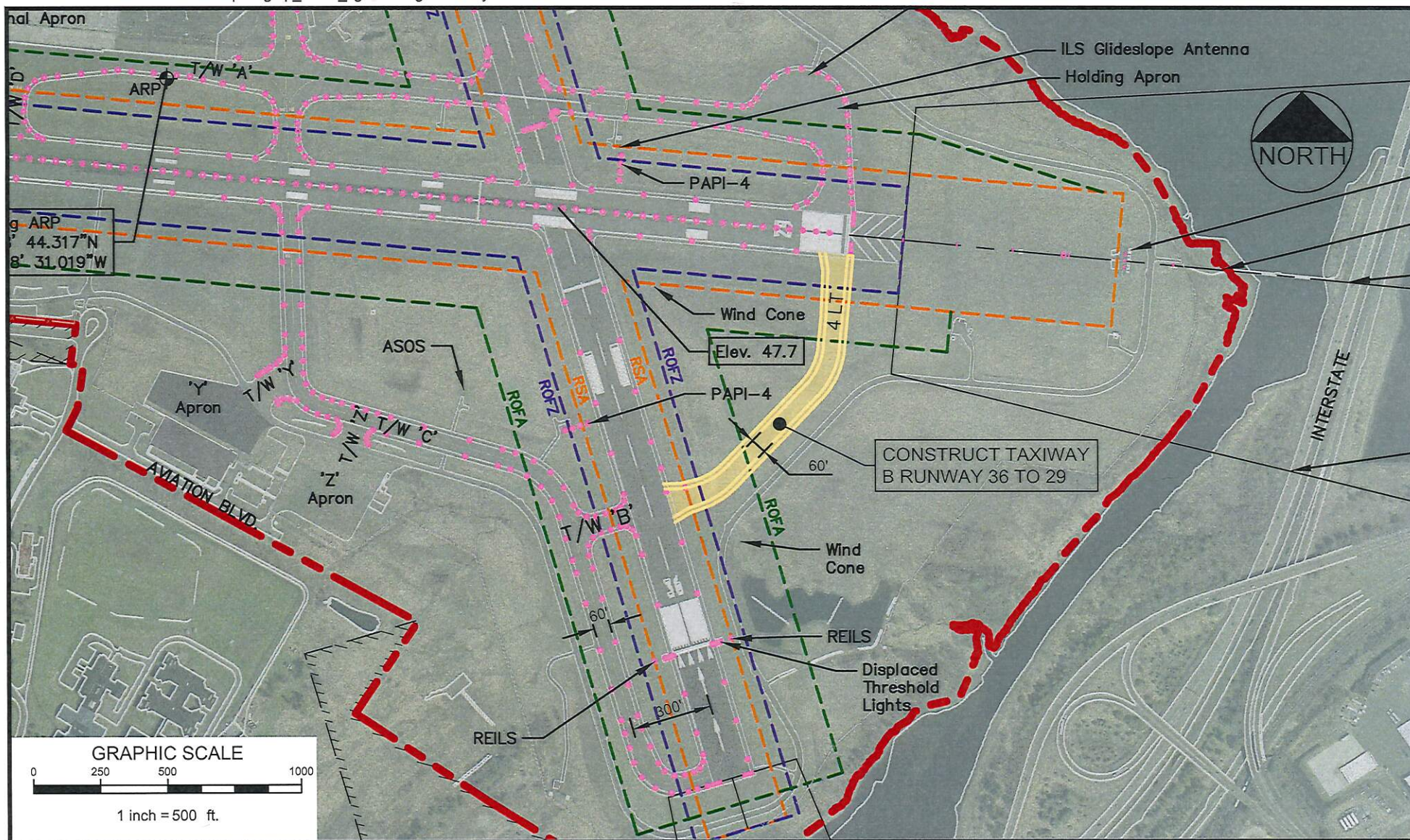
**ORDER APPROVING FEDERAL AVIATION ADMINISTRATION
AIRPORT IMPROVEMENT PROGRAM GRANTS**

ORDERED, that grant funding of approximately \$7.67 million dollars from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) is hereby approved for the Portland International Jetport (Jetport) for the following projects:

- The construction of Taxiway B to connect Runway 36 to 29;
- The expansion of the terminal aircraft apron to provide an additional aircraft deicing pad, aircraft hold area; and aircraft overnight parking; and

BE IT FURTHER ORDERED, that the funds for said project 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.



Stantec
482 Payne Road Scarborough Court
Scarborough, Maine 04074-8929
Tel. 207.883.3355
www.stantec.com

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Client/Project

PORTLAND INTERNATIONAL AIRPORT
FIGURE TO ACCOMPANY PROJECT
READINESS FORM

File Name: op_m116_figures

LA	DDA	DDA	2018.11.28
DWN.	CHKD.	DSGN.	DATE

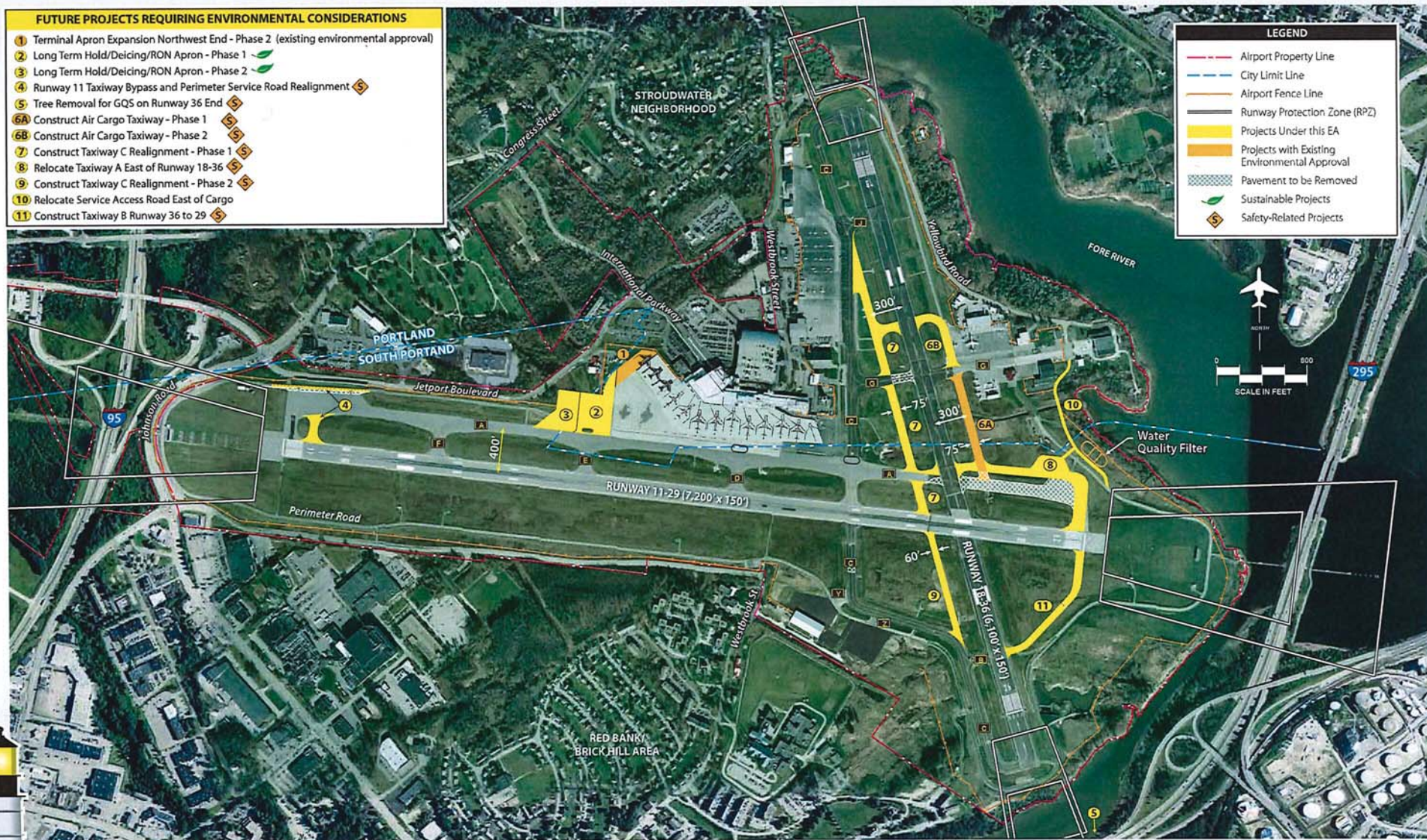
Title

CONSTRUCT TAXIWAY B
RUNWAY 36 TO RUNWAY 29

Figure No.

1

FUTURE PROJECTS AT PORTLAND INTERNATIONAL JETPORT





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.

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: March 7, 2019

SUBJECT: **Order 173-18/19 Setting Public Hearings on Fiscal Year 2020 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program and Emergency Solutions Grant Program - Sponsored by Jon P. Jennings, City Manager**

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

Final Action

Can action be taken at a later date: No (If no why not?) Notice of the public hearings must be published two weeks prior to the first meeting date.

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

I. SUMMARY

Request to set public hearings for FY2020 Annual Action Plan and appropriation of funding for the Community Development Block Grant Program (CDBG), HOME Program and Emergency Solutions Grant (ESG) Program.

II. AGENDA DESCRIPTION

As required under our Housing and Urban Development-approved citizen participation process, Public Hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing fiscal year. The Community Development Block Grant (CDBG) Annual Allocation Committee, appointed by Council, reviewed each application and made funding recommendations. The Committee is given an opportunity to make a presentation to the Council, and citizens may comment on the City's annual plan for the use of CDBG, HOME and Emergency Solutions Grant funds.

This order was approved on March 4, 2018. Staff is recommending that this order be reconsidered and amended to move the second public hearing to April 22, 2019, to allow adequate time at the meeting for public comment. The first public hearing will be held at this meeting on March 18, 2019 and the second, if this ordered is amended, would be on April 22, 2019 at 5:30 p.m., in Portland City Hall, Council Chambers, 389 Congress Street.

A motion to reconsider is required, and then a motion to amend. Five affirmative votes are required for passage as amended after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Set dates for public hearings for FY2020 Annual Action Plan and appropriation of funding for CDBG, HOME and ESG Programs.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Two public hearings are required under our HUD citizen participation process.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. CDBG Order Public Hearings FY2020 3.4.2019
2. Amendment to CDBG Order Public Hearings FY2020 3.18.2019

Prepared by:

Mary Davis, Division Director

Date: 3/7/2019

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

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

**ORDER SETTING PUBLIC HEARINGS ON
FISCAL YEAR 2020 ANNUAL ACTION PLAN
AND APPROPRIATIONS FOR COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM, HOME PROGRAM, AND EMERGENCY SOLUTIONS
GRANT PROGRAM**

ORDERED, that public hearings be held on the Fiscal Year 2020 Annual Action Plan and appropriations for the Community Development Block Grant Program, HOME Program, and the Emergency Solutions Grant Program; and

BE IT FURTHER ORDERED, that such hearings be held on March 18, 2019 and April 8, 2019 at City Council Meetings held at 5:30 p.m., in Portland City Hall Council Chambers, 389 Congress Street.

**AMENDMENT TO ORDER 173-18/19
PREPARED BY CORPORATION COUNSEL
FOR MAYOR STRIMLING**

ORDERED, that public hearings be held on the Fiscal Year 2020 Annual Action Plan and appropriations for the Community Development Block Grant Program, HOME Program, and the Emergency Solutions Grant Program; and

BE IT FURTHER ORDERED, that such hearings be held on March 18, 2019 and April 8~~22~~, 2019 at City Council Meetings held at 5:30 p.m., in Portland City Hall Council Chambers, 389 Congress Street.

MEMORANDUM
City Council Agenda Item

FROM: Greg Mitchell, Director

DATE: March 1, 2019

SUBJECT: **Order 184-18/19 Dedicating Tax-Acquired Land on Holbrook Street as a Land Bank Property Interest - Sponsored by Patrizia Bailey/Co-Chair, Land Bank Commission.**

SPONSOR: Land Bank Commission, Patrizia Bailey/Co-Chair; Meeting held on February 13, 2019 and vote was unanimous.

(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 3/18/2019

Final Action 3/18/2019

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

PRESENTATION: Patrizia Bailey, Co-Chair/Land Bank Commission and Ethan Hipple, Deputy Director of Parks, Recreation, and Facilities/5 Minutes

I. SUMMARY

Vote to authorize the placement of certain tax-acquired vacant land parcels located on Holbrook Street in the Land Bank, designated by the Assessor as 335-E-11 to 13.

II. AGENDA DESCRIPTION

It has been a goal of the Land Bank Commission to protect open space in Portland. At the Land Bank Commission meeting on February 13, 2019, it unanimously voted to recommend to the City Council to place the vacant land, tax-acquired parcels 335-E-11 to 13 in the Land Bank for protection of green space in this area.

See the attached map showing the location of the subject parcels, as well as other Land Bank properties in this area of outer Forest Avenue. The rationale for the Land Bank designation is to protect open space in this area.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

It has been a goal of the Land Bank Commission to protect open space in Portland. At the Land Bank Commission meeting on February 13, 2019, it unanimously voted to recommend to the City Council to place the vacant land, tax-acquired parcels 335-E-11 to 13 in the Land Bank for protection of green space in this area.

See attached map showing the location of the subject parcels, as well as other Land Bank properties in this area of outer Forest Avenue.

The rationale for the Land Bank designation is to protect open space in this area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result would be the placement of the subject property, containing 9,000 sq. ft., in the Land Bank

to protect its natural state and provide additional green space in this area.

V. FINANCIAL IMPACT

There is no financial impact to place the tax-acquired vacant land parcels in the Land Bank as the City is no longer receiving annual property taxes.

VI. STAFF ANALYSIS AND BACKGROUND

Staff supports placing this property in the Land Bank for protection of green space in the area.

Staff evaluated this property for housing development potential and determined that housing development is unlikely due to a lack of available public infrastructure (roads, water/sewer utilities) which would make it cost prohibitive to build any housing on the subject property, which would also include building the necessary street frontage.

A limited environmental assessment on the subject property was conducted with the finding that soil conditions do not indicate evidence of significant environmental impacts.

VII. RECOMMENDATION

At the Land Bank Commission meeting on February 13, 2019, it unanimously voted to recommend to the City Council to place the subject property in the Land Bank for protection of green space in this area.

VIII. LIST ATTACHMENTS

1. Holbrook Street vacant tax acquired land in Land Bank 3.18.2019
2. Map of Subject Prop w X and Addl Land Bank Property
3. Map of Subject Prop and Holbrook St as Undeveloped
4. GIS Map of Subject Lot
5. Executive Summary of Ltd Env Assessment 1-2-2019

Prepared by:

Greg Mitchell, Director

Date: 3/1/2019

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

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

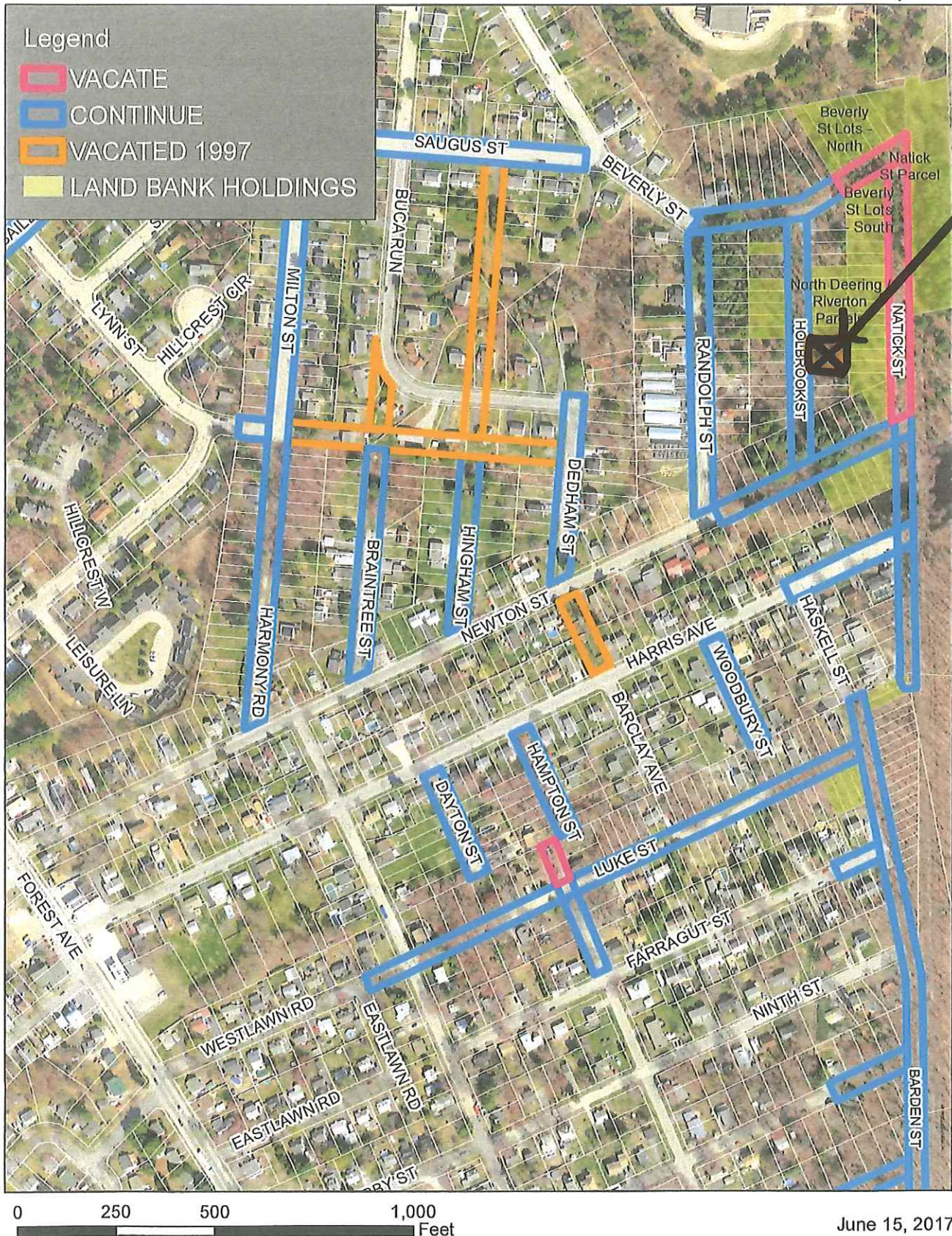
**ORDER DEDICATING VACANT TAX-ACQUIRED LAND ON HOLBROOK STREET
AS A PORTLAND LAND BANK PROPERTY INTEREST**

ORDERED, that pursuant to Section 2-43 of the Portland City Code, tax-acquired land on Holbrook Street (lots 335-E-1 to 13), as depicted in the attachment hereto, is hereby dedicated as a Land Bank property interest.

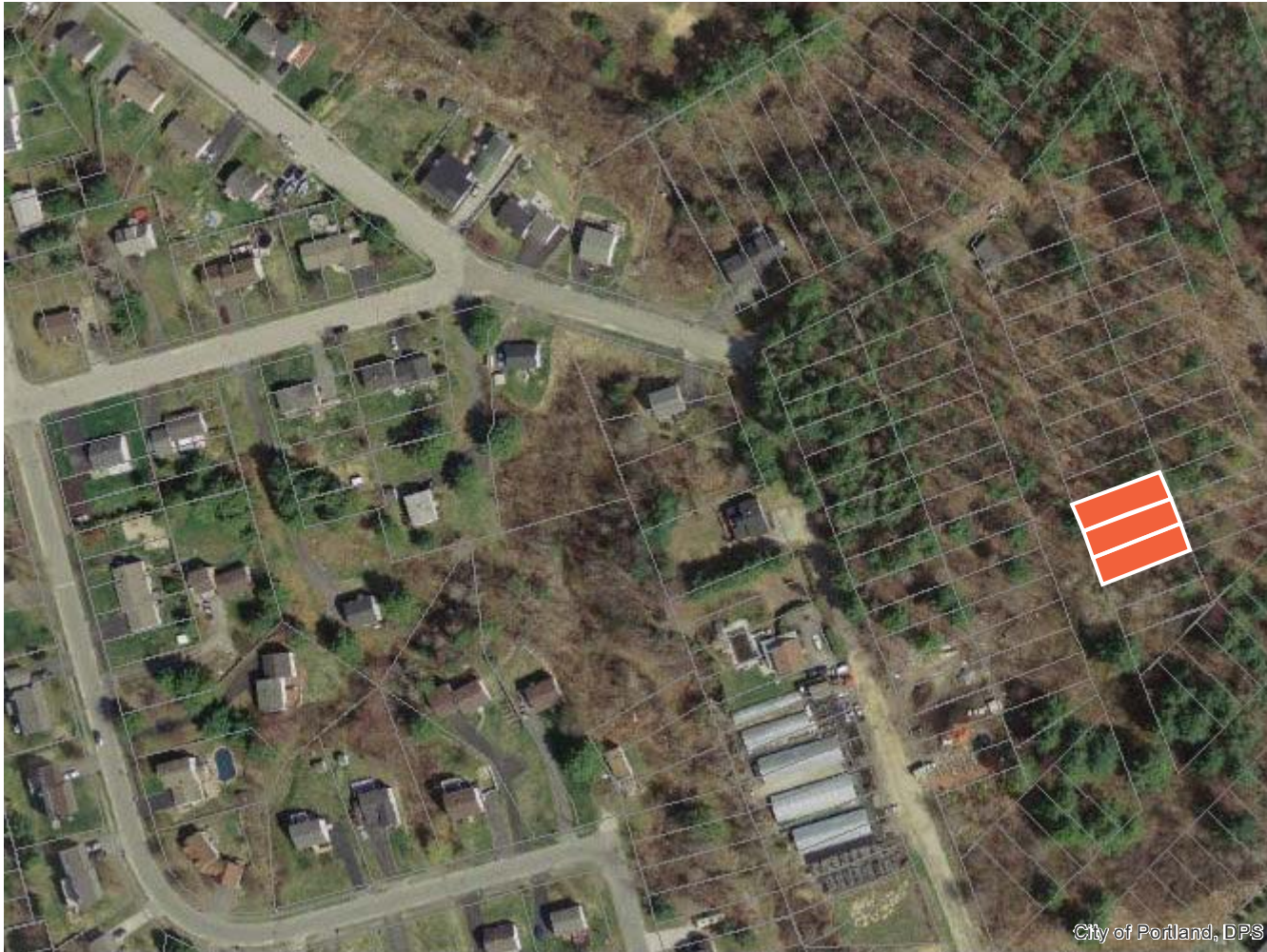


X=Tax-Acquired Vacant Land Parcels
335-E-11 to 13

Harris Farms, Woodfords Gardens and Lexondale District 5- Proposed Paper Street Status



GIS Map of 335-E-11/Tax-Acquired property on Holbrook Street.



