

**ECONOMIC DEVELOPMENT COMMITTEE**

**DATE:** March 20, 2018 (Tuesday)  
**TIME:** 5:30 – 7:30 p.m.  
**LOCATION:** Room 209  
Portland City Hall

1. **Review and accept Minutes of previous meeting held on March 6, 2018.**
2. **Public Hearing and vote to recommend to the City Council Third Amendment to Amended and Restated Lease with Ready Seafood Company at the Maine State Pier.**
  - a. See enclosed memorandum from Greg Mitchell with proposed purchase and sale agreement and lease.  
**NOTE:** Pursuant to 1 M.R.S.A. 405(6)(C), the Committee may go into executive session to discuss real estate negotiations and provide guidance to staff.
3. **Public Hearing and vote to recommend to the City Council Third Amendment to Amended and Restated Lease with Bay Ferries Limited at the Ocean Gateway Terminal.**
  - a. See enclosed memorandum from Greg Mitchell with proposed purchase and sale agreement and lease.  
**NOTE:** Pursuant to 1 M.R.S.A. 405(6)(C), the Committee may go into executive session to discuss real estate negotiations and provide guidance to staff.
4. **Discuss results of the Employment Disparity Study Scope and Cost Research for EDC Direction.**
  - a. See enclosed memorandum from Julie Sullivan.
5. **Public Hearing and policy direction discussion regarding public and stakeholder input related to the Portland Ocean Terminal/Maine State Pier Redevelopment Plan.**
  - a. See enclosed memorandum from Bill Needelman.
6. **Discuss 2018 Draft EDC Work Plan**
  - a. See enclosed Draft Work Plan.

Councilor Justin Costa/Chair

Next Meeting Date: April 3, 2018

Minutes  
Economic Development Committee  
March 6, 2018

A meeting of the Economic Development Committee (EDC) of the Portland City Council was held on Tuesday, March 6, 2018 at 5:30 p.m. in Room 209 of Portland City Hall. Present from the Committee was its Chair Councilor Justin Costa and members Councilors Nicholas Mavodones and Spencer Thibodeau (arriving soon after meeting started as noted herein). Also present from the City Council was Mayor Ethan Strimling. Present from the City staff were Public Facilities Director Kathy Alves, Associate Corporation Counsel Michael Goldman, City Manager Jon Jennings, Economic Development Director Greg Mitchell, and Senior Executive Assistant Lori Paulette.

Chair Costa said that the City has been working to livestream Council Committee meetings, and this meeting is the first livestream of any Council Committee. Chair Costa also noted that the Committee has one public item, followed by an executive session for four items, at which time the livestream will be closed.

**Item #1: Review and accept Minutes of previous meeting held on February 20, 2018.**

On motion made by Councilor Mavodones, seconded by Chair Costa, the Committee voted unanimously (2-0) to accept the Minutes as presented.

**Item #2: Public Hearing and vote to recommend to the City Council a Purchase and Sale Agreement and City Lease back for 44 Hanover Street.**

Mr. Mitchell said that this is last piece of Bayside Public Works properties to be placed under Purchase and Sale Agreement (PSA) and City Lease back until construction is done at Canco Road to relocate current operations. Mr. Mitchell also noted that the City had Phase I and II Environmental Site Assessments (ESA) done, and those have been shared with the buyer. The

property is being sold “as is”. Mr. Mitchell then described the terms and conditions of both Agreements, and Mr. Watson’s proposed development projects.

Ms. Alves added that she is confident that construction at Canco Road for this relocation would be done by September 2019.

(Councilor Thibodeau joined the meeting at this time.)

Mayor Strimling asked for clarification on the rent credit, and Mr. Mitchell explained that it is related to the timing of the closing and the amount of time the City needed to complete construction and relocate.

Chair Costa noted that this works together with the City and the purchaser.

Mayor Strimling asked about the subdivision referred to in Section 10(a) of the PSA, and Mr. Mitchell said that his Department is currently in the process of obtaining Subdivision Approval from the Planning Board, scheduled for March 13<sup>th</sup>, to subdivide 82 Hanover, 44 Hanover, and 55 Portland Street into three parcels, after which closings could occur.

Mayor Strimling said it would be helpful to have a chart showing the status of all the Public Works properties under PSA, and Mr. Jennings said that the chart will be updated for the Council.

Mayor Strimling then referred to p. 15 of 35, particularly, “In addition, if Buyer determines that interest rates or community demand for the use of the Premises change . . . Buyer may request the City’s approval of such changes.” He asked if the Buyer can make changes with City administration or City Council approval. Mr. Goldman said that if the changes are non-substantive, City administration can approve; if substantive, they would be brought back to this Committee and the City Council.

Chair Costa said that if staff had any gray area at that time, it should come back to the Committee and Council.

Councilor Thibodeau suggested that “may” be changed to “shall”.