Via Electronic Mail

January 2, 2019



Greg Mitchell
Department Director
City of Portland – Economic Development Department
389 Congress Street, Portland, ME 04101

Re: Limited Subsurface Investigation
Holbrook Street (335-E-11-12-13), Portland, Maine

Dear Greg:

This letter report summarizes the limited subsurface investigation that was performed at three undeveloped lots located near Holbrook Street in Portland, Maine (the Site), in accordance with Woodard & Curran's proposal dated November 8, 2018. These lots are identified by the City of Portland Tax Assessor as 335-E-11, 335-E-12, and 335-E-13. The location of the Site is depicted on Figure 1.

The Site lies within the Riverton residential neighborhood of Portland. Residential properties surround the Site, and industrially-zoned parcels are situated approximately 0.12-miles to the north/northeast.

Background

Woodard & Curran conducted a limited environmental review of the Site to evaluate the current and historical uses of the Site as they may pertain to current environmental conditions. The results of the limited environmental review were presented in a letter report to the City of Portland dated May 21, 2018. Historical topographic and aerial maps provided by Environmental Data Resources, Incorporated (EDR) dating back to 1891 and 1940, respectively, show that the Site has not been developed. The limited environmental review revealed no relevant findings except for the following:

- There is a possibility that historical rail operations have impacted environmental conditions at the Site. Specifically, rail operations that occurred between the 1800s and early to mid-1900s often resulted in the impact to soil and/or groundwater conditions by oil and/or hazardous substances such as metals and petroleum constituents.

Woodard & Curran understands that a potential transfer of ownership is being considered for the Site. Based on the potential concern identified above, the City of Portland requested additional investigation to assess Site conditions and evaluate if there may have been an impact from historical rail operations prior to any transfer of ownership regarding the Site. The limited subsurface investigation was conducted on November 17, 2018, and the methodology and findings are presented below.

Methodology

Four representative sampling locations were distributed evenly throughout the Site (see Figure 2). These sampling locations were located in the field using a sub-meter Trimble GeoExplorer 7X GPS unit. On November 17, 2018, all four discrete samples were collected in accordance with Maine Department of Environmental Protection (DEP) Standard Operating Procedure (SOP) No. DR#006 using dedicated hand tools. Samples were obtained from material located from surface grade to a depth of approximately 6 inches after removing overlying organic material (i.e., roots, leaves, etc.). The collected soil samples generally consisted of brown, silty clay loam with some rocks.



Consistent with our intended scope of work, the four discrete samples collected from the Site were composited into two samples prior to laboratory analysis. Samples WC-SS01A and WC-SS01B were composited into sample WC-SS01, and samples WC-SS02A and WC-SS02B were composited into sample WC-SS02. Samples WC-SS01 and WC-SS02 were then submitted to Con-Test Analytical Laboratory of East Longmeadow, Massachusetts for analysis of extractable petroleum hydrocarbons (EPH) including target polycyclic aromatic hydrocarbons, RCRA 8 metals, pesticides, and herbicides. This analyte list is consistent with the typical analytical suite used to evaluate past railroad use concerns. Note that analysis for polychlorinated biphenyls (PCBs) was not been included in the investigation program due to the documented time period of historical rail operations, which precedes the advent of PCBs.

Results

Laboratory analytical results (detections only) are summarized below in **Table 1** and a copy of the complete laboratory data package is enclosed as **Attachment 1**.

No detectable concentrations of herbicides were identified in the two soil samples collected from the Site.

Detectable concentrations of the pesticides 4,4-DDE and 4,4-DDT were identified in sample WC-SS01, at concentrations well below the current Maine DEP Remedial Action Guidelines (RAGs).

Two EPH carbon fraction ranges (C19-C36 aliphatic hydrocarbons and C11-C22 aromatic hydrocarbons) were identified in both samples. None of the detectable concentrations in these samples exceeded the current RAGs.

The metals arsenic, barium, cadmium, chromium, lead, and mercury were detected in both samples. However, as shown in Table 1, all detectable metals concentrations were below the current RAGs with the exception of arsenic and cadmium.

Arsenic was detected at concentrations of 8.1 and 8.7 mg/kg, which are below the current RAGs for arsenic except for the leaching to groundwater RAG of 0.83 mg/kg. It is relevant to note that the area of the Site is serviced by the municipal water supply, so leachability concerns for arsenic are considered to be low. In addition, the detected concentrations of arsenic are below the Undeveloped Maine Background 90% Upper Prediction Limit (UPL) of 16 mg/kg, which is the background concentration that may be expected in native soil throughout the state.

Cadmium was detected at concentrations of 0.29 and 0.28 mg/kg, which are well below the current RAGs.



Table 1: Soil Sample Laboratory Analytical Results – Detections Only

Compound	WC-SS01	WC-SS02	Leaching to Groundwater RAG ¹	Residential RAG ¹	Commercial Worker RAG ¹	Park User RAG ¹	Construction Worker RAG ¹	Undeveloped Maine Background 90% UPL ¹
Pesticides (mg/kg)								
4,4'-DDE	0.024	<0.0057	6	27	130	79	100	--
4,4'-DDT	0.0069	<0.0057	43	26	120	73	160	--
Extractable Petroleum Hydrocarbons (mg/kg)								
C19-C36 Aliphatics	17	16	--	100,000	100,000	410,000	100,000	--
C11-C22 Aromatics	27	15	340	2,600	33,000	7,300	74,000	--
Total Metals (mg/kg)								
Arsenic	8.1	8.7	0.83	9.3	41	26	54	16
Barium	55	46	8,600	21,000	100,000	61,000	20,000	470
Cadmium	0.29	0.28	38	98	1,400	280	42	0.26
Chromium ²	34	34	2,200,000,000	100,000	100,000	100,000	27,000	--
Lead	28	19	250	140	440	290	450	32
Mercury	0.15	0.14	1.8	3.1	3.1	3.1	3.1	--

¹ RAG: Maine Remedial Action Guidelines for Sites Contaminated with Hazardous Substances, Maine DEP (revised October 19, 2018).

² Chromium is given as a total concentration and is compared to the RAGs for trivalent chromium (Cr III) since hexavalent chromium was not detected above the laboratory reporting limit of 2.4 mg/kg in either of the two samples.

UPL = Upper Prediction Limit

Samples were collected on November 17, 2018.

Bold = analyte was detected in the given sample.

Shading = detected concentration exceeds at least one RAG.

< = not detected at indicated reporting limit.

-- = no RAG available for this analyte.



Conclusion

Soil conditions documented at the Site through the performance of this limited subsurface investigation do not indicate evidence of significant environmental impacts from historical rail operations. As such, no additional investigation is warranted.

If there are any questions concerning this letter report, please call me at 207-558-3732 or by email at jsteinglass@woodardcurran.com.

Sincerely,

WOODARD & CURRAN

Jedd Steinglass, LSP
Project Manager

Enclosures: Figure 1 – Site Location
Figure 2 – Sampling Locations
Attachment 1 – Laboratory Analytical Results

PN: 0230637.85

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

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

**ORDER APPROVING PARKING DIVISION DAILY PARKING FEES
FOR THE QUEUING LANES AT OCEAN GATEWAY**

ORDERED, that a \$15.00 per day fee for parking, for a maximum total of 15 days, in the queuing lanes at Ocean Gateway is hereby approved; and

BE IT FURTHER ORDERED, that this parking facility shall be open from mid-April to October 31, 2019 only.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 27, 2019

SUBJECT: Order 186-18/19 Approving Communications Union Contract - Sponsored by
Jon P. Jennings, City Manager

SPONSOR: Jon P. Jennings

(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 3/18/2019

Final Action 4/8/2019

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

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

I. SUMMARY

II. AGENDA DESCRIPTION

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, 2018.

The Communications Employee Association, which is comprised of 32 Telecommunicators and Telecommunications Supervisors, one Fire Alarm Specialist and one Radio Systems Specialist, has reached a tentative agreement with the City. The Administration is requesting a first reading on March 18, 2019. The tentative agreement is within the guidance received by the City Council on November 5, 2018.

The City and the Communications Unit have reached a tentative agreement on a two (2) year contract with a 3.0% general wage increase for Fiscal Year (FY) 2019 retroactive to July 1, 2018 and a 3.0% general wage increase effective July 7, 2019. 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:

- Employees will receive Holiday premium pay for actual hours scheduled for the day of the Holiday, either eight (8) hours or twelve (12) hours.
- \$.10 per hour increase to educational stipends
- \$.10 per hour increase to all shift differentials.
- Add \$.75 per hour to each step of the Supervisor pay scale after implementing 1st year of COLA to provide incentive to become a supervisor
- Increase Field Training stipend from \$1.00 per hour to \$1.35 per hour
- Increase on call pay from \$15 per day weekdays and \$22.50 per day weekends and Holidays to \$16 per day weekdays and \$23.50 weekends and Holidays

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, 2018 through June 30, 2020.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct costs for the two (2) year agreement is approximately \$145,000.

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

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please see attached Fiscal Note and Cost Sheet.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Communications Employee Association contract 3.18.2019
2. Communications Cost Sheet
3. Communications Pay Plan
4. Fiscal Impact Note

Prepared by:

Date: 2/27/2019

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

KIMBERLY COOK (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, 2018 through June 30, 2020 is hereby approved.

COMMUNICATION - ADMINISTRATIVE RECOMMENDATION

ITEM	BASE COST	YEAR 1		YEAR 2		NOTES:
		(FY)	% INCR	(FY)	% INCR	
Base Wages	1,584,523	47,536	3.0%	48,962	3.0%	Add \$.75 to each step in pay plan Increase all NSD by \$.10 Increase training stipend by \$.35 Holiday credit based on scheduled hours (12 Hrs x 11 EE's) Increase Education Stipends by \$.10
Supervisor Pay Plan Adj.	-	7,800	0.5%			
Night Shift Differential	19,032	3,744	19.7%			
Higher Class Pay (Training Stipend)	4,331	1,516	35.0%			
Holiday Credit	23,163	11,581	50.0%			
Specialty Pay	15,662	3,536	22.6%			
Stand By Pay	5,993					
Sub-Total Wages	1,652,704	75,713	4.6%	48,962	2.8%	
Overtime	327,634	9,829	3.0%	10,124	3.0%	Based on increase in base wages
Clothing Allowance	9,900					
Total Direct Costs	1,990,238	85,542	4.3%	59,086	2.8%	
Health Insurance	304,428	30,443	10.0%	33,487	10.0%	Inflationary increase only
Pension	198,034	8,554.20	4.3%	5,909	2.9%	Based on increase in total wages
Workers' Compensation	45,284	1,359	3.0%	1,399	3.0%	Based on increase in total wages
Total Indirect Costs	547,746	40,356	7.4%	40,795	6.9%	
Total	2,537,984	125,898	5.0%	99,881	3.7%	

APPENDIX H - COMMUNICATIONS PAY PLAN 2018-2020

Job Classification	Steps	Effective 07/02/17 CURRENT	Effective 7/1/2018 3%	Effective 7/7/2019 3%
Telecommunicator C04				
	1 Recruit	\$19.47	\$20.05	\$20.65
	2 6 mos.	\$20.92	\$21.55	\$22.20
	3 3 yrs.	\$22.38	\$23.05	\$23.74
	4 4 yrs.	\$23.86	\$24.58	\$25.32
	5 6 yrs.	\$24.43	\$25.16	\$25.91
Telecommunications Supervisor C08				
	1 Recruit	\$25.12	\$26.62 *	\$27.42
	2 1 yr.	\$25.86	\$27.39 *	\$28.21
	3 3 yrs.	\$26.59	\$28.14 *	\$28.98
	4 5 yrs.	\$27.37	\$28.94 *	\$29.81
Fire Alarm Technician Radio System Specialist C02				
	1 Recruit	\$24.05	\$24.77	\$25.51
	2 1 yr.	\$24.79	\$25.53	\$26.30
	3 3 yrs.	\$25.28	\$26.04	\$26.82
	4 5 yrs.	\$26.30	\$27.09	\$27.90

* 3% COLA plus \$.75/hour as incentive to become a supervisor

TA

T/A

TAC
(CUT)

2-14-19

2-14-19

FISCAL IMPACT NOTE		Year 1		Year 2		Year 3	
Communications Union - 2 Year Contract		City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
<u>Example:</u>							
ADD: NEW ITEM ANNUAL EXPENDITURES			\$125,898		\$225,779		\$0
LESS: TOTAL NEW ITEM ANNUAL REVENUES			\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION		\$125,898	\$125,898	\$225,779	\$225,779	\$0	\$0
New Program Impact to the Mil Rate		\$0.0159	\$0.0159	\$0.0286	\$0.0286	\$0.0000	\$0.0000
New Program % Impact on Mil Rate		0.1405%	0.0709%	0.2520%	0.1271%	0.0000%	0.0000%
Mil Rate Including New Program		\$11.3559	\$22.4959	\$11.3686	\$22.5086	\$11.3400	\$22.4800

Notes: The Communications Union signed a new 2 year contract which increases City expenses by \$125,898 in Year 1 of the contract and an additional \$99,881 in Year 2. There is no impact in Year 3 as it is only a 2 year contract.

MEMORANDUM
City Council Agenda Item

FROM: Paul Bradbury, Jetport Director

DATE: March 5, 2019

SUBJECT: **Order 187-18/19 Appropriating \$550,000 for Automated Exit Portals at the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager**

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 3/18/2019 **Final Action 4/8/2019**

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

PRESENTATION: Paul Bradbury will introduce as needed, and answer any Council questions on this item.

I. SUMMARY

The Portland International Jetport is requesting a \$550,000 appropriation from its unrestricted fund balance to install two new automated secure exit portal lanes from the gate concourse to baggage claim.

II. AGENDA DESCRIPTION

The Portland International Jetport is proposing to make the following improvements.

- Supply and installation of two automated secure exit portals \$375,000
- Security staffing for exit lane during construction \$ 35,000
- Building improvements necessary to accept secure exit portals \$140,000
- Total \$550,000

These improvements will update and replace the existing automated secure exit portal with two new units providing higher throughput, lower operating costs, and greater security.

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

III. BACKGROUND

The Portland International Jetport began construction of the Vertical Circulation Project in December of 2018. This project when complete in the spring will provide a new escalator, two new elevators, and new finishes to improve passenger flow from the gate concourse to baggage claim. The original plan under this project was to simply reconfigure the existing secure exit portal as part of this project, but after further review this is not recommended since the existing technology is outdated and less secure. So, although it is possible to reconfigure the current system, the best practice at airports is to replace with newer self contained single manufacturer technology. This technology provides higher throughput, lower operating costs, and greater security.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Portland International Jetport provides a robust connection for the region to the national air transportation system and in doing so plays an important role in supporting the City Council's economic development goals. Approval of this project allows the Portland Jetport to make needed investment in Jetport infrastructure to

better serve the over 2.1 million passengers using it annually.

V. FINANCIAL IMPACT

The Jetport's unrestricted cash fund balance was \$22,358,719 as of January 30, 2019. If approved, the Jetport will use \$550,000 of unrestricted cash fund balance to complete these improvements.

The Jetport is an enterprise fund of the City that is fiscally self-sustaining. FAA grant assurances and the covenants for the Jetport's General Airport Revenue Bonds (GARBs) require all revenues generated at the Jetport be pledged to cover only Jetport expenses. The approval of this appropriation has no impact to the City of Portland's general fund or tax rate.

VI. STAFF ANALYSIS AND BACKGROUND

The existing exit portal system was developed at the Jetport over many years using a variety of different manufacturers and equipment with no single manufacturer for support. It does not meet the current industry standards for reliability since it has multiple failure points. When it is down contract security staff must be assigned to guard the exit. Although serviceable it is not the best option moving forward considering the extensive improvements to this area as part of the Vertical Circulation Project. Approval of this request will provide the appropriate technology to match the life cycle of the current improvements and meet the growing passenger volumes that were up 15.9% in 2018.

VII. RECOMMENDATION

Jetport staff recommends City Council approval of this \$550,000 appropriation from Jetport unrestricted cash fund balance to proceed with the purchase and installation of two automated exit portal lanes from the gate concourse.

VIII. LIST ATTACHMENTS

1. 17030-Jetport Portal Reconfiguration-3-4-19

Prepared by:

Paul Bradbury, Jetport Director

Date: 3/5/2019

DESIGNED	CHECKED
OAM	OAM
B OAM	ISSUED FOR PRICING
A OAM	ISSUED FOR JEPTORT REVIEW
REV: BY:	DATE: STATUS:
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS,	

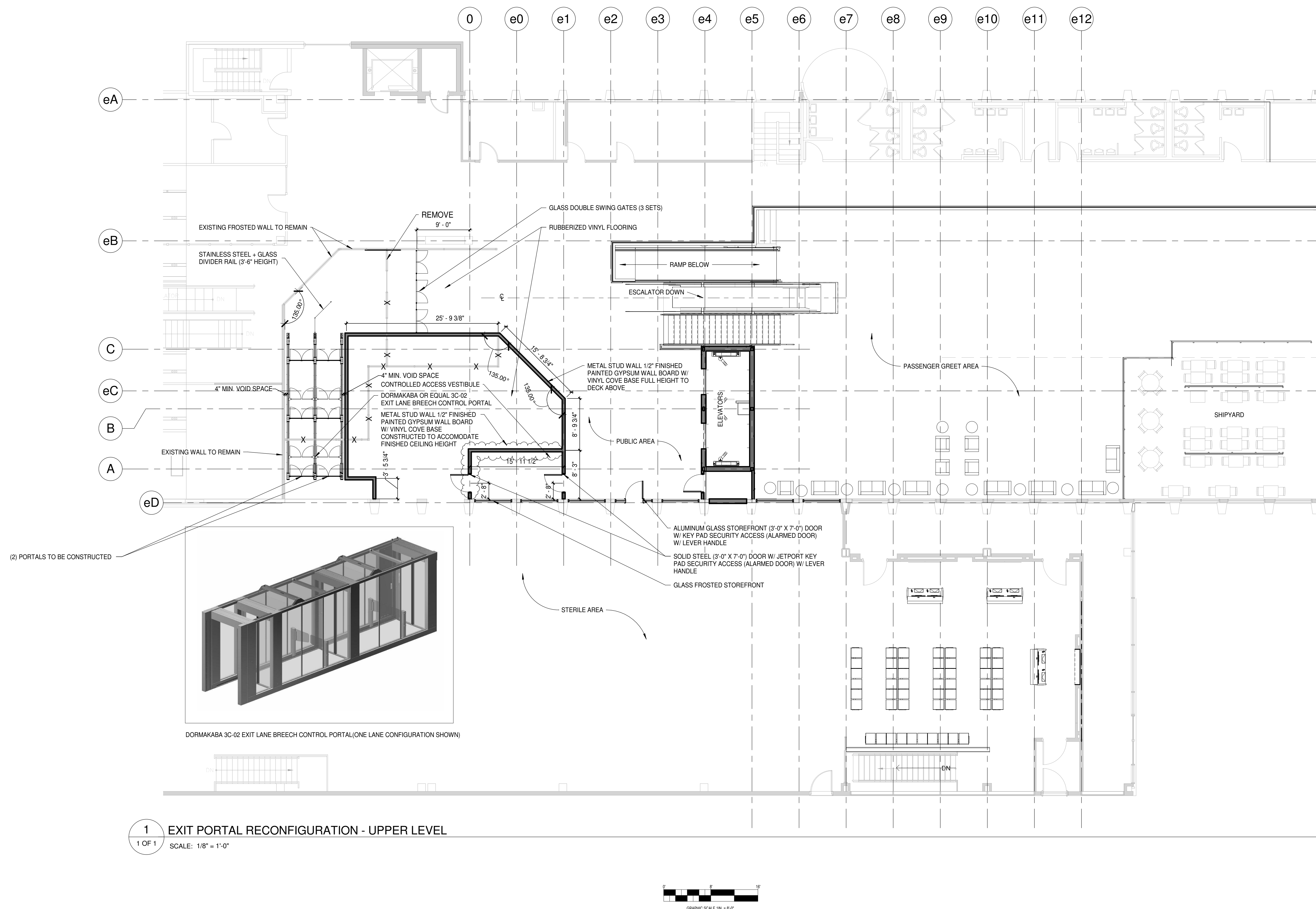
REV:	BY:	DATE:	STATUS:
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THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNIKS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNIKS, INC.