Mayor Strimling asked if there was a buy back provision, and Mr. Mitchell indicated that there not a buy back provision.

Mayor Strimling expressed concern about giving up site for commercial rather than housing, noting that the zoning allows for at least 136 units.

Chair Costa opened the meeting for public comment.

George Rheault of Bayside looked forward to the chart showing the status of the Public Works Bayside properties. He questioned why the City was now negotiating with Tom Watson versus the staff recommendation to negotiate with Harold Pachios. Mr. Rheault asked about Kathy Alves’ role in this, as her title is Port Director, rather than Chris Branch. Lastly, he expressed concern with Lancaster Court remaining a public amenity, noting there is no Exhibit B in the packet, and that Section 12(f) is not clear and that Mr. Watson should be the controlling person.

See no further public comment, Chair Costa closed public comment.

Councilor Mavodones made a motion to forward the PSA and Lease Agreement to the City Council with a recommendation for approval in substantial form as presented, noting to change “may” to “shall” in the last sentence of section 12(b); Councilor Thibodeau seconded the motion.

Regarding Lancaster Court, Mr. Mitchell said that this public street was discontinued but a public easement has been retained for public access. There will be no building on this easement area.

Mr. Jennings said that with regard to staff's recommendation to negotiate with Harold Pachios, the Committee directed staff to negotiate with Tom Watson.

Mr. Jennings also noted that he requested Public Facilities Manager Kathy Alves to lead this effort for the physical relocation of Public Works, as she has been with City long before Chris Branch came onboard and was, and has been, involved in this project.

Mayor Strimling expressed concern about housing development not occurring at the site, suggesting to put it out to bid again for housing even if the City would have to give it away.

Councilor Mavodones that there has been nine public meetings for this project, and he is pleased to support this item.

Mr. Jennings noted a past RFP for 65 Hanover/52 Alder Street with one response to buy it for \$1.00, and, because of significant environmental issues, the sale did not close.

Councilor Thibodeau thanked staff for all their work on getting these properties to Purchase and Sale Agreement. At the time of placing these properties on the market, the City asked for bidders to be creative with these properties. The City now has some housing being created, as well as mixed uses providing for creative reuses of the properties.

Mr. Jennings said that he would like to thank past EDC Committee Chair Councilor Brenerman during 2017 in leading this project.

Chair Costa agreed, and thanked staff as well. This will revitalize the neighborhood and makes sense on many levels. Housing on the site, however, does not make economic sense.

Mr. Goldman noted that with regard to Lancaster Court, there may be a request to disallow vehicles on that area and allow pedestrians only, which would require Council approval.

Seeing no further discussion, Chair Costa asked for a vote on the motion and it passed unanimously.

Mayor Strimling noted that although he is not a member of the Committee, he did not support the motion.

**Item #3: Discuss Draft 2018 Work Plan for the Economic Development Committee**

(Mr. Jennings left the meeting at this time.)

Mr. Mitchell said that the Work Plan has been redrafted into two categories – short term during 2018, and long term – 2019 and beyond, noting that this would help in the Council goal setting session.

Chair Costa said that he would share this information with the facilitator for that session.

Mayor Strimling noted that the facilitator was looking for three new things from each Committee, and discussion took place whether this Committee has three new things as it still needs to work on the Eastern Waterfront items, for one. Also, during the goal setting session, prior to formal City Council goals being set, the items can be further debated.

**Item #4: Executive sessions: Pursuant to 1 M.R.S.A. 405(6)(C), the Committee will go into executive session to discuss real estate negotiations and provide guidance to staff for the following:**

- a. **Proposed Amendment to Ready Seafood Lease (see enclosed memo and backup)**
- b. **Proposed Amendments to the Bay Ferries, Ltd. Lease (see enclosed memo and backup);**
- c. **Proposed sale of City owned Riverside Street property (see enclosed memo and backup); and,**
- d. **Proposed Waterfront TIF District Credit Enhancement Agreement request (backup to be handed out at meeting)**

Chair Costa said that this concludes the public session and live streaming as the Committee will be going to executive session at this time.

Mayor Strimling questioned 4(d) as to why the applicant for the CEA was not named.

Mr. Goldman said that he felt the City was not obligated to name the applicant and would also like to discuss this further with Corporation Counsel West-Chuhta.

Chair Costa said to err on the side caution now and keep it as it is, and this would be clarified at the next meeting.

After discussion, Councilor Thibodeau made a motion to suspend the Rules and allow public comment for all four items at one time. Councilor Mavodones seconded the motion and it passed unanimously.

George Rheaault noted that on the City website it has Kathy Alves' title as Maritime Manager. Regarding 4(d), this needs specificity for the public.

See no further public comment, Chair Costa closed the public comment session.

Chair Costa said that staff will be reviewing whether specificity is needed as noted earlier.