EXIT PORTAL RECONFIGURATION
OF:
PORTLAND INTERNATIONAL JETPORT GATE
UPGRADES
FOR:
PORTLAND JETPORT
1001 WEST BROOK ST.
PORTLAND, ME 04102

PROJECT NO.	SCALE
17030	1/8" = 1'-0"



MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 7, 2019

SUBJECT: **Order 188-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager**

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 3/18/2019

Final Action 4/8/2019

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager by 4/8/19 to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached Two-Party Municipal/State Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave Cumberland Avenue between State Street and Elm Street in 2019.

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Cumberland Avenue, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Cumberland Avenue. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$99,275.00, and an additional \$14,000.00 for manhole adjustments from a water resources fund.

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

III. BACKGROUND

The Cumberland Avenue paving project is part of MaineDOT's 2018-2020 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 July 8, 2019 and be completed in 2019. This project is classified as a pavement preservation project on an urban collector street. As such, PACTS will pay 75% of the cost of paving as part of its Collector Paving Program. The City will be responsible for 25% of the paving cost and 100% of the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Cumberland Avenue paving project will improve the pavement surface and ride quality on a regionally important major urban collector street. PACTS funds will pay for 75% of the paving costs.

V. FINANCIAL IMPACT

The City is obligated to pay 25% of the total construction cost and 100% of the cost of adjusting sanitary sewer manhole frames and covers in the project area. The total City cost of this work, estimated to be \$99,275.00, would be paid from a FY20 CIP account established for this project and \$14,000.00 from a water resources account. Please see the attached fiscal impact note for additional information.

VI. STAFF ANALYSIS AND BACKGROUND

Urban collector paving projects such as this one, where MPO pays 75% 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. This is an important location in the City of Portland due to its high AADT and designation as a major collector; without this work, Cumberland Avenue will continue to deteriorate.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave approximately 0.46 miles of Cumberland Avenue (from State Street to Elm Street) in 2019.

VIII. LIST ATTACHMENTS

1. Paving Cumberland Avenue MDOT 3.18.2019
2. Cumberland Ave Two Party Agreement
3. Cumberland Ave - Fiscal Impact Note - Fiscal Impact Note
4. CumberlandAveImprovements Project Limits

Prepared by:

Date: 3/7/2019

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

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

**ORDER APPROVING TWO-PARTY AGREEMENT BETWEEN PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: IMPROVEMENTS TO CUMBERLAND AVENUE**

ORDERED, that the two-party Partnership Agreement between the Maine Department of Transportation and the City of Portland for improvements to Cumberland Avenue with State Work Identification Number 022164.00 is hereby approved in substantially the form attached hereto; and

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



MaineDOT use only	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO CUMBERLAND AVENUE

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 022164.00
Federal Aid Project #: 2216400

Estimated Municipal Share: \$113,275.00
Vendor Customer #: 17A12144
Agreement Begin Date: _____
Agreement End Date: (5 years from the date last signed below)

This Agreement is entered into between the Maine Department of Transportation (hereafter the MaineDOT) and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (collectively hereinafter the “Parties”).

RECITALS

- A. The scope of work that is the subject of this Agreement consists of making improvements to Cumberland Avenue, beginning at State Street and extending north 0.46 of a mile to Elm Street, in Portland, Maine, (hereafter the “Project”).
- B. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- C. This Agreement is intended to cover the roles and responsibilities of the Parties during the design, permitting and right-of-way phases of Project development from Project inception through completion of the Project’s Plans, Specifications and Estimate (PS&E). This Agreement is further intended to establish the financial obligations of each Party, including that of full Project development through construction.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

- D. The following checked appendices are hereby incorporated into this Agreement by reference, and any perpetual maintenance appendices shall survive the expiration of this Agreement:
 - ☒ Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
 - ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
 - ☐ Appendix B – Perpetual Drainage Maintenance
 - ☐ Appendix B – Perpetual Landscape Maintenance
 - ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage with associated light(s)
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance

- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

E. Agreement Administration:

1. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT. This would include any additional plans, specifications and estimates furnished by the Municipality and approved by MaineDOT. When applicable, refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
2. MaineDOT shall be the sole administrator of the contract to construct the Project. MaineDOT will pay all Project costs, subject to cost sharing by the Municipality, when applicable, as specified in this Agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
3. Upon acceptance of plans, specifications and estimates (PS&E), MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns in the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

F. Changes to Project Scope:

4. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to MaineDOT approval. In the event that the cost of these changes or work are approved for federal participation, the Municipality's additional cost may be reduced by the amount of the federal contribution.

G. Traffic Control:

5. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - i. MaineDOT's Project Manager (PM) will, when possible, submit the Project for Traffic Analysis and Movement Evaluation (TAME), approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed Project with the Municipality (scope, limits, day or night work, work window, etc).
 - ii. The Municipality will comment on their concerns/issues related to the Traffic Control Plan within two (2) weeks of receipt.

- iii. MaineDOT's PM & Designer will incorporate these comments where practical based on engineering judgment.
- iv. If the Municipality desires, a meeting will be held prior to PS&E to review the Project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.

H. Utilities:

- 6. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a utility service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.
- 7. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- 8. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.

I. Governing Law:

- 9. The Municipality agrees that except for an emergency, or as allowed in 23 M.R.S.A. § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- 10. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

J. Municipality's Responsibility:

- 11. When applicable, if the Municipality withdraws its financial support for the Project, leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for all Project costs incurred in reliance on the Municipality's financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the

time of such termination. If the Municipality fails to reimburse MaineDOT for such costs incurred, after receiving an invoice seeking such reimbursement, MaineDOT may exercise its rights of set-off to recover the requested amount.

12. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
13. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition including snow and ice control.
14. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
15. When applicable, the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
16. When applicable, the Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.

K. Termination:

17. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project due to failure by the Municipality to comply with any of the conditions and stipulations set forth in this Agreement.
18. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to MaineDOT's satisfaction.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those ***provisions that by their very nature are intended to survive.***

L. Miscellaneous Provisions:

19. **Debarment.** The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

20. All provisions of this Agreement, ***except those that by their very nature are intended to survive***, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
21. **State of Maine's Rights of 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 of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal 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. When applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the Municipality for purposes of set-off to recover the amount owed.
22. **Non-Appropriation.** Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
23. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.
24. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Alternatively, communications can be mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 24 Child Street
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: LaRay L. Hamilton
 Email: laray.hamilton@maine.gov

Municipality: City of Portland
 389 Congress St
 Portland, ME 04101
 Attn.: Jon Jennings
 Email: citymanager@portlandmaine.gov

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
Richard J. Crawford, P.E., Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO CUMBERLAND AVENUE

FEDERAL AID PROJECT NO. 2216400

STATE PROJECT IDENTIFICATION NUMBER (WIN) 22164.00

Project Scope:

Mill and Fill on Cumberland Avenue, beginning at State Street and extending north 0.46 of a mile to Elm Street. PACTS sponsored.

Funding Outline:

The Total Project Estimated Cost is \$ 411,100.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			MPO	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25.0%	\$ 4,963.75	75.0%	\$ 14,891.25	0.0%	\$ -	\$ 19,855.00
Right of Way	25.0%	\$ 125.00	75.0%	\$ 375.00	0.0%	\$ -	\$ 500.00
Construction	25.0%	\$ 84,258.75	75.0%	\$ 252,776.25	0.0%	\$ -	\$ 337,035.00
Construction Engineering	25.0%	\$ 9,927.50	75.0%	\$ 29,782.50	0.0%	\$ -	\$ 39,710.00
PROJECT SHARES		\$ 99,275.00		\$ 297,825.00		\$ -	\$ 397,100.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 14,000.00					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 113,275.00					

(Check if applicable)

☒ **Additional Work as outlined in Appendix C to this Agreement.**

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
Sewer Manhole Adjustments - 14 @ \$1,000 ea.		\$	14,000.00
TYPE OF WORK		\$	-
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	14,000.00

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
City of Portland	\$66,182.00	5/1/2019
City of Portland	\$47,093.00	6/30/2019
City of Portland	Remaining balance if any	1/1/2020
Total Receivable Amount:	\$113,275.00	

Project Information

Municipality Name: Portland

Federal Aid Project #: 02216400

WIN: 22164.00

APPENDIX C

ADDITIONAL WORK

MAINE DEPARTMENT OF TRANSPORTATION

Transportation Improvement Project

1. Description of Work Being Added to Project by the Municipality:

Adjust 14 sewer manholes to grade.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

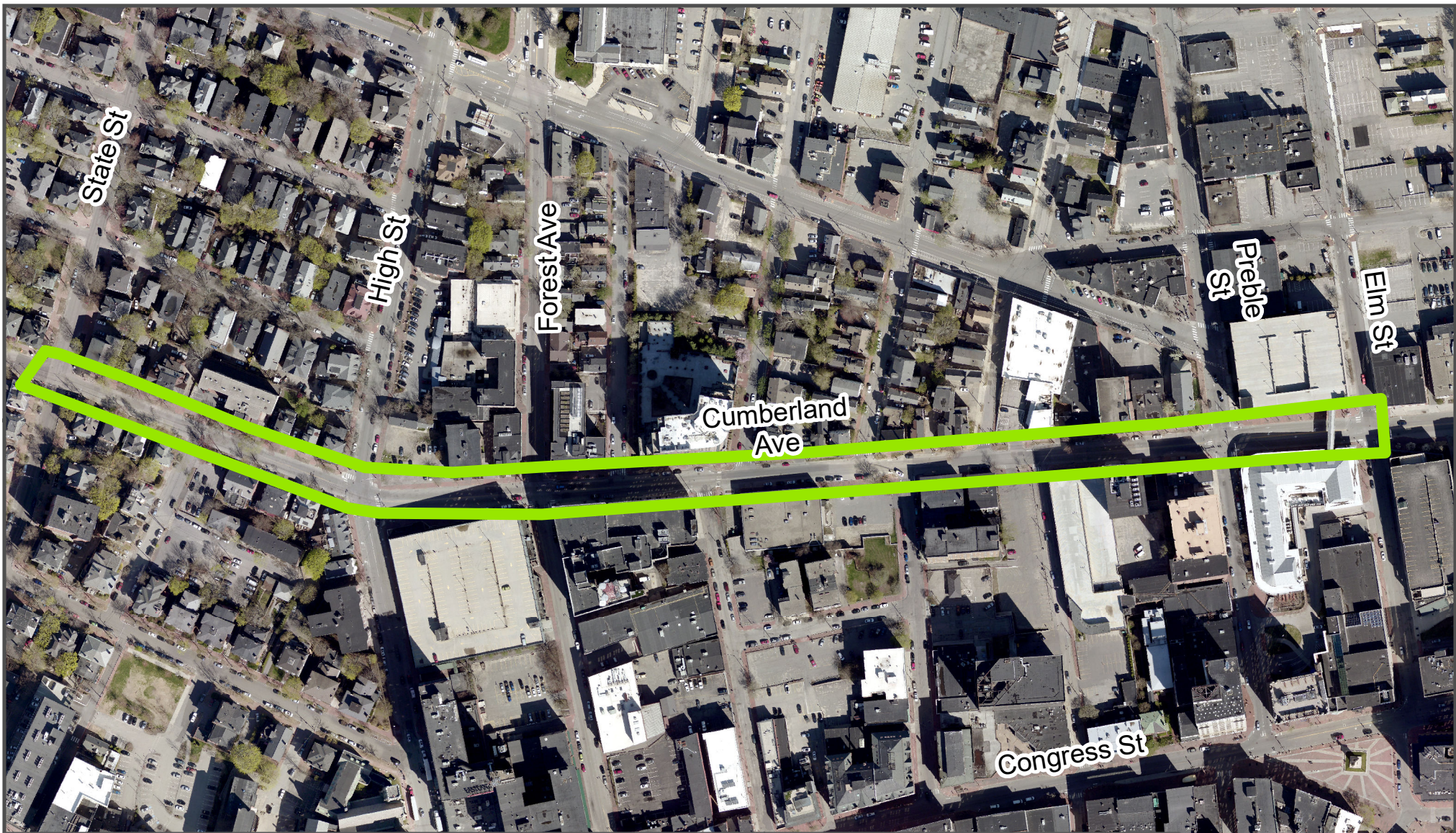
- a) All plans and specifications shall conform to the standards used by MaineDOT as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details"* and comply with MaineDOT's Utility Accommodation Rules.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in MaineDOT's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to MaineDOT and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay MaineDOT's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by MaineDOT. A copy of MaineDOT's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying MaineDOT in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of MaineDOT.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay MaineDOT, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, MaineDOT agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless MaineDOT determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
<u>Example:</u>						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$8,496		\$8,496
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$8,496	\$8,496	\$8,496	\$8,496
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0011	\$0.0011	\$0.0011	\$0.0011
New Program % Impact on Mil Rate	0.0000%	0.0000%	0.0095%	0.0048%	0.0095%	0.0048%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3411	\$22.4811	\$11.3411	\$22.4811

Notes: The CIP impact will actually begin in 2020 and remain for the 20 year life of the bond.

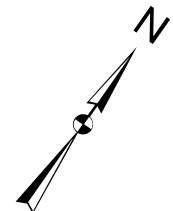


CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

Cumberland Avenue Improvements

Mill and Fill on approximately
0.46 miles of Cumberland Ave
and pedestrian improvements
within these limits.

Legend



March 6, 2019

0 0.025 0.05
Miles

MEMORANDUM
City Council Agenda Item

FROM: Lauren Andersen

DATE: March 7, 2019

SUBJECT: **Order 189-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Danforth Street - Sponsored by Jon P. Jennings, City Manager**

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 3/18/2019

Final Action 4/8/2019

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager by 4/8/19 to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached Two-Party Municipal/State Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave Danforth Street between High Street and Vaughan Street in 2019.

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Danforth Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Danforth Street. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$176,650.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

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

III. BACKGROUND

The Danforth Street paving project is part of MaineDOT's 2018-2020 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 July 8, 2019 and be completed in 2019. This project is classified as a pavement preservation project on an urban collector street. As such, PACTS will pay 75% of the cost of paving as part of its Collector Paving Program. The City will be responsible for 25% of the paving cost and the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Danforth Street paving project will improve the pavement surface and ride quality on a regionally important major urban collector street. PACTS funds will pay for 75% of the paving costs.

V. FINANCIAL IMPACT

Please see attached fiscal note.

VI. STAFF ANALYSIS AND BACKGROUND

Urban collector paving projects such as this one, where MPO pays 75% 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. This is an important location in the City of Portland due to its downtown location. Most of the street has not been worked on since 2003 and is in need of repair.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave Danforth Street (from High Street to 0.05 miles north of Vaughan) in 2019.

VIII. LIST ATTACHMENTS

1. Danforth St Two-Party MDOT 3.18.2019
2. Danforth St Two Party Agreement
3. Danforth St Fiscal Impact Note
4. DanforthSt_Improvements Project Location Map

Prepared by:

Lauren Andersen

Date: 3/7/2019

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

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

**ORDER APPROVING TWO-PARTY AGREEMENT BETWEEN PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: IMPROVEMENTS TO DANFORTH STREET**

ORDERED, that the two-party Partnership Agreement between the Maine Department of Transportation and the City of Portland for improvements to Danforth Street with State Work Identification Number 022170.00 is hereby approved in substantially the form attached hereto; and

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



MaineDOT use only	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
PROPOSED IMPROVEMENTS TO DANFORTH STREET

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 022170.00
Federal Aid Project #: 2217000

Estimated Municipal Share: \$186,650.00
Vendor Customer #: 17A12144
Agreement Begin Date: _____
Agreement End Date: (5 years from the date last signed below)

This Agreement is entered into between the Maine Department of Transportation (hereafter the MaineDOT) and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (collectively hereinafter the “Parties”).

RECITALS

- A. The scope of work that is the subject of this Agreement consists of making improvements to Danforth Street, beginning at High Street and extending southwest 0.78 of a mile to 0.05 of a mile north of Vaughan Street, in Portland, Maine, (hereafter the “Project”).
- B. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- C. This Agreement is intended to cover the roles and responsibilities of the Parties during the design, permitting and right-of-way phases of Project development from Project inception through completion of the Project’s Plans, Specifications and Estimate (PS&E). This Agreement is further intended to establish the financial obligations of each Party, including that of full Project development through construction.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

- D. The following checked appendices are hereby incorporated into this Agreement by reference, and any perpetual maintenance appendices shall survive the expiration of this Agreement:
 - ☒ Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
 - ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
 - ☐ Appendix B – Perpetual Drainage Maintenance
 - ☐ Appendix B – Perpetual Landscape Maintenance
 - ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage with associated light(s)
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance

- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

E. Agreement Administration:

1. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT. This would include any additional plans, specifications and estimates furnished by the Municipality and approved by MaineDOT. When applicable, refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
2. MaineDOT shall be the sole administrator of the contract to construct the Project. MaineDOT will pay all Project costs, subject to cost sharing by the Municipality, when applicable, as specified in this Agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
3. Upon acceptance of plans, specifications and estimates (PS&E), MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns in the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

F. Changes to Project Scope:

4. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to MaineDOT approval. In the event that the cost of these changes or work are approved for federal participation, the Municipality's additional cost may be reduced by the amount of the federal contribution.

G. Traffic Control:

5. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - i. MaineDOT's Project Manager (PM) will, when possible, submit the Project for Traffic Analysis and Movement Evaluation (TAME), approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed Project with the Municipality (scope, limits, day or night work, work window, etc).
 - ii. The Municipality will comment on their concerns/issues related to the Traffic Control Plan within two (2) weeks of receipt.

- iii. MaineDOT's PM & Designer will incorporate these comments where practical based on engineering judgment.
- iv. If the Municipality desires, a meeting will be held prior to PS&E to review the Project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.

H. Utilities:

- 6. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a utility service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.
- 7. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- 8. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.

I. Governing Law:

- 9. The Municipality agrees that except for an emergency, or as allowed in 23 M.R.S.A. § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- 10. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

J. Municipality's Responsibility:

- 11. When applicable, if the Municipality withdraws its financial support for the Project, leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for all Project costs incurred in reliance on the Municipality's financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the

time of such termination. If the Municipality fails to reimburse MaineDOT for such costs incurred, after receiving an invoice seeking such reimbursement, MaineDOT may exercise its rights of set-off to recover the requested amount.

12. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
13. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition including snow and ice control.
14. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
15. When applicable, the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
16. When applicable, the Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.

K. Termination:

17. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project due to failure by the Municipality to comply with any of the conditions and stipulations set forth in this Agreement.
18. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to MaineDOT's satisfaction.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those ***provisions that by their very nature are intended to survive.***

L. Miscellaneous Provisions:

19. **Debarment.** The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

20. All provisions of this Agreement, ***except those that by their very nature are intended to survive***, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
21. **State of Maine's Rights of 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 of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal 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. When applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the Municipality for purposes of set-off to recover the amount owed.
22. **Non-Appropriation.** Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
23. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.
24. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Alternatively, communications can be mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 24 Child Street
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: LaRay L. Hamilton
 Email: laray.hamilton@maine.gov

Municipality: City of Portland
 389 Congress St
 Portland, ME 04101
 Attn.: Jon Jennings
 Email: citymanager@portlandmaine.gov

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
Richard J. Crawford, P.E., Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO DANFORTH STREET

FEDERAL AID PROJECT NO. 2217000

STATE PROJECT IDENTIFICATION NUMBER (WIN) 22170.00

Project Scope:

Mill and Fill on Danforth Street, beginning at High Street and extending southwest 0.78 of a mile to 0.05 of a mile north of Vaughan Street.
PACTS sponsored.

Funding Outline:

The Total Project Estimated Cost is \$ 716,600.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			MPO	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25.0%	\$ 8,832.50	75.0%	\$ 26,497.50	0.0%	\$ -	\$ 35,330.00
Right of Way	25.0%	\$ 125.00	75.0%	\$ 375.00	0.0%	\$ -	\$ 500.00
Construction	25.0%	\$ 150,027.50	75.0%	\$ 450,082.50	0.0%	\$ -	\$ 600,110.00
Construction Engineering	25.0%	\$ 17,665.00	75.0%	\$ 52,995.00	0.0%	\$ -	\$ 70,660.00
PROJECT SHARES		\$ 176,650.00		\$ 529,950.00		\$ -	\$ 706,600.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 10,000.00					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 186,650.00					

(Check if applicable)

☒ **Additional Work as outlined in Appendix C to this Agreement.**

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
Sewer Manhole Adjustments - 10 @ \$1,000		\$	10,000.00
TYPE OF WORK		\$	-
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	10,000.00

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
City of Portland	\$109,179.00	5/1/2019
City of Portland	\$77,471.00	6/30/2019
City of Portland	Remaining balance if any	1/1/2020
Total Receivable Amount:	\$186,650.00	

Project Information

Municipality Name: Portland

Federal Aid Project #: 02217000

WIN: 22170.00

APPENDIX C

ADDITIONAL WORK

MAINE DEPARTMENT OF TRANSPORTATION

Transportation Improvement Project

1. Description of Work Being Added to Project by the Municipality:

Adjust 10 sewer manholes to grade.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

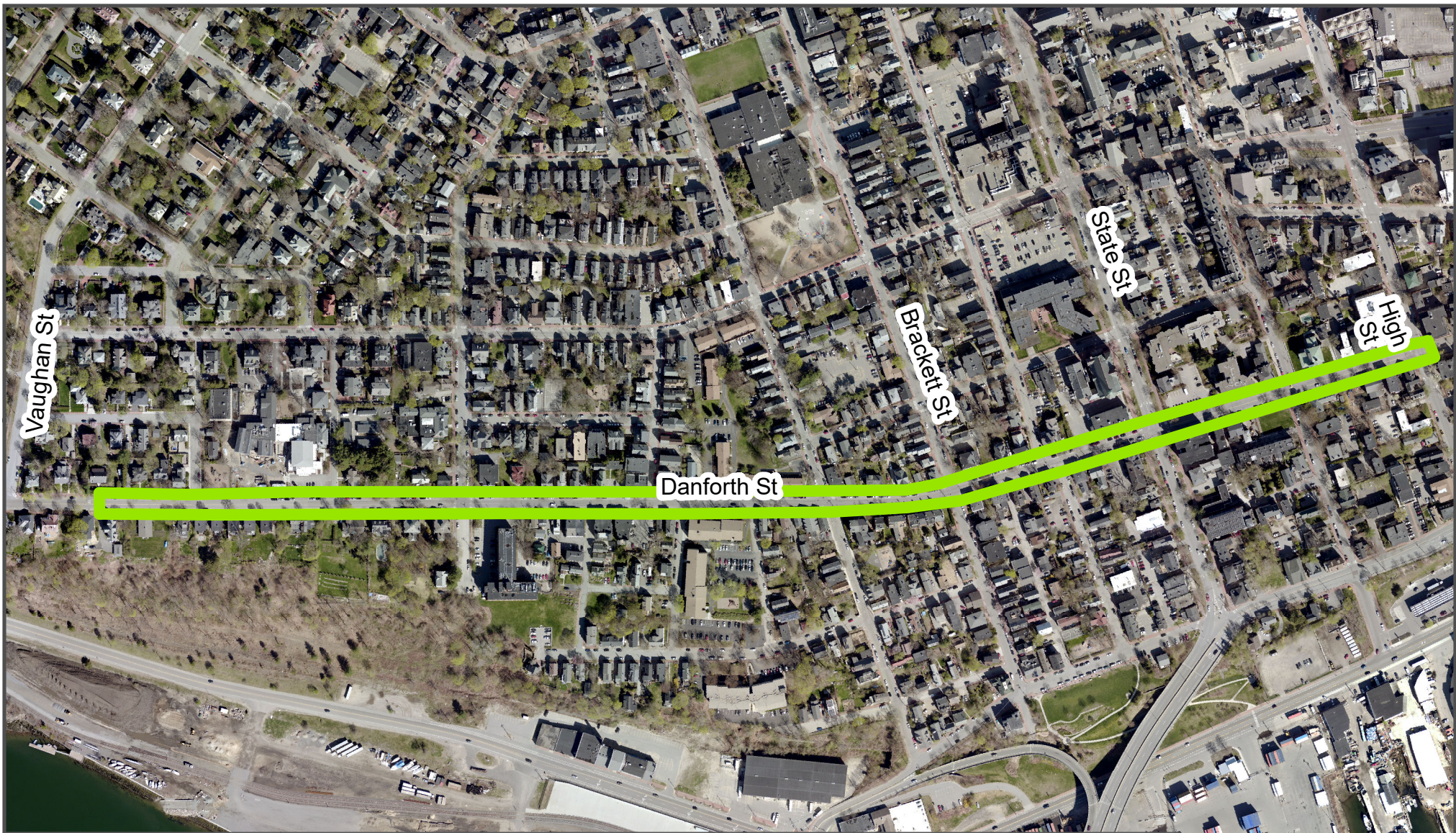
- a) All plans and specifications shall conform to the standards used by MaineDOT as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details"* and comply with MaineDOT's Utility Accommodation Rules.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in MaineDOT's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to MaineDOT and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay MaineDOT's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by MaineDOT. A copy of MaineDOT's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying MaineDOT in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of MaineDOT.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay MaineDOT, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, MaineDOT agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless MaineDOT determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$13,988		\$13,988
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$13,988	\$13,988	\$13,988	\$13,988
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0018	\$0.0018	\$0.0018	\$0.0018
New Program % Impact on Mil Rate	0.0000%	0.0000%	0.0156%	0.0079%	0.0156%	0.0079%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3418	\$22.4818	\$11.3418	\$22.4818

Notes: The CIP impact will actually begin in 2020 and remain for the 20 year life of the bond.

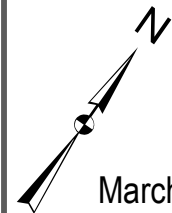


CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

Danforth St Improvements

Mill and Fill on approximately
0.78 miles of Danforth St
and pedestrian improvements
within these limits.

Legend



March 6, 2019

0 0.025 0.05 0.1
Miles

MEMORANDUM
City Council Agenda Item

FROM: Lauren Andersen

DATE: March 7, 2019

SUBJECT: **Order 190-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to India Street - Sponsored by Jon P. Jennings, City Manager**

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 3/18/2019 **Final Action 4/8/2019**

Can action be taken at a later date: No This agreement must be approved by City Council and signed by the City Manager by 4/8/19 to allow Maine Department of Transportation (MaineDOT) to meet its target bid date and target construction start date for this project.

PRESENTATION:

I. SUMMARY

City Council is being asked to approve the attached Two-Party Municipal/State Agreement and authorize the City Manager to sign it, which would allow MaineDOT to move ahead with its plans to pave India Street between Congress Street and Commercial Street in 2019.

II. AGENDA DESCRIPTION

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill India Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves India Street. The agreement obligates the City to pay MaineDOT for \$289,000.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

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

III. BACKGROUND

The India Street paving project is part of MaineDOT's Cyclical Paving Resurfacing (CPR) work plan. The scope of work includes milling and paving with a 1 ¼ inch hot mix asphalt overlay and ADA improvements with curb adjustments as needed. The CPR program is a state-funded maintenance program that allocates \$200,000 of state funding per mile. Therefore, MaineDOT will contribute \$58,000.00 as part of the CPR program contribution. The City will be responsible for the remainder of the project cost and 100% of the cost of making adjustments to its sanitary sewer facilities in the project area.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The India Street paving project will improve the pavement surface and ride quality on a regionally important major urban collector street and improve pedestrian facilities on this road.

V. FINANCIAL IMPACT

The City is obligated to pay for the additional cost required on top of the CPR allocation, new ADA improvements, and 100% of the cost of adjusting sanitary sewer manhole frames and covers in the project area. The total City cost of this work, estimated to be \$289,000.00, would be paid from a FY20 CIP account established for this project and \$10,000.00 from a water resources account. Please see attached fiscal impact note for additional information.

VI. STAFF ANALYSIS AND BACKGROUND

Although the CPR program is a good program and works on some minor roads, the condition of India Street and development in the area is much more suited to a more intensive repair such as a mill and fill. Although the City must cover the cost to change the scope, because MaineDOT is still contributing to this project makes this a good time to improve the road and a good use of City funds.

This is an important location in the City of Portland due to its increasing development and designation as a minor arterial. The street is in need of resurfacing and the improvement of ADA ramps will provide safer routes for pedestrians.

VII. RECOMMENDATION

The Department of Public Works recommends approving and signing the subject agreement to allow MaineDOT to pave approximately 0.29 miles of India Street (from Congress Street to Commercial Street) in 2019.

VIII. LIST ATTACHMENTS

1. Paving India Street MDOT 3.18.2019
2. India St Two Party Agreement
3. Fiscal Impact - India Street - Fiscal Impact Note
4. India_Street_Improvements Project Location Map

Prepared by:

Lauren Andersen

Date: 3/7/2019

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

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

**ORDER APPROVING TWO-PARTY AGREEMENT BETWEEN PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: IMPROVEMENTS TO INDIA STREET**

ORDERED, that the two-party Partnership Agreement between the Maine Department of Transportation and the City of Portland for improvements to India Street with State Work Identification Number 024037.00 is hereby approved in substantially the form attached hereto; and

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



MaineDOT use only	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
PROPOSED IMPROVEMENTS TO INDIA STREET

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 024037.00
Federal Aid Project #: 2403700

Estimated Municipal Share: \$299,000.00
Vendor Customer #: 17A12144
Agreement Begin Date: _____
Agreement End Date: (5 years from the date last signed below)

This Agreement is entered into between the Maine Department of Transportation (hereafter the MaineDOT) and the Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (collectively hereinafter the “Parties”).

RECITALS

- A. The scope of work that is the subject of this Agreement consists of making improvements to India Street, beginning at Congress Street and extending south 0.29 of a mile to Commercial Street, in Portland, Maine, (hereafter the “Project”).
- B. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- C. This Agreement is intended to cover the roles and responsibilities of the Parties during the design, permitting and right-of-way phases of Project development from Project inception through completion of the Project’s Plans, Specifications and Estimate (PS&E). This Agreement is further intended to establish the financial obligations of each Party, including that of full Project development through construction.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

- D. The following checked appendices are hereby incorporated into this Agreement by reference, and any perpetual maintenance appendices shall survive the expiration of this Agreement:
 - ☒ Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
 - ☐ Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
 - ☐ Appendix B – Perpetual Drainage Maintenance
 - ☐ Appendix B – Perpetual Landscape Maintenance
 - ☐ Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage with associated light(s)
 - ☐ Appendix B – Perpetual Traffic Signal Operation and Maintenance

- ☐ Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- ☒ Appendix C – Additional work requested by Municipality

E. Agreement Administration:

1. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT. This would include any additional plans, specifications and estimates furnished by the Municipality and approved by MaineDOT. When applicable, refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
2. MaineDOT shall be the sole administrator of the contract to construct the Project. MaineDOT will pay all Project costs, subject to cost sharing by the Municipality, when applicable, as specified in this Agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
3. Upon acceptance of plans, specifications and estimates (PS&E), MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns in the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.

F. Changes to Project Scope:

4. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to MaineDOT approval. In the event that the cost of these changes or work are approved for federal participation, the Municipality's additional cost may be reduced by the amount of the federal contribution.

G. Traffic Control:

5. The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
 - i. MaineDOT's Project Manager (PM) will, when possible, submit the Project for Traffic Analysis and Movement Evaluation (TAME), approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed Project with the Municipality (scope, limits, day or night work, work window, etc).
 - ii. The Municipality will comment on their concerns/issues related to the Traffic Control Plan within two (2) weeks of receipt.

- iii. MaineDOT's PM & Designer will incorporate these comments where practical based on engineering judgment.
- iv. If the Municipality desires, a meeting will be held prior to PS&E to review the Project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.

H. Utilities:

- 6. The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a utility service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.
- 7. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- 8. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.

I. Governing Law:

- 9. The Municipality agrees that except for an emergency, or as allowed in 23 M.R.S.A. § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any municipal government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- 10. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

J. Municipality's Responsibility:

- 11. When applicable, if the Municipality withdraws its financial support for the Project, leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for all Project costs incurred in reliance on the Municipality's financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the

time of such termination. If the Municipality fails to reimburse MaineDOT for such costs incurred, after receiving an invoice seeking such reimbursement, MaineDOT may exercise its rights of set-off to recover the requested amount.

12. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
13. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition including snow and ice control.
14. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
15. When applicable, the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
16. When applicable, the Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.

K. Termination:

17. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project due to failure by the Municipality to comply with any of the conditions and stipulations set forth in this Agreement.
18. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to MaineDOT's satisfaction.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those ***provisions that by their very nature are intended to survive.***

L. Miscellaneous Provisions:

19. **Debarment.** The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

20. All provisions of this Agreement, ***except those that by their very nature are intended to survive***, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
21. **State of Maine's Rights of 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 of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal 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. When applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the Municipality for purposes of set-off to recover the amount owed.
22. **Non-Appropriation.** Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
23. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.
24. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Alternatively, communications can be mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Said communications, requests or notices shall be sent to the other party as follows:

MaineDOT: Maine Department of Transportation
 24 Child Street
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: LaRay L. Hamilton
 Email: laray.hamilton@maine.gov

Municipality: City of Portland
 389 Congress St
 Portland, ME 04101
 Attn.: Jon Jennings
 Email: citymanager@portlandmaine.gov

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT effective on the day and date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
Richard J. Crawford, P.E., Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF **PORTLAND**

PROPOSED IMPROVEMENTS TO **INDIA STREET**

FEDERAL AID PROJECT NO. **2403700**

STATE PROJECT IDENTIFICATION NUMBER (WIN) **24037.00**

Project Scope:

Mill and Fill India Street, beginning at Congress Street and extending south 0.29 miles to Commercial Street.

Funding Outline:

The Total Project Estimated Cost is \$ 357,000.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share				Total Cost
			Federal	Portion	MaineDOT (State) Portion		
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 872.00	\$ 872.00
Right of Way	0.0%	\$ -	0.0%	\$ -	100.0%	\$ -	\$ -
Construction	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 56,260.00	\$ 56,260.00
Construction Engineering	0.0%	\$ -	0.0%	\$ -	100.0%	\$ 868.00	\$ 868.00
PROJECT SHARES		\$ -		\$ -		\$ 58,000.00	\$ 58,000.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 299,000.00					
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$ 299,000.00					

(Check if applicable)

☒ **Additional Work as outlined in Appendix C to this Agreement.**

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work		Cost: 100% Municipal Share	
Change Scope of Work from CPR to Mill & Fill		\$	289,000.00
Adjust Sewer Manholes - 10 @ \$1,000 ea.		\$	10,000.00
TYPE OF WORK		\$	-
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY		\$	299,000.00

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project.

Invoicing will include the following:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
City of Portland	\$225,000.00	5/1/2019
City of Portland	\$74,000.00	6/30/2019
City of Portland	Balance remaining if any	1/1/2020
Total Receivable Amount:	\$299,000.00	

Project Information

Municipality Name: Portland

Federal Aid Project #: 2403700

WIN: 24037.00

APPENDIX C

ADDITIONAL WORK

MAINE DEPARTMENT OF TRANSPORTATION

Transportation Improvement Project

1. Description of Work Being Added to Project by the Municipality:

Change the scope of work from a CPR, capped at \$58,000 for MaineDOT, to a 1 1/4" Mill and Fill, with variable depth shim, and other incidentals, including adjusting sewer manholes.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No ☒ - Disregard this Section, or Yes ☐ - as follows:

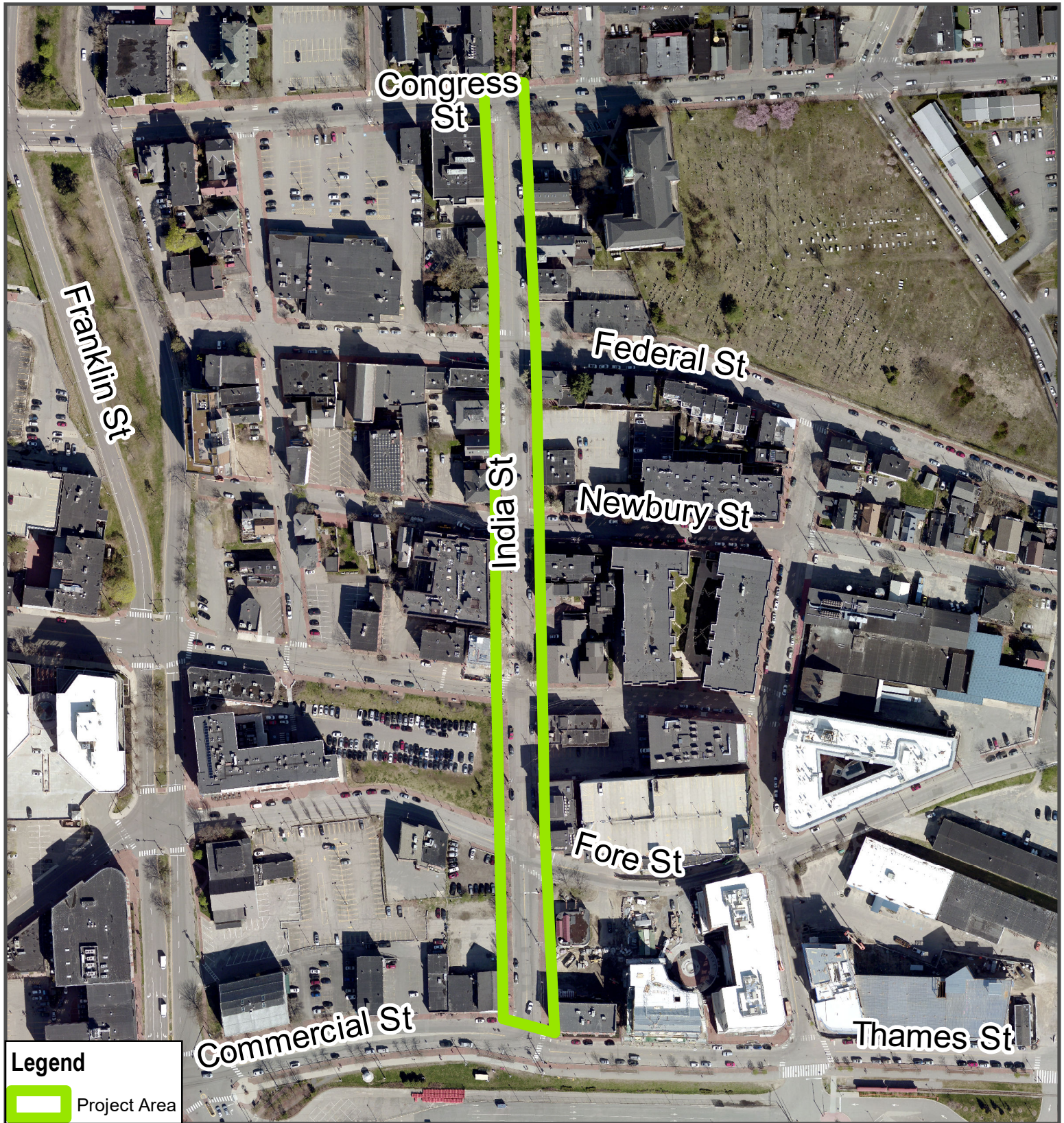
- a) All plans and specifications shall conform to the standards used by MaineDOT as set forth in the latest version of its "*Highway Design Guide*" and "*Standard Details*" and comply with MaineDOT's Utility Accommodation Rules.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in MaineDOT's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to MaineDOT and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay MaineDOT's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by MaineDOT. A copy of MaineDOT's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying MaineDOT in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of MaineDOT.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay MaineDOT, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, MaineDOT agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless MaineDOT determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

FISCAL IMPACT NOTE New Program Cost Data:	Year 1		Year 2		Year 3	
	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
<u>Example:</u>						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$0		\$22,425		\$22,425
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$0	\$0	\$22,425	\$22,425	\$22,425	\$22,425
New Program Impact to the Mil Rate	\$0.0000	\$0.0000	\$0.0028	\$0.0028	\$0.0028	\$0.0028
New Program % Impact on Mil Rate	0.0000%	0.0000%	0.0250%	0.0126%	0.0250%	0.0126%
Mil Rate Including New Program	\$11.3400	\$22.4800	\$11.3428	\$22.4828	\$11.3428	\$22.4828

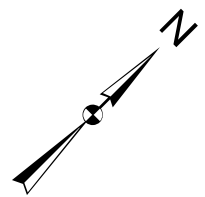
Notes: The CIP impact will actually begin in 2020 and remain for the 20 year life of the bond.



CITY OF PORTLAND, MAINE
DEPT. OF PUBLIC WORKS
212 CANCO RD, PORTLAND, MAINE 04103
PHONE (207) 874-8846 FAX (207) 874-8852

India Street Improvements

Mill and fill on approximately
0.29 miles of India St and
pedestrian improvements
within these limits.



March 6, 2019

0 0.025 0.05
Miles

MEMORANDUM
City Council Agenda Item

FROM:

DATE: March 7, 2019

SUBJECT: Order 191-18/19 Amendment to the Portland City Code Chapter 35 Re: Earned Paid Sick Leave - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Belinda Ray, Chair

SPONSOR:

(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 3/18/2019

Final Action 4/8/2019

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

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

I. SUMMARY

This ordinance, if enacted, would require all employers with a physical location in the City of Portland to allow all of their employees working in Portland (with some limited exceptions) to accrue a minimum of 1 hour of earned paid sick time for every 30 hours worked, to use up to 40 hours of accrued time annually, and to begin using this accrued sick time after their 70th day of employment or the date this ordinance becomes applicable, whichever is later.