***#4(a): Proposed Ready Seafood Lease Amendment***

Councilor Mavodones then made a motion to go into executive session pursuant to 1 M.R.S.A. 405(6)(C) to discuss lease negotiations and provide guidance to staff for proposed amendments to the Ready Seafood Lease. Councilor Thibodeau seconded the motion, and the motion passed unanimously at 6:41 p.m. At 7:09, the Committee came out of executive session.

Mayor Strimling requested that item 4(d) be taken up next as he has another meeting to go at 7:30.

***#4(d) Proposed Waterfront TIF District Credit Enhancement Agreement Request***

Councilor Thibodeau then made a motion to go into executive session pursuant to 1 M.R.S.A. 405(6)(C) to discuss negotiations for a proposed Waterfront TIF District Credit Enhancement Agreement. Councilor Mavodones seconded the motion, and the motion passed

unanimously at 7:10 p.m. At 7:45 p.m., the Committee came out of executive session, and Mayor Strimling left the meeting.

***#4(b): Proposed Amendments to the Bay Ferries, Ltd. Lease***

Councilor Mavodones then made a motion to go into executive session pursuant to 1 M.R.S.A. 405(6)(C) to discuss lease negotiations and provide guidance to staff for proposed amendments to the Bay Ferries, Ltd., Lease. Councilor Thibodeau seconded the motion, and the motion passed unanimously at 7:45 p.m. At 7:57 p.m., the Committee came out of executive session.

***#4(c): Proposed sale of City owned Riverside Street Property***

Councilor Thibodeau then made a motion to go into executive session pursuant to 1 M.R.S.A. 405(6)(C) to discuss real estate sale negotiations for City-owned property on Riverside Street. Councilor Mavodones seconded the motion, and the motion passed unanimously at 7:57 p.m. At 8:10 p.m., the Committee came out of executive session, and the meeting was then adjourned.

Respectfully, Lori Paulette



Economic Development Department  
Gregory A. Mitchell, Director

## **MEMORANDUM**

**TO: Economic Development Committee**

**FROM: Greg Mitchell**

**DATE: March 14, 2018**

**SUBJECT: Ready Seafood Company Third Amendment to Amended and Restated Lease**

### **I. ONE SENTENCE SUMMARY.**

Public hearing and vote to recommend to the City Council the Proposed Third Amendment to the Ready Seafood Company Amended and Restated Lease.

### **II. BACKGROUND.**

Ready Seafood Company has been a tenant in the Maine State Pier Ocean Terminal since 2009 under the terms of the Original and Amended and Restated Lease.

### **III. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED**

The 2017 Council Goal addressed is "Increase Utilization of Portland Ocean Terminal".

The Ready Seafood Company has been a great partner with the City to promote Portland, and they have jointly invested in past pier improvements.

### **IV. FINANCIAL IMPACT.** Highlights of the Lease Amendment include:

**Term:** One five (5) year lease renewal.

**Rent and Rent Credit:** The 2018 Annual Lease rent is \$188,650 to lease 27,500 sq. ft., with rental square footage to decrease to 24,000 sq. ft. during years 2019-2022. The annual Lease amount in 2019 is \$167,040 (to reflect the square foot space reduction) with a two (2) percent annual increase. An annual Lease credit up to \$150,000 during 2018 and 2019 is available, based upon expenditure documentation, for pier improvements.

**Parking:** No off-site parking is provided with this Lease Amendment. Five (5) on pier parking spaces for customer turnover parking and four (4) overnight box truck parking spaces are provided.

## **V. STAFF ANALYSIS**

Staff researched lease rates for waterfront properties and is recommending the Proposed Third Amendment to the Ready Brothers Amended and Restated Lease, including Lease rent credit arrangement as a fair public-private partnership.

## **VI. RECOMMENDATION**

Staff recommends that the EDC vote to recommend approval of the attached Proposed Third Amendment to the Ready Brothers Amended and Restated Lease, in substantial conformance, to the City Council.

## **V.II. LIST ATTACHMENTS**

- Proposed Third Amendment to Amended and Restated Lease, including its Exhibits A and B.
- 1<sup>st</sup> Amendment to Amended and Restated Lease
- 2<sup>nd</sup> Amendment to Amended and Restated Lease
- Amended and Restated Lease

**THIRD AMENDMENT TO**  
**AMENDED AND RESTATED LEASE AGREEMENT**  
**PORTLAND OCEAN TERMINAL**

THIS THIRD AMENDMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (“Landlord” or “City”) and READY SEAFOOD CO., a Maine corporation with a mailing address of P.O. Box 17652, Portland, Maine 04112 (the “Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant are parties to a certain Amended and Restated Lease Agreement dated June 19, 2015, as amended by a First Amendment to Amended and Restated Lease Agreement dated December 12, 2017, and a Second Amendment to Amended and Restated Lease Agreement dated March \_\_\_\_, 2018 (collectively, the “Lease”), with respect to certain space at Landlord’s property known as the Portland Ocean Terminal (“POT”), where Tenant operates a wholesale seafood business; and