II. AGENDA DESCRIPTION

Over the past 12 years, 47 municipalities, counties, and states have enacted Earned Paid Sick Leave Ordinances (including 13 New Jersey municipalities which were later pre-empted when the state law passed in 2018).

On September 18, 2017, the City Council referred a proposed Earned Paid Sick Time Ordinance, which was brought forward by Mayor Strimling in collaboration with the Southern Maine Workers' Center and the Maine Women's Lobby, to the Council's Health & Human Services and Public Safety committee. On November 27, 2017, the committee had an initial discussion of the ordinance and began working to craft a version of the ordinance designed specifically for Portland.

The committee spent nearly 15 months examining ordinances from other municipalities and states, talking with constituents and area businesses, receiving public comment via email, phone, and in person, and holding two public hearings. On February 26th, the HHS & PS Committee voted 3-0 to forward the ordinance on to the Council with a recommendation for passage.

The ordinance, if enacted, would require all employers with a physical location in the City of Portland to allow all their employees working in Portland (with some limited exceptions) to accrue a minimum of 1 hour of earned paid sick time for every 30 hours worked. Employees would begin earning paid sick time on their first day of employment and would be able to begin using their accrued time after their 70th day of employment or the date this ordinance becomes applicable, whichever is later.

Employees would be eligible to use up to 40 hours of their accrued time annually for the purposes and under

the conditions described in the ordinance.

Businesses of all sizes are covered by the ordinance, as are all employees who work at least 120 hours annually for an employer, whether they are full-time, part-time, or seasonal. There are, however, exemptions for some per diem employees, Federal Work Study students, and new businesses, which are exempt from the ordinance for one year from the date of hire of their first employee.

As written, the ordinance would become applicable 180 days after the date of passage.

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

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please see attached Fiscal Impact Note.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Chapter 35 Earned Paid Sick Time 3.18.2019
2. States, Cities with EPSL laws
3. Earned Paid Sick Leave Accrual Chart
4. Paid Sick Leave Costs to City (3-13 for Council) (1)
5. EST Memo re Cost Analysis

Prepared by:

Date: 3/7/2019

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**

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

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 35 RE: EARNED PAID SICK LEAVE**

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

1. *That the Portland City Code is hereby amended by adding a section, to be numbered Chapter 35, Sections 35-1 to 35-14, which said Sections read as follows:*

Chapter 33 EARNED PAID SICK LEAVE

Sec. 35-1. Definitions.

The following definitions shall apply for purposes of this Chapter:

Child shall mean a biological, adopted, or foster child of the employee; stepchild or legal ward of the employee; child of a domestic partner of the employee; or a child for whom the employee stands in loco parentis.

Earned paid sick time shall mean paid sick time accrued and awarded pursuant to section 35-2.

Employee shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Chapter, Employee shall not include the following:

1. Any employee who meets all of the following criteria:

- a. Is licensed pursuant to Title 32, Chapters 31, 97, or 103;
- b. Is employed by a health care facility, as defined in 22 M.R.S. § 328(8);
- c. Is under no obligation to work a regular schedule;

- d. Works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability; and
 - e. Has waived earned sick leave benefits as provided under this Chapter under terms of employment for alternative benefits or consideration.
- 2. Employees who work less than 120 hours per year for that employer.
- 3. Any Federal Work-Study (FWS) student who is enrolled in an educational institution and who is performing work for that institution, provided that such student shall be considered an Employee and shall not be exempt from accruing earned paid sick leave in accordance with this ordinance when working for any employer other than the educational institution in which the student is enrolled.

Employer shall have the same meaning as in Sec. 33.2 of this Code. However, for purposes of this Chapter, Employer shall not include any employer for a period of one year after the employer hires its first employee.

Family member shall mean a child, grandchild, sibling, spouse, domestic partner, parent, or grandparent of an employee; a spouse or domestic partner of a parent or grandparent of the employee; a sibling of a spouse or domestic partner of an employee; or any other person related by blood to the employee or whose close association with the employee is the equivalent of a family relationship.

Health care professional shall have the same meaning as in 26 M.R.S. § 843.

Hours worked shall mean all hours worked where the employee is located at, or based out of, an employer's place of business located in Portland.

Parent shall mean a biological, adoptive, or foster parent of the employee or employee's spouse or domestic partner; a stepparent or legal guardian of the employee or employee's spouse or domestic partner; or a person who stood in loco parentis of the employee or the employee's spouse or domestic partner when that person was a minor child.

Year shall mean a regular and consecutive 12-month period as determined by the employer.

Sec. 35-2. Accrual of Earned Paid Sick Time.

(a) Rates of Accrual. Subject to the limitations in subsection (2), employers must allow employees to accrue earned paid sick time pursuant to one of the following methods, which may be chosen by the employer.

1. Employees will accrue a minimum of one hour of earned paid sick time for every 30 hours worked. Hours worked shall not include vacation, sick, or other time for which an employee is paid but no actual work is performed.
2. Employees will accrue earned paid sick time in the amount of 40 hours in one lump sum at the beginning of each calendar year or the beginning of the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.
3. Employees will accrue earned paid sick time in the following amounts at the end of each calendar month worked, starting with the first month of the calendar year or the employee's anniversary year. Where based on a calendar year, a prorated amount shall be awarded for new employees.

<u>Employee's average hours/week</u>	<u>Earned paid sick time accrued</u>
<u>46 or more</u>	<u>8 hrs/month</u>
<u>36-45</u>	<u>6 hrs/month</u>
<u>29-35</u>	<u>5 hrs/month</u>
<u>22-28</u>	<u>4 hrs/month</u>
<u>15-21</u>	<u>3 hrs/month</u>
<u>8-14</u>	<u>2 hrs/month</u>
<u>Up to 7</u>	<u>1 hr/month</u>

(b) Limitations on Accruals. An employer is not required to allow an employee to accrue earned paid sick time in excess of 72 hours.

(c) Conditions of Accrual. The accrual of earned paid sick time shall be subject to the following conditions.

1. Employees who are exempt from overtime requirements under the Fair Labor Standards Act will be deemed to work 40 hours in each work week for purposes of earned paid sick time accrual, unless their normal work week is less than 40 hours, in which case earned paid sick time

accrues based upon that normal work week.

2. Employees shall begin to accrue earned paid sick time at the commencement of employment or on the date this law goes into effect, whichever is later.
3. Employees accruing earned paid sick time may roll over any unused earned paid sick time, up to a maximum of 72 hours, at the end of a benefit year.
4. If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within one year of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.
5. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(d) Employers are not required to allow employees to take earned paid sick time in the employee's first 70 days of employment. However, employees who return to the same employer within one year of termination shall not have to complete an additional 70-day period to be eligible to take earned paid sick time.

(e) Nothing in this Chapter shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

(f) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

(g) An Employer may substitute its own paid leave policy (e.g. paid time off ("PTO"), vacation leave, sick leave, etc.)

that meets or exceeds the requirements of this ordinance, including but not limited to:

1. Accrue at the rate of at least one hour of paid time off for every 30 hours worked;
2. May use up to 40 hours per year of earned or awarded paid time off;
3. Are paid for their paid time off at least the amount that would be required for earned paid sick leave under this ordinance;
4. Can use paid time off for all the purposes and under all the conditions described in sections 35-3 and 35-4 of this Chapter;
5. Receive a notice of their rights under the law; and
6. Receive the same job protections afforded by this ordinance.

(h) If an Employer provides paid time off to employees under a PTO, vacation or other policy that complies with this Earned Paid Sick Leave ordinance, the Employer is not required to track and keep a separate record of accrual and use of earned sick time.

Sec. 35-3. Use of Earned Paid Sick Time.

(a) Employees may use earned paid sick time for any of the following:

1. Job protected leave provided pursuant to the Maine Employment Leave for Victims of Violence statute;
2. Time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;
3. Time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member; or
4. Leave to attend a school meeting necessitated by the family member's health condition or disability.

(b) An employee may take earned paid sick time for any hours worked.

(c) An employee may only take earned paid sick time for hours the employee has been scheduled to work.

(d) Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

(e) If an employee uses earned paid sick time for an entire day or shift, earned paid sick time must be paid for the hours the employee was otherwise scheduled to work.

(f) Employees may not use more than 40 hours of earned paid sick time in a year, unless the employer selects a higher limit.

(g) Earned paid sick time shall be paid out at the employee's base hourly rate, not including bonuses, commissions, etc.

(h) Earned paid sick time for tipped workers shall be paid out at the higher of the employee's regular base hourly rate or the highest applicable minimum wage for non-tipped employees.

Sec. 35-4. Procedures for Taking Earned Paid Sick Time.

(a) Earned paid sick time shall be provided upon the request of an employee.

1. An employer may not require more than seven days' notice for an employee to use earned paid sick time, when the need is foreseeable.
2. When the need for use of earned paid sick time is not foreseeable, an employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case
3. An employer that requires notice of the need to use earned paid sick time shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.
4. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide

notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

(b) An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

(c) An employer may require certification when earned paid sick time is used subject to the following restrictions.

1. An employer may require an employee to personally verify in writing that the employee has used earned paid sick time only for allowable purposes under this Chapter using the form provided by the City.
2. Where the need for earned paid sick time covers more than 24 consecutively scheduled work hours, an employer may require reasonable documentation signed by a health care provider, where applicable, indicating the need for the earned paid sick time taken.

Employees who do not have healthcare coverage, or Employees with healthcare coverage that does not cover office visits without first meeting a deductible, or Employees with healthcare coverage that requires a co-pay for office visits that exceeds an amount equal to four hours of that employee's base hourly pay, or Employees using EPSL where the need for leave is not health related, may instead provide a signed, written statement evidencing the need for the use of earned sick time using the form provided by the City.

3. An employer may not require that any documentation explain the nature of the illness or the details of the domestic violence.
4. The employer shall not delay the taking of earned sick time or delay pay for the period in which earned sick time was taken on the basis that the employer has not yet received the certification. However, where an employee requests to take earned sick time in his/her last two weeks of employment, the employer may require the employee to submit documentation prior to approving and/or paying for the earned sick time.
5. Certifications under this subsection shall be kept

confidential, except as required by business necessity.

Sec. 35-5. Exercise of Rights Protected; Retaliation Prohibited.

(a) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

(b) It shall be unlawful for an employer or any other person to retaliate against an employee for exercising his or her rights under this Chapter, including requesting or using earned paid sick time; filing a complaint or otherwise complaining about an employer's alleged violation of this Chapter; participating in an investigation or other proceeding under this Chapter; or informing others of their rights under this Chapter.

(c) It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under this Act as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

(d) Nothing in this Chapter shall be construed to prohibit an employer from taking disciplinary action against an employee who uses earned paid sick time for purposes other than those described in this Chapter.

(e) Protections of this section shall apply to any person who mistakenly but reasonably alleges a violation of this Chapter.

Sec. 35-6. Notice of Rights.

(a) Employers shall both display a poster notifying employees of their rights under this Chapter, and give employees written notice at the commencement of employment or the effective date of this ordinance, whichever is later. The poster and notice shall be consistent with this section.

(b) The notice and poster shall contain the following information: that employees are entitled to earned paid sick time and the amount of earned paid sick time; the terms of its use guaranteed under this Act; that retaliation is prohibited; that each employee has the right to file a complaint or bring a civil action if earned paid sick time as required by this Act is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking earned paid sick time, and the contact information for the City of Portland where questions about rights and responsibilities under this Act can be answered.

(c) The notice and poster shall be provided in any language that is the first language spoken by any member of the employer's workforce, provided that such notice has been created by the City of Portland. Where the City of Portland has not created the notice in any language readily understood by an employee, the employer must ensure that the contents of the notice are read and/or explained to the employee in a language the employee can readily understand.

(d) The City of Portland shall create and make available to employers, in the five most prevalent languages spoken by the City's workforce and any language deemed appropriate by the City of Portland, model notices and posters meeting the requirements of this section. This requirement may be satisfied by posting the model notices and posters on the City's website and making them available for download.

(e) The amount of earned paid sick time available to the employee, the amount of earned paid sick time taken by the employee to date in the year and the amount of pay the employee has received as earned paid sick time shall be provided to the employee in writing at least once per month, and upon request of the employee.

(f) An employer who willfully violates this section shall be subject to a civil fine in an amount not to exceed \$100 for each separate offense. Each day that an employer allows a violation of this section to continue shall be a separate offense.

Sec. 35-7. Recordkeeping Requirements.

(a) Employers shall retain records documenting hours worked by employees and earned paid sick time earned and taken by employees for a period of three (3) years. Separate records of earned paid sick time need not be kept if earned paid sick time is not tracked separately by the employer.

(b) Employers shall allow the City of Portland access to the records required by this section, with appropriate notice and at a mutually agreeable time.

Sec. 35-8. Enforcement.

(a) Enforcement.

1. This Chapter may be enforced by the City Manager or his or her designee.

2. A violation of this Chapter is a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(b) Complaint Process.

1. Any Employee, alleging a violation of this ordinance may file a written complaint with the City Manager's office.
2. The City Manager or his or her designee shall contact the Employer and review the rules of the ordinance and the Employer's obligations under the ordinance. The City Manager or his or her designee may investigate and/or attempt to mediate a mutually agreeable resolution between the employer and employee.
3. After reviewing the rules of the ordinance with the Employer, the City Manager or his or her designee shall issue a letter to both parties summarizing the conversation and stating his or her determination with respect to whether this Chapter has been violated.

(c) Private Cause of Action.

1. Any employee aggrieved by a violation of this Chapter may bring an action in a Court of competent jurisdiction against the employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Such action may be brought by a person aggrieved by a violation of this Chapter without first filing a complaint with the City Manager. Actions brought pursuant to this section may be brought as a class action pursuant to the laws of Maine.
2. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.
3. Where applicable, remedies shall also include equitable relief, including reinstatement and back pay, and injunctive relief.
4. The City of Portland shall annually report on the City of Portland website the number and nature of the complaints received pursuant to this ordinance, the results of investigations undertaken pursuant to this

ordinance, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this ordinance, and the average time for a complaint to be resolved pursuant to this chapter.

Sec. 35-9. Confidentiality and Nondisclosure.

If an employer possesses health information or information pertaining to domestic violence, sexual assault, harassment or stalking about an employee or employee's family member, such information shall be treated as confidential and not disclosed except to the affected employee, with the permission of the affected employee, as required for the administration of the leave, or as otherwise required by law.

Sec. 35-10. Encouragement of More Generous Earned Paid Sick Time Policies; No Effect on More Generous Policies or Laws.

(a) Nothing in this Act shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

(b) Nothing in this Act shall be construed as diminishing the obligation of an employer to comply with any law, regulation, contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein.

Sec. 35-11. Public Education and Outreach.

The City of Portland shall develop and implement a multilingual outreach program to inform employees and employers about the availability of earned paid sick time under this ordinance.

Sec. 35-12. Regulations.

The City Manager, or his or her designee, shall be authorized to coordinate implementation and enforcement of this Chapter and shall promulgate appropriate guidelines or regulations for such purposes.

Sec. 35-13. Severability.

If any provision of this Act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Sec. 35-14. Effective Date.

This Chapter will be applicable 180 days after passage.

States and Municipalities with Earned Paid Sick Leave Laws or Ordinances

States

Arizona
California
Connecticut
District of Columbia
Massachusetts
Maryland
Michigan
New Jersey
Oregon
Rhode Island
Vermont
Washington

New Jersey Cities (pre-empted when state law took effect in 2018)

2013
Jersey City

2014
Newark
Passaic
East Orange
Paterson
Irvington
Trenton
Montclair

California Cities

Berkeley
Emeryville
Los Angeles
Oakland
San Diego
San Francisco
Santa Monica

2015
Bloomfield
Elizabeth
New Brunswick

2016
Plainfield
Morristown

Other Counties & Cities (Outside California)

Cook County and Chicago, IL
Montgomery County, MD
Duluth, MN
Minneapolis, MN
Saint Paul, MN
New York City, NY
Westchester County, NY
Philadelphia, PA
Pittsburgh, PA
Austin, TX
San Antonio, TX
Seattle, WA
Tacoma, WA

Earned Paid Sick Time Accrual Chart

Accrual Rate = 0.033
(1 hour for every 30 hours worked)

Week #	Hours Per Week									# Days
	10	15	20	25	30	35	40	45	50	
1	0.3	0.5	0.7	0.8	1.0	1.2	1.3	1.5	1.7	7
2	0.7	1.0	1.3	1.7	2.0	2.3	2.6	3.0	3.3	14
3	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	21
4	1.3	2.0	2.6	3.3	4.0	4.6	5.3	6.0	6.6	28
5	1.7	2.5	3.3	4.2	5.0	5.8	6.6	7.5	8.3	35
6	2.0	3.0	4.0	5.0	5.9	7.0	7.9	8.9	9.9	42
7	2.3	3.5	4.6	5.8	6.9	8.1	9.2	10.4	11.6	49
8	2.6	4.0	5.3	6.6	7.9	9.3	10.6	11.9	13.2	56
9	3.0	4.5	5.9	7.5	8.9	10.4	11.9	13.4	14.9	63
10	3.3	5.0	6.6	8.3	9.9	11.6	13.2	14.9	16.5	70
11	3.6	5.5	7.3	9.1	10.9	12.8	14.5	16.4	18.2	77
12	4.0	6.0	7.9	10.0	11.9	13.9	15.8	17.9	19.8	84
13	4.3	6.5	8.6	10.8	12.9	15.1	17.2	19.4	21.5	91
14	4.6	7.0	9.2	11.6	13.9	16.2	18.5	20.9	23.1	98
15	5.0	7.5	9.9	12.5	14.9	17.4	19.8	22.4	24.8	105
16	5.3	8.0	10.6	13.3	15.8	18.6	21.1	23.8	26.4	112
17	5.6	8.5	11.2	14.1	16.8	19.7	22.4	25.3	28.1	119
18	5.9	9.0	11.9	14.9	17.8	20.9	23.8	26.8	29.7	126
19	6.3	9.5	12.5	15.8	18.8	22.0	25.1	28.3	31.4	133
20	6.6	10.0	13.2	16.6	19.8	23.2	26.4	29.8	33.0	140
21	6.9	10.5	13.9	17.4	20.8	24.4	27.7	31.3	34.7	147
22	7.3	11.0	14.5	18.3	21.8	25.5	29.0	32.8	36.3	154
23	7.6	11.5	15.2	19.1	22.8	26.7	30.4	34.3	38.0	161
24	7.9	12.0	15.8	19.9	23.8	27.8	31.7	35.8	39.6	168
25	8.3	12.5	16.5	20.8	24.8	29.0	33.0	37.3	41.3	175
26	8.6	13.0	17.2	21.6	25.7	30.2	34.3	38.7	42.9	182
27	8.9	13.5	17.8	22.4	26.7	31.3	35.6	40.2	44.6	189
28	9.2	14.0	18.5	23.2	27.7	32.5	37.0	41.7	46.2	196
29	9.6	14.5	19.1	24.1	28.7	33.6	38.3	43.2	47.9	203
30	9.9	15.0	19.8	24.9	29.7	34.8	39.6	44.7	49.5	210
31	10.2	15.5	20.5	25.7	30.7	36.0	40.9	46.2	51.2	217
32	10.6	16.0	21.1	26.6	31.7	37.1	42.2	47.7	52.8	224
33	10.9	16.5	21.8	27.4	32.7	38.3	43.6	49.2	54.5	231
34	11.2	17.0	22.4	28.2	33.7	39.4	44.9	50.7	56.1	238
35	11.6	17.5	23.1	29.1	34.7	40.6	46.2	52.2	57.8	245
36	11.9	18.0	23.8	29.9	35.6	41.8	47.5	53.6	59.4	252
37	12.2	18.5	24.4	30.7	36.6	42.9	48.8	55.1	61.1	259
38	12.5	19.0	25.1	31.5	37.6	44.1	50.2	56.6	62.7	266
39	12.9	19.5	25.7	32.4	38.6	45.2	51.5	58.1	64.4	273
40	13.2	20.0	26.4	33.2	39.6	46.4	52.8	59.6	66.0	280
41	13.5	20.5	27.1	34.0	40.6	47.6	54.1	61.1	67.7	287
42	13.9	21.0	27.7	34.9	41.6	48.7	55.4	62.6	69.3	294
43	14.2	21.5	28.4	35.7	42.6	49.9	56.8	64.1	71.0	301
44	14.5	22.0	29.0	36.5	43.6	51.0	58.1	65.6	72.6	308
45	14.9	22.5	29.7	37.4	44.6	52.2	59.4	67.1	74.3	315
46	15.2	23.0	30.4	38.2	45.5	53.4	60.7	68.5	75.9	322
47	15.5	23.5	31.0	39.0	46.5	54.5	62.0	70.0	77.6	329
48	15.8	24.0	31.7	39.8	47.5	55.7	63.4	71.5	79.2	336
49	16.2	24.5	32.3	40.7	48.5	56.8	64.7	73.0	80.9	343
50	16.5	25.0	33.0	41.5	49.5	58.0	66.0	74.5	82.5	350
51	16.8	25.5	33.7	42.3	50.5	59.2	67.3	76.0	84.2	357
52	17.2	26.0	34.3	43.2	51.5	60.3	68.6	77.5	85.8	364

Portland, Maine



Yes. Life's good here.