WHEREAS, Landlord and Tenant wish to further amend certain aspects of the Lease, as more fully described herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Section 1(a) of the Lease is hereby deleted in its entirety and replaced with the following:
  - (i) For the period commencing January 1, 2018 through December 31, 2018, Tenant will exclusively occupy 27,500 sq. ft. of space at the POT identified as “Interior Space” on the diagram labeled Exhibit A attached hereto and incorporated herein by reference. During 2018, references to the “Premises” in the Lease shall mean the Interior Space depicted on Exhibit A.
  - (ii) For the period commencing January 1, 2019 through December 31, 2022, Tenant will exclusively occupy the 24,000 sq. ft. of space at the POT identified as “Interior Space” on the diagram labeled Exhibit B attached hereto and incorporated herein by reference. From January 1, 2019 through December 31, 2022, or the earlier termination of the Lease, references in the Lease to the “Premises” shall mean the Interior Space depicted on Exhibit B.
  - (iii) Tenant shall have no authority to modify or make any changes to the Premises without the prior written consent of Landlord.
  
2. Section 1(b) is hereby deleted in its entirety and replaced with the following:

In addition to its use of the Premises, Tenant shall have non-exclusive use of the “Exterior Common Areas” identified on Exhibit A and B (the “Common Areas”) for purposes of pedestrian and vehicle access to, in common with others, the existing dock and the pier area located at the end of the POT. Vehicular access to the Common Areas shall be limited to short-term use for purposes of loading and unloading vehicles for Tenant’s business and for parking as described in paragraph 7 below.

3. The reference to December 31, 2017 in Section 2(a) of the Lease is hereby deleted and replaced with December 31, 2022, meaning and intending to change the termination date of the term of the Lease to December 31, 2022.

4. The second sentence of section 2(a) of the Lease is deleted in its entirety and replaced with the following:

“The term of this Lease may be renewed for one six (6) year term through December 31, 2028 upon mutual agreement of the Parties.

5. Section 2(b) of the Lease is deleted in its entirety.

6. Section 4 of the Lease is hereby deleted in its entirety and replaced with the following:

The annual rent, set forth in the schedule below, is due and payable in advance in twelve (12) monthly payments on the first day of each month of the term of this Lease. The rent set forth in this paragraph does not include utility charges, which are addressed in paragraph 5 of the Lease.

<u>Lease Year</u>	<u>Annual Rent</u>	<u>Monthly Payment</u>
1/1/2018-12/31/2018	\$188,650.00	\$15,720.83
1/1/2019-12/31/2019	\$167,040.00	\$13,920.00
1/1/2020-12/31/2020	\$169,440.00	\$14,120.00
1/1/2021-12/31/2021	\$172,080.00	\$14,340.00
1/1/2022-12/31/2022	\$174,480.00	\$14,540.00

Notwithstanding anything to the contrary in the Lease, Tenant shall be entitled to a rent credit of up to \$150,000 during 2018 and 2019 (the “Rent Credit”) for documented expenses for certain future repairs to the POT (the “Pier Repair Work”) which work will be subject to the prior written approval of the Landlord’s Director of Public Buildings (the “Director”). Tenant, with Landlord’s cooperation, will engage the services of a contractor or contractors to perform the Pier Repair Work in one or more projects. Tenant shall not commence any Pier Repair Work project without the Director’s prior written approval. At any time prior to, during, or after completion of a Pier Repair Work project, Tenant, at Landlord’s request, will provide Landlord with documentation related to the Pier Repair Work in form and substance satisfactory to the Director, including, without limitation, any related estimates, proposals, contracts, plans, specifications, diagrams, invoices, proof of payment of invoices, and mechanic’s lien waivers from Tenant’s

contractors and subcontractors (“Pier Repair Work Documentation”). Upon review and approval of applicable Pier Repair Work Documentation, the City will apply the Rent Credit to rent due in the months following completion of a Pier Repair Work project until the Rent Credit has been fully applied. Nothing in this paragraph is intended to be, or shall be deemed a waiver of, the Landlord’s right to enforce the Tenant’s obligations to maintain, repair, and replace elements of the Premises, the Common Areas, and the POT as set forth in section 10 of the Lease.

Tenant understands that in any contract for any work on the POT, Tenant will include the following provisions:

Prior to the execution of this Agreement, the Contractor will procure and maintain occurrence-based Automobile Liability Insurance, Commercial General Liability Insurance (including completed operations coverage for at least 24 months after completion of the work), for bodily injury, death and property damage, and Pollution Liability Insurance coverage in amounts of not less than Two Million Dollars (\$2,000,000.00) per occurrence, naming the City as an additional insured thereon, and also Workers’ Compensation Insurance coverage to the extent required by law. With respect to the Automobile and Commercial General Insurance, the Contractor shall name the City as an additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available 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. Prior to execution of this Agreement, the Contractor shall furnish the City and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days’ notice to the City of termination of insurance from the insurance provider or agent. Contractor shall also provide a copy of any endorsement naming the City as additional insured. A certificate that merely has a box checked under “Addl Insr,” or the like, or that merely states the City of Portland is named as an Additional Insured, will not be acceptable. The Workers’ Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees. Contractor shall be responsible for any and all deductibles and/or self-insured retentions. City’s acceptance or lack of acceptance of Contractor’s Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of the Contractor’s obligation to obtain and maintain such insurance as required by this agreement.