Department

Brendan T. O'Connell, Director

TO: Members of the City Council

FROM: Brendan T. O'Connell – Finance Director

DATE: March 13, 2019

SUBJECT: **Fiscal Impact Estimate – Proposed Paid Sick Leave Ordinance**

Members of the City Council,

Over the last several months the Health and Human Services Committee (“the Committee”) debated and made many amendments to a proposed paid sick leave ordinance for the City of Portland. This memo summarizes staff estimates on the fiscal impact of the current municipal proposal as approved by the Committee on February 26, 2019. This memo does not address potential costs of compliance with LD 369, *An Act to Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees* which is currently being considered by the State of Maine legislature and does not address likely additional cost implications and staff time related to conflicting ordinances at the municipal and State level. In total the estimated fiscal impact of the proposal would be just under approximately 7 cents on the mil rate (rounded) in FY20. See below for detailed fiscal impact note estimate.

FISCAL IMPACT NOTE: PAID SICK LEAVE	Year 1	Year 2	Year 3
New Program Cost Data:	City / Sch Combined Rate	City / Sch Combined Rate	City / Sch Combined Rate
Example:			
ADD: NEW ITEM ANNUAL EXPENDITURES	\$526,603	\$469,103	\$469,103
LESS: TOTAL NEW ITEM ANNUAL REVENUES	\$0	\$0	\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$526,603	\$469,103	\$469,103
New Program Impact to the Mil Rate	\$0.0667	\$0.0594	\$0.0594
New Program % Impact on Mil Rate	0.30%	0.26%	0.26%
Mil Rate Including New Program	\$22.5467	\$22.5394	\$22.5394

Notes: This fiscal note assumes calendar year adoption of the ordinance (Year 1 = 2020)
See detailed backup memo for additional cost information.

The estimated costs to the City can generally be divided into four categories:

1. Increase in payroll related expenses as a result of additional paid time off (approximately \$164,878 in new accrued sick time and \$48,621 in additional staff costs which would not have been incurred under existing City benefits policy)
NOTE: There is the potential for additional revenue losses as a result of additional time off taken but this amount cannot be reasonably estimated.
2. Increase in payroll expenses as a result of new staff required to enforce the ordinance (estimated to be approximately \$211,603)
3. Increase in other budgeted expenses as a result of required advertising and educational outreach effort including outside legal counsel (estimated at \$67,500)
4. Pass on of costs related to the proposed ordinance from Portland based vendors we utilize (estimate of \$34,000)

See the “**Additional Detail – Cost Categories #1 Through #4**” section of this memo for additional details on each major cost category. As noted previously, this cost could potentially rise if there are conflicting municipal and State level ordinances.

FREQUENTLY ASKED QUESTIONS

Question #1: Why are both the “newly accrued sick time” and the “additional staff costs” included in the fiscal impact note? Isn’t this double counting the same cost?

Answer #1: The “additional staff costs” would only be incurred when replacement workers are brought in at overtime rates and City staff estimates the time would NOT have been taken off under current rules. The ordinance as proposed provides for many examples of when sick time could be used even when the employee isn’t sick (i.e. if the employee leaves to care for a close friend, if the employee leaves for a meeting, if the employee has a family member who is sick, etc.) Many of our Department Heads and Division Directors felt very strongly that the ordinance provides enough grey area and allows a very broad interpretation of when a sick day is appropriate – a much broader interpretation than under current rules. Thus, days off would occur under the proposed ordinance and new overtime would be incurred by replacement staff.

Question #2: What accrual rate is being used in the fiscal impact note?

Answer #2: The Committee made a direct inquiry of Human Resources Director Gina Tapp about whether the City would use our existing rate of accrual for paid sick leave or whether we would change our policy to use the lower rate of accrual per the ordinance. Her answer was clear, the City would not want to change our existing benefit levels regarding sick time and we would likely continue to accrue all sick time at the same rate both before and after the proposed ordinance going into effect. The fiscal impact note was calculated based on this response.

However, recognizing the potential cost savings which could exist if a lower accrual rate were used, this memo includes details of the calculation under both accrual rates. (See Cost Category #1 in the “Additional Detail” section for more information.)

Question #3: When the City passed its minimum wage ordinance all enforcement / investigation work was handled by existing staff. Why can’t this be done with this ordinance?

Answer #3: Despite the minor amendments which were made to the enforcement section of the proposed ordinance, the City Manager and City staff feel strongly that additional staff will be required to deal with enforcement of this ordinance. The ordinance is significantly more complex than the minimum wage ordinance and cost estimates in this category are based on research of actual enforcement expenses / staffing levels in other municipalities. (See cost category #3 in the “Additional Detail” section for more information.) It is worth noting that the City Council has the authority to accept or reject staffing requests made by the City Manager during the annual budget approval process.

Additional Detail – Cost Categories #1 Through #4

Cost Category #1 – Increase in payroll expenses as a result of additional paid sick time

Using data from calendar year 2017, City payroll staff compiled all of the hours worked by temporary, seasonal, on-call, and tipped workers who were not benefit eligible. In total there were just over 1100 workers in this category across a variety of City departments and divisions including the Schools. The classes of employees who do not work 120 hours in a year (a specific exemption within the ordinance) were removed from the list.

Each Department / Division has unique requirements for their workers and different practices / procedures for when workers call out. For example, within the City Clerk’s office, the non-benefit eligible employees are the election workers who work only during elections (2-3 days per year). If an employee happened to be unable to work during a particular election, they would simply not work on that particular election day, and the City Clerk would call the next election worker on their list who would be paid at straight time. Based on revisions which occurred at the Committee level, the City Clerk employees were removed from the fiscal impact calculation as they would never work 120 hours in a calendar year.

A more complex example is within Parks and Recreation, a department with a wide variety of divisions and activities. Within the Public Assembly division, the procedures are somewhat similar to those at the City Clerk. Workers are scheduled in advance for event days, and if a worker was unable to work on a particular event night, the next employee on the list would be contacted and that employee would likely be paid at straight time or overtime. Contrast that with the Parks & Recreation Ice Arena, Recreation and Aquatics Divisions. A limited number of temporary and seasonal staff within these divisions are actively teaching lessons (a revenue generating activity) on a daily basis. If staff within these divisions calls out, other staff is required to pick up the workload. If no other staff is available, the activity (in some cases private or group lessons) may be canceled. It is worth noting that the Parks & Rec Director and their

Department admin officer both noted that finding replacement staff is not always a certainty and they also noted the ordinance would definitely result in time being taken off which was previously not being taken off under existing City rules.

Another example worth highlighting is HHS. These figures are almost entirely related to security staff at the Oxford Street and Family Shelters. If staff calls out, they are occasionally replaced by another employee working on straight time and in most instances are replaced by workers working on overtime. It is worth noting that the figures related to HHS (non-Barron Center) will likely change for 2018 due to increased security required at Oxford Street related to the new day shelter operations – an addition of 7 new non-benefit eligible staff to cover all shifts. At the Barron Center, our “per diem” workers (Physical Therapists) are all contracted with a third party so none are included in the fiscal impact note calculation. CNA’s are also not included in the fiscal impact note calculation as they are all full or part time. The very limited amount of cost impact related to the Barron Center comes from “Support Team” workers (laundry, facilities, kitchen).

Total cost of the newly accrued paid sick leave across all City Departments including the Schools at the existing City sick time accrual rate would be \$164,878. Total estimated cost of additional staff costs at the existing City sick time accrual rate would be \$48,622. If the City opted to change its sick time policy and accrue paid sick leave at the lower rate of accrual per the ordinance (1 hour of paid sick leave per 30 hours worked) the cost of the newly accrued sick time would be \$119,079 (a reduction of \$45,799) and the estimated cost of the newly incurred additional staff costs would be \$35,116 (a reduction of \$13,506). Using the lower accrual rate, the City could reduce the impact to the mil rate by 1 cent, resulting in the revised fiscal impact note below. Staff will explore all possibilities as the FY20 budget is developed and as we work towards our final implementation of new payroll software (Tyler/Munis Executime and Advanced Scheduling) on July 1, 2019.

FISCAL IMPACT NOTE: PAID SICK LEAVE	Year 1	Year 2	Year 3
New Program Cost Data:	City / Sch Combined Rate	City / Sch Combined Rate	City / Sch Combined Rate
Example:			
ADD: NEW ITEM ANNUAL EXPENDITURES	\$467,297	\$409,797	\$409,797
LESS: TOTAL NEW ITEM ANNUAL REVENUES	\$0	\$0	\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$467,297	\$409,797	\$409,797
New Program Impact to the Mil Rate	\$0.0592	\$0.0519	\$0.0519
New Program % Impact on Mil Rate	0.26%	0.23%	0.23%
Mil Rate Including New Program	\$22.5392	\$22.5319	\$22.5319

Notes: This fiscal note assumes calendar year adoption of the ordinance (Year 1 = 2020)
See detailed backup memo for additional cost information.

Cost Category #2 – Increase in City of Portland payroll expenses as a result of new staff required to enforce the ordinance

Another significant new expense related to the proposed paid sick leave ordinance is the new staff required to enforce the ordinance. During her presentation on May 8th, Associate Corporation Counsel Anne Torregrossa shared some very helpful information around staffing requirements within several other municipalities nationwide. Many of the “early adopters” of mandatory paid sick leave ordinances are much larger cities with significantly more resources than the City of Portland (i.e. San Francisco, Seattle, Minneapolis). However, several small and medium sized cities within California, Washington and New Jersey have also adopted local paid sick leave ordinances and have shared their staffing requirements / average investigations data.

Municipality	Responsible Department (new/existing)	Staff Requirements	Average investigations per year
San Francisco, CA	Office of Labor Standards Enforcement (existing)	5.5 FTE for paid sick time and minimum wage	33
Emeryville, CA	Economic Development and Housing Division (existing)	1 FTE plus two consultants	6
Trenton, NJ	Health Department (existing)	2 FTE	Few investigations dictated by lack of resources
Tacoma, WA	Employment Standards Office (new)	2.5 FTE for paid sick time and minimum wage	28
Seattle, WA	Office of Labor Standards (new)	12 FTE for paid sick time, minimum wage, wage theft, fair chance employment, and secure scheduling	50

Trenton, NJ has a similarly sized population (84k in Trenton compared to 67k in Portland), but noted that although they have 2 dedicated FTE they do not have adequate resources to conduct full investigations into complaints received on their paid sick leave ordinance. Similar feedback was received from the City of Elizabeth, NJ (population 129k) who routes their complaints directly to the local courts – which would not be an option for Portland if we chose to pass a local ordinance prior to State action. Tacoma, WA is another slightly larger comparable City who currently utilizes 2.5 FTE to support both their minimum wage ordinance and their paid sick leave ordinance.

As Associate Corporation Counsel has noted, the ordinance presents many challenges based on its intricacies and many questions which are difficult to answer (i.e. whether an employee took sick leave for a proper purpose, whether existing policies within the City meet the requirements of the ordinance, etc.) We agree with her assessment that several new FTE would be required for City to adequately enforce the ordinance, and that one new investigator, one new staff support person, and one half time attorney would be required.

We took the Associate Corporation Counsel’s analysis one step further and assigned non-union position grades to each employee along with salary figures. The investigator would likely be a non-union grade 8, with estimated salary and benefits of \$83,462. The new support staff would likely be classified as a non-union grade 5, with estimated salary and benefits of \$63,330. The half time attorney would be classified as a non-union grade 13 with estimated salary and benefits

of \$64,811. The total of these 2.5 FTE would trigger an increase to future City budgets of approximately \$211,603.

It is critical to note the volume of questions which would be received by the City would significantly increase if the City had an ordinance that conflicted with a State ordinance. We anticipate there would be some public confusion about dueling ordinances and that additional staff time would be required for outreach, education and potential mapping of each rule and its specific requirements. No cost estimates have been included in this document related to potential dueling ordinances.

Cost Category #3 – Increase in other budgeted expenses as a result of required advertising and educational outreach effort

The City could also incur costs advertising and educating the public on the ordinance. There would likely be no cost related to posters (for the Minimum Wage posters are simply posted on the City website for download). However, we would likely spend between \$5,000 and \$10,000 on a mailing / outreach campaign similar to mailings related to Minimum Wage, where the City incurs approximately \$5,000 each time there is a change. This cost category is being estimated at \$10,000 for purposes of an initial fiscal impact memo. As noted in cost category #2, this cost would likely increase if the City and State had differing ordinances as more educational outreach would be required.

[A custom designed website with educational information](#) would cost between \$0 and \$15,000 depending on level of detail desired. [The City of Minneapolis website](#) is one of the best and most informational of any we found during our review. The City could simply opt for a zero / minimal cost option of simply adding a web page onto the existing City site. (This is what was done with [Minimum Wage](#).) For purposes of this final memo a website cost of \$2,500 has been estimated (as suggested during the Committee discussions).

Finally, the City may incur some outside legal expenses during the final drafting of the ordinance, or during any potential amendments to the ordinance arising as a result of legal challenges. Several Cities who passed a municipal ordinance prior to a State ordinance being in place faced (or are currently still facing) legal challenges, most notably Austin and Minneapolis. In Austin, the City is using 3 internal staff (2 lawyers plus a paralegal who worked on the local court case) and an outside firm to address the legal challenge. The challenge has already gone through local courts and is on to the appellate court. Based on our discussions with multiple other municipalities including March 2019 discussions with Austin we feel that \$55,000 is a best estimate of potential legal costs in Portland should a challenge be brought forward. A challenge is more likely if Portland passes a local ordinance which is in conflict with any State level requirements.

Cost Category #4 – Pass on of costs related to the proposed ordinance from Portland based vendors we utilize

Portland uses outside contractors for tens of millions of dollars of work each fiscal year. In the FY19 general fund budget alone, there are \$62M of contractual services with outside vendors. That figure does not include the \$40M of capital improvement plan work authorized in the CIP (or any other CIP work from previous fiscal years which remains to be completed). My Purchasing staff has noted that during our “pre-bid” meetings with vendors, nearly every outside vendor notes that City specific bid requirements which result in increased costs to the vendor are simply passed along to the City as part of overall bid prices. This includes specific labor / wage requirements, bid timing requirements (i.e. the job must be done by a specified date) and would certainly include any costs related to the mandatory paid sick leave ordinance.

Making the very conservative assumption that 1% of the \$102M in contractual services / projects would be impacted by the increased cost of labor (i.e. 1 newly accrued hour of paid sick leave per 30 hours worked) there would be an increase on \$102M in contracts of approximately \$34,000 ($\$102M * 1\% * (1/30) = \$34k$).

**Office of the Mayor, Ethan K. Strimling****MEMORANDUM****To:** HHS and Public Safety Committee**From:** Ethan K. Strimling, Mayor**Date:** Feb 25, 2019**Subject:** Earned Paid Sick Time Cost Analysis

I will not be able to attend your meeting on Tuesday when you are expecting to take a final vote on Earned Sick Time as I am out of the country. Please pass on my apologies to the community that I was not able to attend your final deliberations.

First and foremost, thank you again for all your hard work on the initiative. You have built a compromise that does a very good job balancing concerns from the business community with public health and worker needs. I am sure the balance you have found will garner substantial public support. Once enacted, this will be a monumental step forward for our city.

In regard to the fiscal note, I do still have a few concerns. As it is currently written, it still appears to greatly overstate the impact the amended ordinance will have on the city budget and hence I have listed my questions/concerns below. I don't expect these will necessarily be resolved before you vote on Tuesday, but I wanted to make sure they were at least aired prior to the ordinance coming before the full council. Hopefully, the issues can be addressed before then.

1) The memo assumes that both the current cost of an employee who calls out sick and the replacement employee costs are new. Only one, the employee that will now receive paid sick time, should be calculated as a new expense. The cost of the replacement employee would have occurred regardless. This should reduce the cost by at least \$51,254.

2) According to the memo, the analysis accrues PST for city employees at the rate all city employees receive. That rate is 1.38 hours per 30 hours worked, with an annual cap of 86 hours. This is an accrual rate 38% higher and 2.5 times more annually than the ordinance requires. Should the city choose to propose this level of accrual, I will certainly support it during the budget process, but the fiscal impact statement should only reflect the mandated cost of the ordinance. This should further reduce the city personnel cost by tens of thousands of dollars.

3) The \$210,000 cost to create a new Division of Labor is no longer needed. This original estimate was based on a proposal which had a 15 day investigation into every complaint and the issuance/enforcement of penalties and escalating fines if an offense was determined. The 15 day timeframe was eliminated, as was the requirement for the city to issue and enforce escalating fines and back wage penalties. At the meeting when this enforcement section was discussed, the committee specifically asked for these changes in order to eliminate the projected staffing costs.

As a point of comparison, the minimum wage ordinance took no additional staff to implement, and the enforcement mechanism here is very similar. In fact, the minimum wage enforcement section still has the 15 day expectation for the issuance of a letter of finding (the PST ordinance has no timeline). Plus, the minimum wage ordinance allows the City manager to issue penalties and backwages should his/her investigation determine it is necessary, something the PST ordinance no longer does. While I certainly could support creating a division of labor to ensure labor laws in Portland are being enforced, the provisions of this ordinance that were cited as causing us to need to hire two and half people, no longer exist.

4) We still need detail explaining each of the line items in the personnel section of the fiscal note. As an example, Parks and Rec says there will be a \$14K increase in personnel costs. Please break down for us how that number was reached. How many employees, what they do, at what wages, and how many hours. We should get this for each item.

All told, the above changes should cut the cost to the city by more than half. Please let me know if you have any questions. Thanks for your attention to this matter.

MEMORANDUM
City Council Agenda Item

FROM: Belinda Ray

DATE: March 4, 2019

SUBJECT: **Order 192-18/19 Amendment to Portland City Code Chapter 18 Parks, Recreation and Public Buildings and Ground Re: Formalizing the Boundaries of Boyd Street Gardens - Sponsored by Councilor Belinda Ray**

SPONSOR: Councilor Belinda Ray
(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 3/18/2019 **Final Action 4/8/2019**

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

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

I. SUMMARY

This amendment formalizes the boundaries of the Boyd Street Gardens, which was dedicated as a park and/or public grounds in Chapter 18 of the City Code via Order 203 13/14, and updates the name of Lobsterman Park, which was recently renamed John Menario Plaza.

II. AGENDA DESCRIPTION

Boyd Street Gardens (a.k.a., Franklin Reserve, a.k.a., Boyd Street Urban Farm) was included in a list of over 50 City properties dedicated as Parks and Public Grounds in 2014 (Order 203-13/14). By dedicating these properties in Chapter 18 of the City Code, the Council ensured that the properties would be subject to the provisions of Article 1B in Chapter 18. These provisions include the following:

- the City will maintain these properties “predominantly in their natural, scenic, open and/or intended condition;” and
- the City will not use, sell, or dispose of any of these properties for non-recreational purposes unless the decision to do so is first reviewed by the Parks Commission, “who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.”

There is no question that Boyd Street Gardens has been dedicated and is subject to these provisions. There has, however, been confusion regarding the boundaries of Boyd Street Gardens. This confusion has led various individuals and groups to wonder if the parcel, or any portion of the parcel, is eligible for housing or other development.

A review of historical documents, the back-up materials for Order 203 13/14, and the City’s Open Space Vision and Implementation Plan provides a solid case for including the entire parcel (022 F023) in the 2014 dedication.

This amendment to Chapter 18, Section 11, formalizes the boundaries of Boyd Street Gardens by including the

entire parcel in the dedication language so that there will be no confusion going forward.

In addition to establishing clear boundaries for Boyd Street Gardens, this amendment also adds the name “John Menario Plaza” next to Lobsterman Park, which is what the park was called when it was dedicated. This addition will ensure the parcel is easily identified and recognizable in the list by both its historic and current name.

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

III. BACKGROUND

Prior to 1969, the land that currently comprises Boyd Street Gardens was a neighborhood of single-family homes, duplexes, and tenement buildings. During the 1900s, this neighborhood was home to people from diverse cultural backgrounds. At various times the neighborhood included Jewish, Italian, Lithuanian, and Armenian enclaves living in these residences.

The residential buildings in this neighborhood were taken by eminent domain in 1960 by the Slum Clearance and Redevelopment Authority. Over the next several years, inhabitants vacated the properties and the buildings were eventually demolished in 1969 to make way for Franklin Arterial, new housing, and public open space.

The Boyd Street Gardens parcel (022 F023), and what is now an abutting parcel at 58 Boyd Street (022 F001)—as well as the parcel that is now Fox Street Field (023 B001)—were largely designated as public open space as part of the Bayside Park Renewal Project as shown on a 1958 map associated prepared for the Slum Clearance and Redevelopment Authority.

A follow-up map from 1967 shows the city’s continued intention to establish this area as a public park. This plan for the “Construction of the Mall” included the planting of 29 Sugar Maples, the addition of multiple cement and wood-slat benches, the installation of a plaza with a drinking fountain, and a watering system for the plantings and open space.

It is unclear why this vision of benches and trees on “the mall” never materialized, but in 1972, the parcel was subdivided and the lower portion (022 F001) was conveyed to Portland Housing Authority, leaving the upper portion (022 F023) to remain a vacant, grassy field for many years.

In 2003, the Armenian Cultural Association of Maine, working with the City of Portland and its Public Art Committee, created a plaza at the top of the parcel on Cumberland Avenue across from the Cathedral of the Immaculate Conception. There, they erected a monument that honors both the state’s original Armenian settlers and those who were lost in the Armenian Genocide of 1915-1923.