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorney’s fees arising out of or resulting from the performance of this Agreement, 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 therefrom, and (2) is caused in whole or in part by any act or omission of the Contractor, anyone directly or indirectly employed by it, or anyone for whose act it may be liable. Such obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the City which otherwise exists. The extent of the indemnification provision shall not be limited by the provision for insurance in this Agreement. Contractor's obligations under this paragraph shall survive termination of this Agreement.

7. Section 6 of the Lease is deleted in its entirety and replaced with the following:

Landlord shall provide Tenant, during the term of this Amended and Restated Lease Agreement, the use of five (5) angled passenger vehicle parking spaces and four (4) box truck parking spaces located on the west side of the wooden portion of the Common Areas. The five passenger vehicle parking spaces are for short-term/turnover use by Tenant, its customers, and vendors during the day and evening, and for Tenant employee parking at night. Further, Tenant agrees to cooperate with Landlord at any time to relocate any passenger vehicles and trucks to allow the Common Areas to service Compass Park activities and other City needs. The City reserves the right to re-locate all parking spaces to a reasonably convenient alternative location selected by the City at any time during the term of this Lease.

8. The following is added to the Lease as section 14(a)(iv): "Pollution Liability Insurance - \$2,000,000 per occurrence."
9. The following is added to the end of Section 14(c) of the Lease:

Contractor shall be responsible for any and all deductibles and/or self-insured retentions. City's acceptance or lack of acceptance of Contractor's Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of the Contractor's obligation to obtain and maintain such insurance as required by this agreement.

10. Section 17(b) of the Lease is deleted in its entirety and replaced with the following:

In the event Landlord terminates this Agreement for its convenience prior to the Rent Credit being fully applied, the Landlord will reimburse Tenant for the outstanding balance of the Rent Credit provided that Tenant has provided documentation satisfactory to the Landlord for the Pier Repair Work.

11. Any and all terms of the Lease not herein amended shall remain in full force and effect for the duration of the Lease as amended hereby and are hereby ratified. In the event of any conflict between the terms of this Amendment and the terms of the Lease and any exhibits thereto, the terms of this Amendment shall govern and control so long as this Amendment is in effect.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed by their duly authorized representatives or officers, as of the date first written above.

WITNESS:

CITY OF PORTLAND

\_\_\_\_\_

By: \_\_\_\_\_  
Jon P. Jennings  
Its City Manager

WITNESS:

READY SEAFOOD CO.

\_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Approved as to Form:  
Corporation Counsel's Office

**Exhibit A  
Amended and Restated  
Lease Agreement 2018  
Ready Seafood**

**Parking**

**Exterior Common Areas**

**Ready Seafood  
+/-27,500 sq ft  
Interior Space**

**Exhibit B  
Amended and Restated  
Lease Agreement 2018  
Ready Seafood**

**Parking**

**Exterior Common Areas**

**Ready Seafood  
+/-24,000 sq ft  
Interior Space**

**FIRST AMENDMENT TO**  
**AMENDED AND RESTATED LEASE AGREEMENT**  
**PORTLAND OCEAN TERMINAL**

THIS FIRST AMENDMENT is made as of the 12<sup>th</sup> day of December, 2017, by and between the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (“Landlord”) and READY SEAFOOD CO., a Maine corporation with a mailing address of P.O. Box 17652, Portland, Maine 04112 (the “Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into an Amended and Restated Lease Agreement dated June 19, 2015 (the “Lease”) with respect to certain space at Landlord’s property known as the Portland Ocean Terminal, where Tenant operates a wholesale seafood business; and

WHEREAS, the initial term of the Lease expires on December 31, 2017; and

WHEREAS, Landlord and Tenant are presently negotiating revisions to the Lease, including amendments to the leased premises, the amount of rent, the term, and other provisions; and

WHEREAS, Landlord and Tenant wish to extend the termination date of the Lease for a period of three months on its present terms to give the parties additional time to negotiate the terms and conditions for an amended or new lease.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The reference to “December 31, 2017” in Section 2(a) of the Agreement is hereby deleted and replaced with “March 31, 2018,” meaning and intending to extend until March 31, 2018 the termination date of the Lease.
2. Except as specifically amended hereby, the Lease shall remain in full force and effect, and the parties hereto ratify the terms and conditions of the Lease.

*(Signature Page Follows)*

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed by their duly authorized representatives or officers, as of the date first written above.

WITNESS:

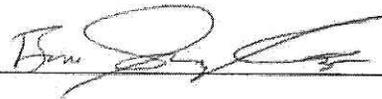
CITY OF PORTLAND



By:   
Jon P. Jennings  
Its City Manager

WITNESS:

READY SEAFOOD CO.



By:   
Printed Name: John READY  
Its: pres

  
Approved as to Form:  
Corporation Counsel's Office

**SECOND AMENDMENT TO**  
**AMENDED AND RESTATED LEASE AGREEMENT**  
**PORTLAND OCEAN TERMINAL**

THIS SECOND AMENDMENT is made as of the \_\_\_\_ day of March, 2018, by and between the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (“Landlord”) and READY SEAFOOD CO., a Maine corporation with a mailing address of P.O. Box 17652, Portland, Maine 04112 (the “Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into an Amended and Restated Lease Agreement dated June 19, 2015 as amended by a First Amendment to Amended and Restated Lease Agreement dated December 12, 2017 (collectively, the “Lease”) with respect to certain space at Landlord’s property known as the Portland Ocean Terminal, where Tenant operates a wholesale seafood business; and

WHEREAS, the term of the Lease expires on March 31, 2018; and

WHEREAS, Landlord and Tenant are presently negotiating revisions to the Lease, including amendments to the leased premises, the amount of rent, the term, and other provisions; and

WHEREAS, Landlord and Tenant wish to extend the termination date of the Lease for a period of one month on its present terms to give the parties additional time to negotiate the terms and conditions for an amended lease.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The reference to “December 31, 2017” in Section 2(a) of the Agreement is hereby deleted and replaced with “April 30, 2018,” meaning and intending to extend until April 30, 2018 the termination date of the Lease.
2. Except as specifically amended hereby, the Lease shall remain in full force and effect, and the parties hereto ratify the terms and conditions of the Lease.

*(Signature Page Follows)*

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed by their duly authorized representatives or officers, as of the date first written above.

WITNESS:

CITY OF PORTLAND

\_\_\_\_\_

By: \_\_\_\_\_

Jon P. Jennings  
Its City Manager

WITNESS:

READY SEAFOOD CO.

\_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Approved as to Form:  
Corporation Counsel's Office

**AMENDED AND RESTATED LEASE AGREEMENT**  
**PORTLAND OCEAN TERMINAL**

This Amended And Restated Lease Agreement, made in triplicate original as of the 19<sup>th</sup> day of June, 2015, by and between the **CITY OF PORTLAND**, a Maine municipal corporation having its principal place of business at 389 Congress Street, Portland, Maine (hereinafter referred to as "Landlord") and **READY SEAFOOD CO.**, a Maine corporation with a mailing address of P.O. Box 17652, Portland, Maine 04112 (hereinafter referred to as "Tenant").

**WHEREAS**, Landlord and Tenant are parties to a Lease Agreement dated December 22, 2009 (the "Original Lease") for certain space at the Portland Ocean Terminal warehouse (the "POT") on the Maine State Pier (the "Pier"), which was amended by an Amendment To Lease Agreement dated February 27, 2012 (the "First Amendment") and a Second Amendment To Lease Agreement dated July 30, 2013 (the "Second Amendment") (the Original Lease as amended by the First and Second Amendments is referred to herein as the "Existing Lease"); and

**WHEREAS**, during the term of the Lease, Tenant has complied with the terms and conditions of the Lease as amended and has made substantial improvements to the leased premises; and

**WHEREAS**, in consideration of said improvements, Tenant has requested a reduction and reconfiguration of the leased premises and a reduction in rent; and

**WHEREAS**, after due consideration, Landlord is willing to reduce and reconfigure the leased premises and to reduce the rent; and

**WHEREAS**, in order to memorialize the above, Landlord and Tenant desire that the Existing Lease be substantially amended and restated to modify the Existing Lease.

**NOW, THEREFORE**, in consideration of the mutual promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Landlord and Tenant hereby mutually agree that the Existing Lease be amended and restated as of the Effective Date (as defined in Section 2).

**WITNESSETH:**

**1. Premises; Security.**

- a. Tenant, as of the date of this Amended and Restated Lease, exclusively occupies 19,000 sq. ft. of space at the POT identified as "interior space" on the attached Exhibit A (the "Premises"), which Landlord does hereby continue to

lease, demise, and let unto Tenant. Tenant shall have no authority to modify or make any changes to the Premises without the prior consent of Landlord.

b. In addition to the Premises, Tenant shall have non-exclusive use of the common areas identified on Exhibit A as “Interior Common Area” and “Exterior Common Area” (collectively, the “Common Areas”). Tenant’s right to use the Common Areas shall include: (i) shared access to and use of both the existing loading dock and the pier area located at the end of the Pier; and (ii) the right to expand the existing loading dock or construct one additional loading dock, subject to Planning Board approval and issuance of building permits, and with prior written consent of the Landlord.