The monument faces the Bayside/East Bayside area where many Armenian families settled between 1896 and 1925—an area the Armenian Cultural Association of Maine refers to on its website as, “the heart of Maine’s original Armenian settlement” (www.armeniansofmaine.com). Additionally, there are four other footings established in the plaza ready to support future sculptures of a similar nature.

In 2004, Cultivating Community, through an agreement with the City, founded the Boyd Street Urban Farm and began preparing the land to grow food as part of its mission to “grow sustainable communities by expanding access to healthy, local food; empowering children, youth, and adults to play diverse roles in restoring the local, sustainable food systems; and modeling, teaching, and advocating for ecological food

production” (www.cultivatingcommunity.org).

After testing the soil and finding high levels of lead, the organization planted large crops of sunflowers for several successive years in order to leech the remaining lead from the soil. When the land was finally ready for food production, the organization began with one large garden near the discontinued section of Oxford Street, and since then Cultivating Community has expanded operations on the parcel.

Today, in collaboration with the City, Cultivating Community manages over 30 community garden plots at this site as well as a large herb and vegetable garden, numerous perennial crops, multiple fruit trees, a compost staging area, and rainwater collection equipment.

Additionally, the Boyd Street Urban Farm has become “a major learning and growing site for youth...and a base for new initiatives such as food forests and free farm stands” (www.cultivatingcommunity.org).

In 2014, Boyd Street Gardens was included in a list of over 50 City properties dedicated as Parks and Public Grounds in 2014 (Order 203 13/14). By dedicating these properties in Chapter 18 of the City Code, the Council ensured that they would be subject to the provisions of Article 1B in Chapter 18. These provisions include the following:

- the City will maintain these properties “predominantly in their natural, scenic, open and/or intended condition;” and
- the City will not use, sell, or dispose of any of these properties for non-recreational purposes unless the decision to do so is first reviewed by the Parks Commission, “who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.”

There is no question that Boyd Street Gardens has been dedicated and is subject to these provisions. There has, however, been confusion regarding the boundaries of Boyd Street Gardens. This confusion has led various individuals and groups to wonder if the parcel, or any portion of the parcel, is eligible for housing or other development.

However, a review of historical documents, the back-up materials for Order 203 13/14, and the City’s Open Space Vision and Implementation Plan provides evidence that the parcel containing Boyd Street Gardens has long been part of an open space plan for the City, and that the entire parcel (022 F023), between Franklin and Boyd Streets and from Cumberland Avenue to the edge of what was once Heath Street, should be included in the 2014 dedication.

This amendment to Chapter 18, Section 11, formalizes the boundaries of Boyd Street Gardens by including the entire parcel in the dedication language so that there will be no confusion going forward.

In addition to establishing clear boundaries for Boyd Street Gardens, this amendment also adds the name “John Menario Plaza” next to Lobsterman Park, which is what the park was called when it was dedicated. This addition will ensure the parcel is easily identified and recognizable in the list by both its historic and current name.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

1. Preservation of open space, community gardens.
2. Establishing clearer boundaries for dedicated public grounds.
3. Respecting the history of parcel 022 F023 which was taken by eminent domain in 1960 as part of an urban renewal project and intended to be a public park
4. Respecting the placement of the Armenian Genocide Memorial, which overlooks parcel 022 F023, and was placed there in 2003 as a memorial to “the survivors of the Armenian Genocide who settled in Bayside.”

V. FINANCIAL IMPACT

This amendment has no financial impact.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Formalizing boundaries of parks 3.18.2019
2. Attachments 1 to 10 Boyd Street Gardens Park Boundary for 3.18.19

Prepared by:

Belinda Ray

Date: 3/4/2019

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

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

AMENDMENT TO CITY CODE CHAPTER 18
PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS
Re: FORMALIZING THE BOUNDARIES OF BOYD STREET GARDENS

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

1. *That Section 18-11 is amended to read as follows:*

...

Sec. 18-11. Parks and Public Grounds Dedicated. The following parks and public grounds are hereby subject to the provisions within this Article:

Andrews Square;
Back Cove Park and Trail;
Barrow's Park/Baxter Sundial;
Bayside Park/Stone Street Playground;
Bayside Trail;
Baxter Pines;
Baxter Woods;
Bedford Park;
Bell Buoy Park;
Belmeade Park;
Boothby Square;

Boyd Street Gardens/Franklin Reserve (022 F023);
Bramhall Square;
Capisic Pond Park;
Caldwell Square;
Clark Street Park;
Congress Square (specifically the remaining 1/3 of Congress Square);
Clark Street Playground;
Deering Oaks Park;
Dougherty Field;
Eastern Promenade Park(including East End Beach and

Trail);

Fessenden Park;
Fort Allen Park;
Fort Gorges;
Fort Sumner Park;
Fox Field/Kennedy Park;
Harborview View and Tate-Tyng Park and Playground;
Heseltine Park;
Lincoln Park;
Longfellow Park;
Longfellow Square;
Lobsterman Park/John Menario Plaza;
Marada Adams Playground;
Martin's Point Park;
Monument Square;
Munjoy South Playground;
Nason's Corner Park;
Payson Park;
Peppermint Park;
Pedro Field;
Pleasant Street Park and Playground;
Post Office Park;
Quaker Park;
Riverside Golf Course;
Riverton Trolley Park;
South Street Playground;
Stroudwater Park (Waldo Street and Westbrook Street);
Taylor Street Park;
Tommy's Park;
Trinity Park;
Western Promenade Park; and
Winslow Park.

Attachment 1 - Amendment to Chapter 18, Section 11

**AMENDMENT TO CITY CODE CHAPTER 18
PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS**

**RE: CHANGE TO 18-11 TO REFLECT CLEAR BOUNDARIES FOR BOYD STREET
GARDENS AND UPDATE THE NAME OF LOBSTERMAN PARK**

SPONSORED BY COUNCILOR BELINDA RAY

Sec. 18-11. Parks and Public Grounds Dedicated. The following parks and public grounds are hereby subject to the provisions within this Article:

Andrews Square;
Back Cove Park and Trail;
Barrow's Park/Baxter Sundial;
Bayside Park/Stone Street Playground;
Bayside Trail;
Baxter Pines;
Baxter Woods;
Bedford Park;
Bell Buoy Park;
Belmeade Park;
Boothby Square;
Boyd Street Gardens/[Franklin Reserve \(Parcel 022 F023 in its entirety\)](#);
Bramhall Square;
Capisic Pond Park;
Caldwell Square;
Clark Street Park;
Congress Square (specifically the remaining 1/3 of Congress Square);
Clark Street Playground;
Deering Oaks Park;
Dougherty Field;
Eastern Promenade Park (including East End Beach and Trail);
Fessenden Park;
Fort Allen Park;
Fort Gorges;
Fort Sumner Park;
Fox Field/Kennedy Park;
Harborview View and Tate-Tyng Park and Playground;
Heseltine Park;
Lincoln Park;

Longfellow Park;
Longfellow Square;
Lobsterman Park/[John Menario Plaza](#);
Marada Adams Playground;
Martin's Point Park;
Monument Square;
Munjoy South Playground;
Nason's Corner Park;
Payson Park;
Peppermint Park;
Pedro Field;
Pleasant Street Park and Playground;
Post Office Park;
Quaker Park;
Riverside Golf Course;
Riverton Trolley Park;
South Street Playground;
Stroudwater Park (Waldo Street and Westbrook Street);
Taylor Street Park;
Tommy's Park;
Trinity Park;
Western Promenade Park; and
Winslow Park.

Prepared in 1958 by the City Planning Board for the Slum Clearance and Redevelopment Authority, this map shows that a large swath of the parcel, extending from the former Lancaster Street to Cumberland Avenue, and including a former extension of Oxford Street, was intended to be preserved as Public Open Space as part of the Franklin Street Arterial project.

3

A detailed urban planning map of a city block, likely from a historical document. The map shows a grid of streets and building footprints. A large area on the left is shaded with diagonal lines and outlined in red. Other areas are shaded in light brown or green. A scale bar at the top indicates distances up to 100 feet. A north arrow is located near the top center. A legend at the bottom right explains the symbols used.

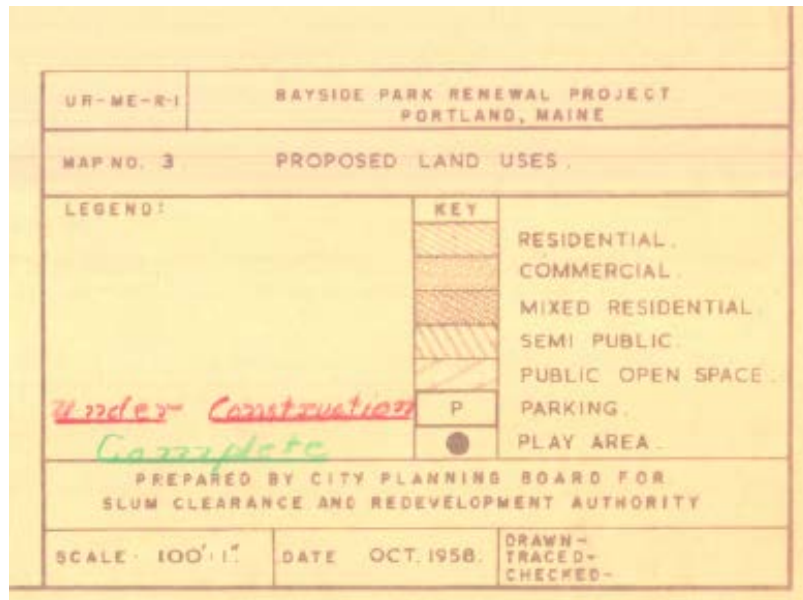
LEGEND:

EXISTING PARKS OR OPEN SPACES	RESIDENTIAL
EXISTING BUILDINGS	COMMERCIAL
EXISTING PUBLIC OPEN SPACE	MIXED RESIDENTIAL AND PUBLIC
EXISTING PLAY AREAS	PUBLIC OPEN SPACE
EXISTING PARKS OR OPEN SPACES	PLAY AREA

Under Construction

DRAWN BY CITY PLANNING BOARD FOR
PLAN NO. 100-1 OCT 1928

Attachment 3 - Exhibit B: Insets from Bayside Park Renewal Project Map



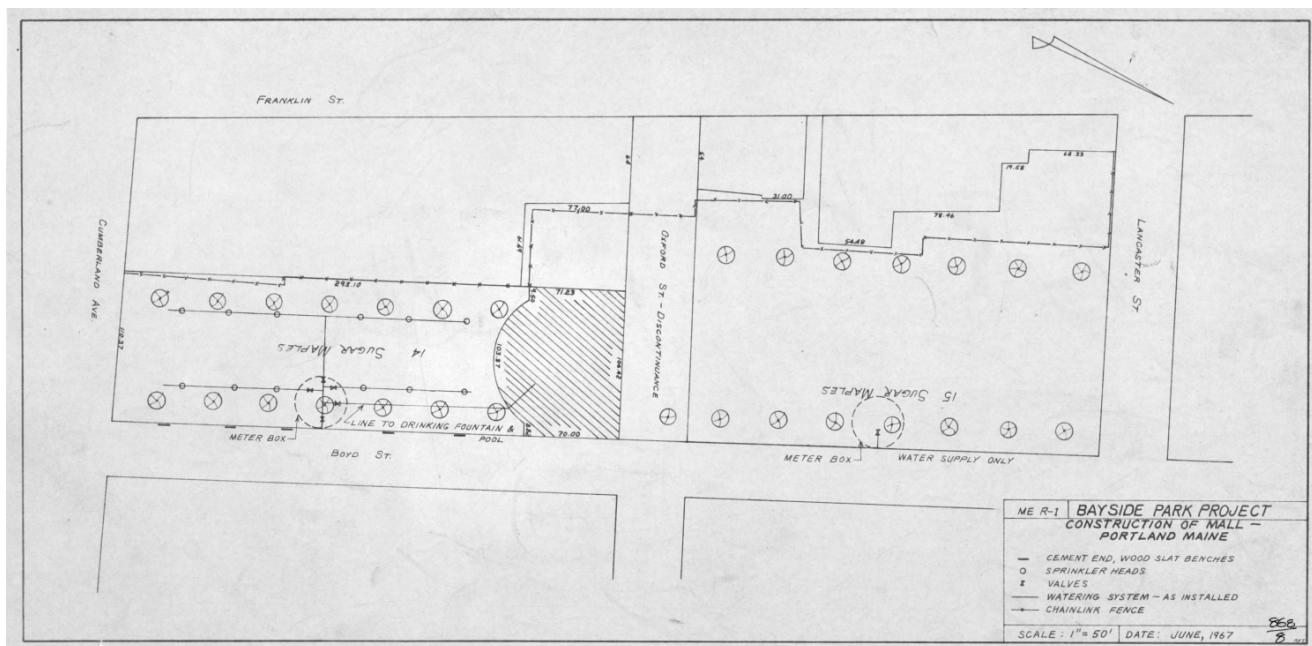
The legend from the 1958 map shows that Public Open Space is designated by the wide cross-hatching, and that a large dot indicates an intended play area.



This section of the map clearly shows a large portion of Parcel 022 F023, extending from Lancaster Street to Cumberland Avenue, was preserved as Public Open Space in 1958.

When this area was dedicated as a Public Park/Ground in Chapter 18 of the City Code by Order 203 13/14, however, the name "Boyd Street Gardens" was used along with the notation "Franklin @ Cumberland," implying that the entire parcel was intended for designation. (See Exhibits E & F for the dedication detail.)

Attachment 4 - Exhibit C: Follow-up Park Plaza Plan from 1967



At some point prior to 1972, when the Portland Housing Authority administration building was built at 54 Lancaster Street (now 58 Boyd Street), the bottom segment of this parcel (where 8 sugar maples were to be planted) was conveyed to the PHA. Since part of the bottom portion of the parcel was intended to be residential, per Exhibit B, it's reasonable to assume it was conveyed to meet that purpose.

Attachment 5 - Exhibit D: The Current Boyd Street Gardens



This picture, from the Wayside Food Programs Facebook page, shows the Boyd Street Gardens in 2017. Currently, the entire parcel, from Lancaster Street up to Cumberland, is taken up with plantings and infrastructure including: community garden plots, a large community garden maintained by Cultivating Community, perennial raspberry bushes, compost area, garden shed and arbor, rain barrel collection, and established fruit trees.

The fruit trees, while not densely clustered, extend to the upper portion of the parcel at Cumberland Avenue.

Attachment 6 - Exhibit E: List of properties to be dedicated as Parks and Public Grounds per Order 203 13/14.

#	Area	Zoning	Notes
1	Post Office Park	B3	
2	Tommy's Park	B3	
3	Bell Buoy Park	WC2	
4	Lobsterman's Park	B3	
5	Lincoln Park	B3	
6	Eastern Promenade	ROS	(Fort Allen Park is IN Eastern Prom)
7	Fort Sumner Park	R6	
8	Fox Field	ROS	Bayside & Kennedy Park names
9	Deering Oaks	ROS	Deed Restrictions Protecting
10	Western Promenade	ROS	Council Order and State Law Protecting
11	Taylor Street Park	R6	
12	Harbor View Memorial Park	ROS	
13	Back Cove	ROS	
14	Winslow Park	ROS	Preble St Ext @ Baxter Boulevard
15	Pedro Field	ROS	Oakleigh Park?
16	Baxter Boulevard	ROS	Only official Parkway
17	Burrow's Park (Preble St) no longer a park	R5 (inc w street)	Lost most of land to Preble Street Ext.
18	Belmeade Park	R5	
19	Baxter Sundial Park	ROS	Barrows Park alternative name
20	Bedford Park	R5	Deed Restrictions Protecting
21	Fessenden Park	R5	Deed Restrictions Protecting
22	Longfellow Park	R5	
23	Payson Park & Arbor	ROS	Deed Restrictions Protecting
24	Dougherty Field	ROS & R5	
25	Stroudwater Park - Waldo Street	R2	Deed Restrictions Protecting
26	Stroudwater Park - Westbrook Street	R2	Deed Restrictions Protecting
27	Capisic Pond Park	ROS & R3	area south of Macy Street nic (update map)
28	Baxter Pines	ROS	Deed Restrictions Protecting
29	Mayor Baxter Woods	ROS	Deed Restrictions Protecting
30	University Park	R3	Deed Restrictions/Planning Bd Approval Protecting
31	Heseltine Park	R5	
32	Trinity Park	B2b	Forest Ave @ Coyle St (PK RR deed protected)
33	Quaker Park	IM	Forest Ave @ Industrial PW / DEED Protected
34	Oatnuts Park	RP2	
36	Riverton Trolley Park	ROS	
37	Martin's Point Park	RP	National Park Service Easement Protecting
38	Nayson's Corner Park	R3	Breakwater School
39	Pine Grove Park	ROS	add Land Bank lots to or create RPZ space
40	Riverside Golf Course	ROS	Grant Restrictions Protecting
41	Boyd Street Gardens	R6	Franklin @ Cumberland Ave
	Playground		
42	Stone Street Playground	R6	
43	South Street Playground	R6	
44	Peppermint Park	R6	
45	Pleasant Street Playground	B3	
46	Tyng Tate Playground	R6	
47	Clark Street Playground	R6	
	Trails		
48	Eastern Prom Trail	ROS & WSUZ	
49	Bayside Trail	B5	
50	Back Cove Trail	ROS	
	Land Bank		
51	Hobart Street - Fore River Park	R5 & RPZ	
52	Ocean Avenue Open Space	ROS	
53	Presumpscot River Preserve	RPZ	
54	Letson's Purchase (see LB list)	IM	Across from Riverside GC / near range
	Squares		
55	Andrews Square	R6	Pine @ West (former school)

This list was included with the backup materials for the April 28, 2014 meeting of the City Council.

Attachment 7 - Exhibit F: Inset from Exhibit E

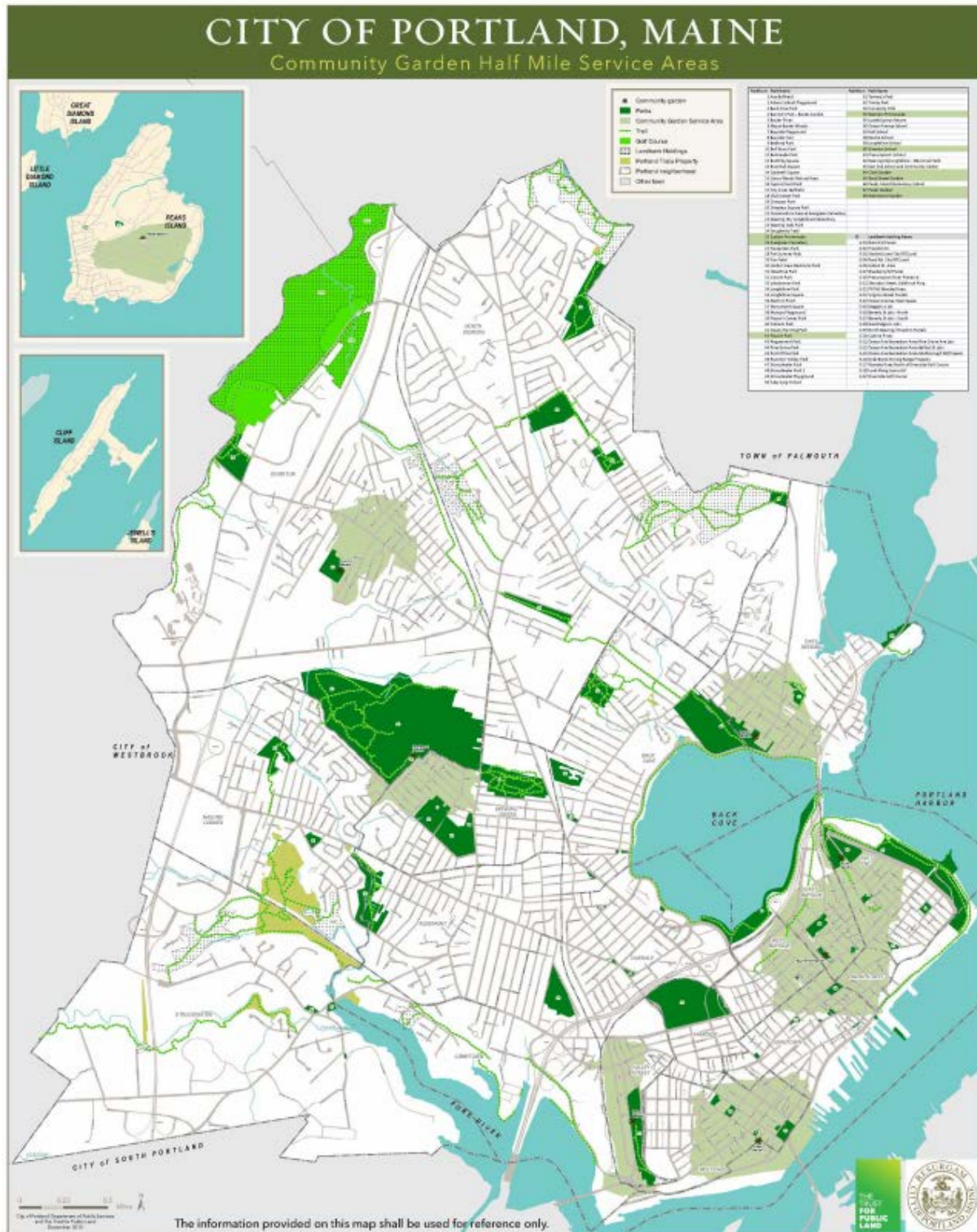
40	Riverside Golf Course	ROS	Grant Restrictions Protecting
41	Boyd Street Gardens Playground	R6	Franklin @ Cumberland Ave
42	Franklin Park Playground	BC	

Boyd Street Gardens is Listed as Property #41.

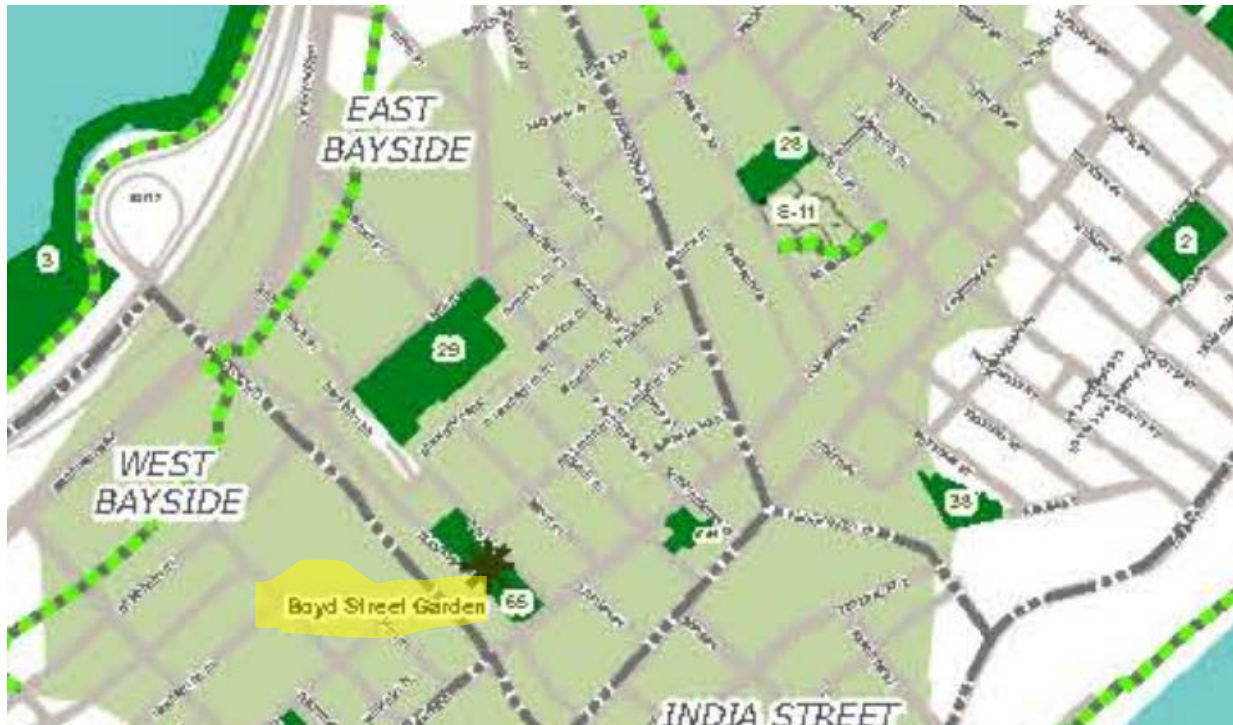
In the “Notes” section in the right column, it is specified that this property is located at “Franklin @ Cumberland Avenue,” which is a reference to the topmost part of the parcel.

This note indicates that the entire parcel was dedicated in Chapter 18—not just the lower segment, where the gardens and their associated uses were most prominent at the time of the parks referendum which gave us this list.

Attachment 8 - Exhibit G: Map of Community Gardens from Portland's Open Space Vision and Implementation Plan, 2016 (Appendix 6; page 35)



Attachment 9 - Exhibit H: Inset from Portland's *Open Space Vision and Implementation Plan*, 2016 (Appendix 6; page 35)



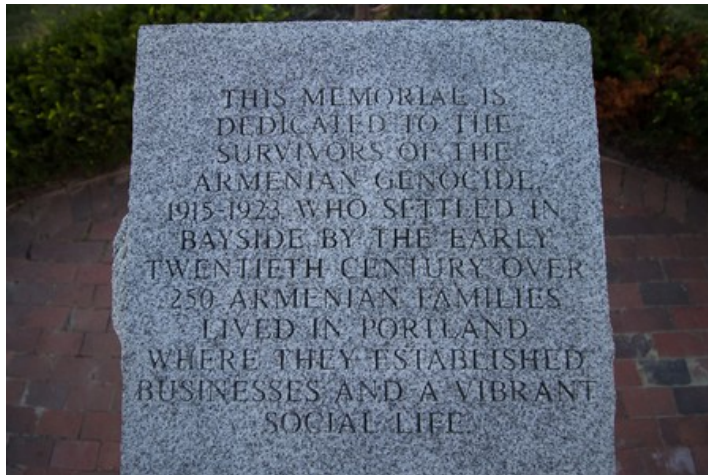
Portland's *Open Space Vision and Implementation Plan* was produced in 2016 through a collaboration between the City of Portland and the Trust for Public Land.

The map of community gardens, which are considered part of Portland's network of parks and open spaces, clearly shows Boyd Street Gardens taking up the entire parcel at Cumberland/Franklin (Parcel 022 F023).

Attachment 10 - Exhibit I: The Armenian Genocide Memorial



The Armenian Genocide Memorial, which was dedicated in 2003, as seen from Cumberland Avenue, near the corner of Cumberland and Boyd.



The inscription on the top of the monument reads:

“This memorial is dedicated to the survivors of the Armenian Genocide, 1915-1923, who settled in Bayside. By the early twentieth century, over 250 Armenian families lived in Portland where they established businesses and a vibrant social life.”



The monument faces the Bayside area where many Armenian families settled between 1900 and 1925, an area the Armenian Cultural Association of Maine refers to as, “the heart of Maine’s original Armenian settlement” on its website (www.armeniansofmaine.com).

Additionally, there are four other footings in the plaza ready to support future sculptures of this nature.



Above and Below:

People gathered at the memorial to commemorate the Centennial of the Armenian Genocide in June of 2015.



MEMORANDUM
City Council Agenda Item

FROM: Jeff Levine

DATE: March 5, 2019

SUBJECT: **Order 193-18/19 Amendment of Portland City Code Chapter 25 Streets, Sidewalks, and Other Public Places Re: Outdoor Dining Permits - Sponsored by Jon P. Jennings, City Manager**

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 3/18/2019 **Final Action 4/8/2019**

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

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

I. SUMMARY

This amendment will set the fees for “parklet” outdoor dining spaces that utilize parking spaces when sidewalk space does not permit outdoor dining.

II. AGENDA DESCRIPTION

Historically, state law has prohibited the off-site sale of liquor by a licensed establishment unless the sale was on public or privately owned property immediately adjacent to the licensed establishment. It is for this reason that all outdoor dining permits issued by the City for dining on City sidewalks have historically required that outdoor dining areas be limited to the sidewalk space immediately adjacent to the restaurant. That state law was recently amended and now allows establishments with liquor licenses to serve alcohol on municipally owned property not immediately adjacent to the licensed establishment if the municipality has given its approval.

In response to this change in the law, this amendment will create a new outdoor dining permit and set fees for “parklet” outdoor dining spaces that utilize dedicated City parking spaces when sidewalk space immediately adjacent to a licensed eating establishment does not permit outdoor dining. The Amendment is to City Code Section 25-27. It is proposed as a pilot project with a limited number of available spaces initially to allow careful monitoring by staff to ensure public safety and to ensure that initial guidelines and restrictions constitute best practices when it comes to regulation of these spaces.

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

III. BACKGROUND

On 2/12/18 the Council’s Economic Development Committee discussed the possibility of a change to the City’s outdoor dining regulations that would permit use of a limited number of parking spaces as “parklet” areas. These “parklets” would provide locations in existing parking spaces where outdoor dining could be provided when there is no sufficient sidewalk space. After an initial discussion, the Committee asked City staff to conduct outreach with relevant stakeholders. Staff met with both restaurant operators and other downtown businesses to hear their ideas and concerns. On 11/078/18 staff brought back a slightly amended version of the

draft regulations that would limit the number of parklets and add additional safeguards. The Economic Development Committee supported these revised regulations to be finalized and issued.

While the City Manager can issue these regulations, the Council needs to set the fee for a parklet. That fee has been proposed at \$5,520, or the revenue that would be gained from a typical downtown parking space were it not for its use as a parklet.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

This proposal will allow regulations to be issued consistent with the Economic Development Committee's goal of working on outdoor dining regulations.

V. FINANCIAL IMPACT

None, as the fee will be set at the amount expected to be raised by a parking space typically.

VI. STAFF ANALYSIS AND BACKGROUND

Based on the response from the Economic Development Committee, as well as the outreach conducted by staff, there appears to be general support for this pilot. It will provide restaurants and patrons with an additional dining option, but also limits the number of parklets to ensure that parking loss is minimal.

VII. RECOMMENDATION

Staff recommends approval of these amendments.

VIII. LIST ATTACHMENTS

1. Sec. 25-27 Re Outdoor Dining Permits 2.28.2019
2. Outer Dining Final Regs and Application 3.18.2019

Prepared by:

Jeff Levine

Date: 3/5/2019

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**

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

**AMENDMENT OF PORTLAND CITY CODE CHAPTER 25.
STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES
RE: OUTDOOR DINING PERMITS**

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

*1. That Chapter 25, Section 25-27 of the Portland City Code is
hereby amended to read:*

Sec. 25-27. Fees and fines.

(a) The following fees are hereby established for the
issuance of a revocable street and sidewalk occupancy permit:

...

(b) The following fees are hereby established for the
issuance of a revocable outdoor dining permit:

- (1) Outdoor dining on ~~streets,~~ sidewalks or ~~other~~ public
ways other than dedicated City parking spaces, eighty-
four dollars (\$84.00) plus two dollars (\$2.00) per
square foot of dining area per fiscal year or any portion
thereof.
- (2) Outdoor dining in parks, eighty-four dollars (\$84.00)
plus six dollars and thirty cents (\$6.30) per square
foot of dining area per fiscal year or any portion
thereof. In no instance shall the total square footage
of dining area equal more than 10% of park space, unless
the applicant receives a waiver from the director of
parks and recreation or his or her designee. For the
purposes of this section, the area abutting the
buildings which border Monument Square and extending ten
(10) feet from the façade of said buildings shall be
considered a sidewalk. The ten (10) foot area shall be
measured from that portion of the façade that protrudes
furthest into the sidewalk. The area beyond the ten

(10) foot sidewalk shall be considered park space.

(3) Outdoor dining in dedicated City parking spaces, \$5,520
for a full season (April 15-October 31).

...



Permitting and Inspections Department

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Outdoor Dining on Public Property Supplemental Application Process

What is Needed to Apply:

- ☐ Letter of intent addressed to the Mayor and members of the City Council (if serving alcohol).
- ☐ 8 ½" x 11" Plot Plan showing: (see design and construction section)
 - Lot lines, where the building sits on the lot and dimensions of the building and lot.
 - Street location and the intersecting streets.
 - Sidewalk location, width, and curbing location.
 - Setback dimension from the sidewalk to the building.
 - Location of proposed outdoor dining area and its components (tables, chairs, barriers, etc.), including dimensions and total outdoor dining area in square feet. An outdoor dining installation cannot prevent a clear passageway for pedestrians (4 feet minimum and 5 feet for a street corner).
- ☐ A drawing, photo or specifications of any required barrier solutions. Please request additional information if located on Wharf Street.
- ☐ Proof of Public Liability insurance coverage. The permit holder is required to produce at the time of submission and maintain public liability insurance coverage of not less than four hundred thousand dollars (\$400,000) combined single limit for bodily injury, death and property damage, naming the City as an additional insured, or one million dollars (\$1,000,000) if requesting a parklet.
- ☐ City application for food & alcohol
- ☐ Outdoor Dining Supplemental application
- ☐ Payment of fees (see application)

The application must be complete in order to be accepted and processed. Applications must be submitted at least three (3) weeks prior to the Council meeting. There will be no liquor applications heard by the City Council in May due to fiscal items on the agenda.

After you submit your application to the Business Licensing Division:

- We will mail you a letter confirming the date, time, and location of the City Council meeting.
- Please proceed with arranging for inspections when your establishment is ready.

After you have been approved by City Council:

- When the Business Licensing Division has received all approvals from the required departments, we will issue your license. We will call you when the license is ready and any remaining balance is due. You may contact us for a license status update, but please note that we must receive approvals directly from all departments on the accompanying "Steps to Approval" sheet before issuing your license.

Outdoor Dining License – Steps to Approval

In order for the Business Licensing Office to issue your license, we must receive approvals directly from the following departments:

- Permitting and Inspections (Code Enforcement, Health Inspections and Zoning)
- Fire
- Treasury
- Police

Your responsibilities include:

- ☐ Contacting the Zoning Division (Room 315) at zoning@portlandmaine.gov or 207-874-8703 to determine if the address of your business is zoned for the intend use.
- ☐ Contacting Health Department at tw@portlandmaine.gov or 207-756-8365 to arrange for an inspection of the outdoor space.
- ☐ Contacting the Treasury Department at treasury@portlandmaine.gov or 207-874-8490 to determine if you, the owner of your business premises, or the previous business tenant, owe any outstanding taxes to the City of Portland. We cannot issue a license if there are delinquencies on the part of the business owner or landlord.

Once we have received approvals from the departments listed above, we will issue your license and contact you. Any balance of the license fee will be due before you receive the license.

If you have any questions about this process, please contact the Business Licensing Division:

Jessica Hanscombe, Licensing and Registration Coordinator at jhanscombe@portlandmaine.gov or 207-874-8783



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

**Outdoor Dining Permit on Public Property
Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
Valid April 1-November 15

- ☐ Legal Advertisement Deposit \$100.00
- ☐ Outdoor Dining on Public Property \$84.00 plus \$2.00 per Square foot \$2.00 X _____ SF = _____
- ☐ Outdoor Dining on Public Property in a City Park \$84.00 plus \$6.30 per Square foot \$6.30 X _____ SF = _____
- ☐ Parklet Outdoor Dining \$5,520

Business Information	
Business Name (d/b/a):	Phone:
Location Address:	Zip:
Mailing Address:	Zip:
Contact Person:	Phone:
Contact Person Email:	
Manager of Establishment:	Date of Birth: Phone:
Owner of Premises (Landlord):	
Address of Premises Owner:	Zip:

Owner Information

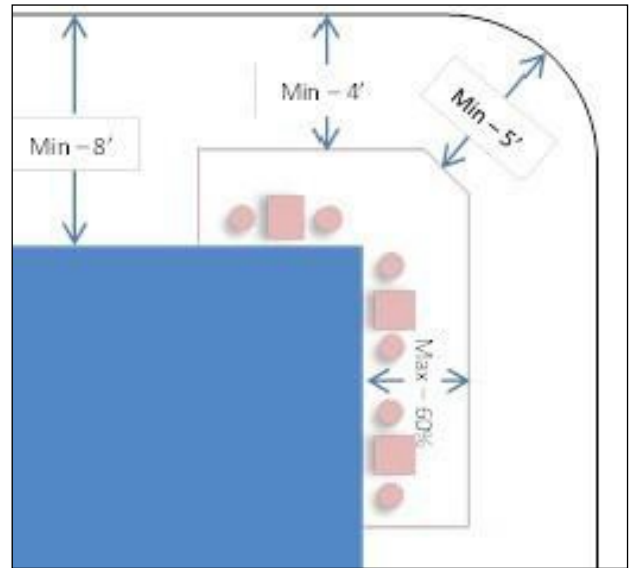
Corporate Name		Corporate Mailing Address	
		Zip:	
Contact Person:		Phone:	
Principal Officers	Title	Date of Birth	Residence Address

About Your Establishment

Class of License:	
Type of food served:	
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	
Number of Tables	
Number of Chairs	

Design and Construction

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

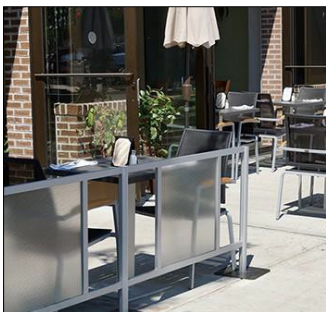


- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes 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

- If barriers are proposed, they must be free-standing. Physical attachments to a building are not allowed.
- 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.

Example barrier types that meet regulation



Dining Areas in Public Spaces other than Sidewalks or Public Parks ("Parklets")

The City has determined that, in some areas of the City where there are businesses that are unable to locate outdoor dining on City sidewalks or public parks abutting their businesses and there is adequate space in the street to accommodate outdoor dining without compromising safety, dining may be offered in public parking or other public spaces.

Pursuant to Chapter 25 of the City's Code of Ordinances, a permit is required for expanding food service to the outside of all properties. Outdoor dining permits for parking and other alternative public spaces will be issued under Chapter 25 and these regulations pursuant to the following requirements.:

- ② Any food service operation located on City property pursuant to a permit issued hereunder must comply with state and local laws with respect to service of food and/or alcohol;
- ② For any outdoor dining operation located in a public parking space, the permit holder shall construct a platform, on which tables and chairs will sit. The platform must be built of durable, slip resistant materials such as composite plastic or construction-grade lumber. This platform may remain for the entire outdoor dining season (April 15- October 31) but must be removed upon conclusion;
- ② Any space occupied hereunder must be laid out in such a way that it complies with the requirements of the Americans with Disabilities Act. The required platform must be flush with any abutting sidewalk.
- ② Any movable items on the outdoor dining area must be secured against wind and theft and locked or removed when the business is closed.;
- ② Any outdoor dining spaces permitted hereunder must be located immediately in front of the business. Where parking spaces are not striped (such as in multispace meter areas) the location of any outdoor dining space must be located to minimize loss of effective parking spaces. The precise boundaries of outdoor dining spaces will be determined by the City in its sole discretion.
- ② Any outdoor dining space must provide railings or other substantive barriers *along the edges* to protect patrons;
- ② Wheel stops satisfactory to the Permitting & Inspections Director must be placed at the front and rear sides of the outdoor dining platform, no less than 4 feet from the edges of the platform. In addition, flexible bollards shall be provided at the corners of the platform (see illustration);
- ② Construction of the platform must allow water runoff to easily flow under platform;
- ② No attachments to the pavement or curbing are permitted;
- ② No covers are permitted over the outdoor dining space other than umbrellas;
- ② No advertising other than labels identifying the business is permitted on the outdoor dining space;
- ② No permit shall be issued for outdoor dining in these locations if there is a feasible alternative space on the sidewalk or an appropriate public park;
- ② No outdoor dining space in the vehicular right of way is permitted within 15' of an intersection;
- ② No outdoor dining space will be permitted within the vehicular right of way on a high traffic street, as determined by Public Works. Generally, these streets have a speed limit of over 25 miles per hour, a traffic volume of over 5,000 AADT, or a functional classification of Arterial or above;
- ② No outdoor dining space will be permitted on a street that does not have 12' clear in the middle after all parking and platforms are accounted for; and
- ② In any street that is entirely closed to traffic at certain times of the day, the street may be used for outdoor dining subject to relevant requirements listed above, adjusting for the unique condition of an entirely closed street.

Method of Review

No more than 5 of these locations shall be permitted at one time. Identification of appropriate locations for outdoor dining is ultimately at the discretion of the Director of Permitting & Inspections. Permits issued under these regulations are revocable at the City's discretion for any reason, including but not limited to, the permit-holder's failure to comply with these regulations, any unforeseen safety concerns, and City operational concerns or needs. No more than one of these spaces will be permitted on each side of a city block.

Renewal applications will get priority, provided the requested space satisfies the City's public safety review and the applicant has complied with the requirements outlined herein. After that, applications will be approved on a first come, first-served basis.

Additional Requirements: If a location is approved under this section, the following financial and insurance requirements shall apply:

1. The permit fee shall be \$5520 for the season in addition to any other applicable fees;
2. The Applicant shall procure and maintain occurrence-based Commercial General Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage, naming the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law. With respect to the Liability Insurance, the Applicant shall name the City as additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the City under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. The Applicant will provide the City and thereafter maintain a certificate of insurance evidencing such coverage, which certificate shall guarantee thirty days' notice to the City of termination of insurance from the insurance provider or agent. The Applicant shall also provide a copy of any endorsement naming the City as additional insured. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees.



Sample Parklet in Bethlehem, PA (Source: <https://www.lehighvalleylive.com>)

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.
- 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.
- Request for the use of adjacent on street parking space for outdoor dining installations requires Parking Office and Building Authority review and 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.

Signature _____ Title _____ Date _____

For Administrative Use Only

Amount: _____		Request Date / Approval	Notes: _____
Date Paid: _____		FD: _____ / _____	_____
CC CA CK _____		Health: _____ / _____	_____
		PD: _____ / _____	_____
Amount: _____		Treasury: _____ / _____	_____
Date Paid: _____		Zoning: _____ / _____	_____
CC CA CK _____			