c. Security Rules: Tenant shall comply with all safety and security requirements in its operations hereunder. All Tenant employees working at the POT shall obtain a Transit Worker Identification Credential (TWIC) and shall display such TWIC cards at all times when at the POT. Tenant further agrees that its officers, employees and agents shall abide by the provisions of the Landlord’s Federal Facility Security Plan, and with any other security directives or policies that may be promulgated from time to time by the Landlord, the State of Maine or by agencies of the Federal Government during the term of this Agreement, and the Landlord agrees to provide Tenant with copies of the relevant portions of Landlord’s Plan to permit Tenant to comply with their terms. If required by the US Coast Guard, Tenant shall create its own Facility Security Plan.

Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, which may arise directly out of Tenant's (including its officers, volunteers and employees) failure to comply with the covenants of this paragraph, and such failure shall be deemed a default under this Agreement.

d. Access: Tenant shall be provided with access to the Premises and the Common Areas on a twenty-four (24) hour basis through the use of a key, and Tenant shall be responsible for ensuring that its employees understand the security requirements of POT and that only Tenant’s authorized persons are provided access on Tenant’s behalf.

## **2. Term.**

(a) This Amended and Restated Lease shall be effective as of January 1, 2015 (the “Effective Date”) and shall end on December 31, 2017, unless earlier terminated as provided herein, or extended as provided herein. The term of this Amended and Restated Lease may be renewed for one additional five (5) year term through December 31, 2022 upon mutual agreement of the Parties; and thereafter, for one additional six (6) year term through December 31, 2028, again upon mutual agreement of the Parties.

(b) Tenant's right to use parking spaces set forth in section 6 below shall have a different term. With respect to Tenant's parking rights only, the current term, which is for two (2) years, commenced December 22, 2013 and terminates December 21, 2015. The term of Tenant's parking rights shall automatically renew for successive two (2) year terms beginning December 22, 2015, unless either party hereto gives notice before December 1 of any year, of non-renewal. Notwithstanding anything to the contrary in this paragraph, Tenant's parking rights shall terminate upon termination of the term set forth in sub-paragraph (a) above.

**3. Permitted Uses.**

- a. Tenant Uses: Tenant may use the Premises and Common Areas for wholesale, storage, packaging, shipping and processing activities associated with Ready Seafood and Catch a Piece of Maine.
- b. Tenant may, upon receipt of written consent of Landlord, make physical improvements to Premises and Common Areas to support Tenant's use.
- c. Landlord uses: Landlord reserves the right to permit other parties to use the Common Areas and the remainder of the POT warehouse (other than the Interior Space) during the term of this Amended and Restated Lease and thereafter, so long as such use does not unreasonably interfere with the use of the Premises and Common Areas by Tenant as permitted or required by this Amended and Restated Lease.
- d. Tenant agrees to work with the Landlord to coordinate Tenant's use of the Premises and Common Areas with other tenants and users of the POT, and Pier.
- e. Nothing herein is intended to create, nor shall it be deemed to be, a joint venture between the parties.

**4. Rent.**

The annual rent, set forth in the schedule below, is due and payable in advance in twelve (12) equal monthly payments on the first day of each month of the term of this Amended and Restated Lease. The rent set forth in this paragraph does not include utility or parking charges, which are addressed in paragraphs 5 and 6 below.

	<u>Annual Rent</u>	<u>Monthly Payment</u>
1/1/15-12/31/15	\$125,256.00	\$10,438.00
1/1/16-12/31/16	\$127,761.12	\$10,646.76
1/1/17-12/31/17	\$130,316.34	\$10,859.70

**5. Utilities.**

The Landlord has provided, at Tenant's expense, separate electrical and water submeters to separate Tenant's electrical and water usage from that of Landlord and other users of the POT. Tenant shall continue to pay Landlord monthly for its water and electric usage. Landlord is not responsible for providing heat to the Premises.

**6. Parking.**

Landlord shall provide Tenant, during the term of this Amended and Restated Lease Agreement, the use of ten (10) parking spaces in the City-owned Thames Street parking lot at the annual rate of Ten Thousand Dollars (\$10,000.00) payable in advance on the first of each month in twelve monthly installments of \$833.33. The City reserves the right to re-locate these parking spaces to a reasonably convenient alternative location if the Thames Street parking lot is no longer available for this purpose. See Section 2 for the term of Tenant's right to use parking spaces.

**7. Vessel Deliveries.**

At Tenant's expense and with Landlord's approval, a device, such as a derrick shall be installed at the southern end of the Pier. Tenant shall accept deliveries of lobsters by vessel at the southern end of the Pier, utilizing the derrick or similar device.

The parties recognize that the southern end of the Pier represents the edge of the federal channel. Tenant shall insure that deliveries by vessel shall be expedient, such that delivery vessels are located at the southern end of the Pier for as short a period of time as possible during deliveries.

When cruise ships are docked at the Pier, Tenant shall not have access to the southern end of the Pier to accept deliveries. On said cruise ship days, Tenant shall accept deliveries in the embayment located to the west of the POT. Subject to review and approval by Landlord, Tenant may install a derrick or similar device and a float to assist with deliveries in the embayment.

Tenant shall not utilize the public landing located in the embayment for deliveries.

**8. Tenant to Plow and Remove Snow.**

Tenant, at Tenant's expense, shall be responsible for plowing and removing snow from the Exterior Common Areas to allow for year-round access to the loading dock.

**9. Tenant to Remove Trash and Debris; Maintenance.**

Tenant, at Tenant's expense, shall maintain the entire portion of the Premises and Common Areas in the same condition and repair as it is in as of the Effective Date,

except only for reasonable wear and tear, and shall remove all trash and debris attributable to it from the Premises and Common Areas.

**10. POT Building and Pier Infrastructure Responsibility for Repairs and Maintenance; Tenant's Acceptance Of Premises In "As Is" Condition.**

Tenant is currently in possession of the Premises and does hereby accept the Premises and Common Areas in their present "AS IS" condition as of the Effective Date. During the term of the Existing Lease, Tenant has, at its sole expense, maintained and made substantial repairs to the Premises, the Common Areas, Pier, and the portion of the POT building containing the Interior Space and the Interior Common Area. Tenant shall continue to maintain and repair, at its sole expense, the Premises, the Common Areas, and all interior, exterior, and structural portions of the POT building containing the Interior Space and the Interior Common Areas, including, without limitation, the plumbing, electrical, mechanical, heating, ventilation, and air conditioning systems in the building, but not including the roof or exterior walls. The Landlord shall be responsible for the maintenance and repair of said exterior walls and roof, and Tenant shall make no alteration to them without the prior written consent of the Landlord. Tenant, at Tenant's sole expense, may conduct such inspections as are necessary to evaluate the structural integrity of the POT building and Pier to support Tenant's use and shall report the results of any such inspections to Landlord. Tenant, at its sole expense, shall be responsible for maintaining, repairing, or replacing the Pier's structural elements, including, without limitation, its pile caps, stringers, and decking, in order to support so much of Tenant's use as is beyond those uses that would cause ordinary wear and tear. Landlord shall only be responsible for maintaining the structural integrity of the Pier to the extent that the structural integrity has been jeopardized due to normal wear and tear, and not from any of Tenant's operations causing greater than normal wear and tear. Landlord may enter any portion of the POT and Pier, including the Premises, to conduct inspections, maintenance, or repairs, but will only enter the Premises upon reasonable notice to Tenant at times and in a manner that will not unreasonably interfere with Tenant's on-going business activities.

**11. Traffic Control.**

Tenant shall be responsible for managing truck access over the Pier to the Premises and Common Areas. In doing so, Tenant will work cooperatively with other POT tenants and the Casco Bay Lines to manage traffic and pedestrian congestion. Landlord will assist Tenant by removing illegally parked vehicles on a timely basis when requested to do so by Tenant or by any signatory to a Maine State Pier Tenant Operational Agreement. Tenant agrees to participate and work cooperatively with other POT tenants and the Casco Bay Lines to create such an operational agreement.

**12 Compliance with Laws.**

Tenant shall, at its own cost and expense, promptly observe and comply with all applicable laws, ordinances, requirements, orders, directives, rules and regulations of the

federal, state, and county and city governments, including the City Of Portland Facilities rules as they may be amended from time to time, and of all other governmental authorities, affecting the Premises or appurtenances thereto, while such laws or regulations are in force, regardless of when enacted. Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, which may arise directly out of Tenant's failure to comply with the covenants of this Section, and such failure shall be deemed a default under this Agreement. Tenant shall be responsible for obtaining all necessary permits and licenses required for its use and occupancy of the POT at its own cost and expense.

### **13 Indemnification.**

- a. General. To the fullest extent permitted by law, Tenant shall at its own expense defend, indemnify, and hold harmless the Landlord, its officers, agents, and employees from and against any and all liability, claims, damages, penalties, losses, expenses, or judgments, just or unjust, arising from injury or death to any person, or damage to property sustained by anyone (including but not limited to Landlord employees or property), including but not limited to claims based upon violation of any environmental law or regulation, except to the extent that such claims arise from a negligent act or omission of the Landlord, its officers, agents, servants or employees.

Tenant shall, at its own cost and expense, defend any and all suits or actions, just or unjust, which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. In cases in which Landlord is a party, Landlord shall have the right to participate at its own discretion and expense and no such suit or action shall be settled without prior written consent of Landlord. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to Landlord which would otherwise exist.

- b. Without limiting the foregoing, to the fullest extent permitted by law, Tenant hereby agrees to assume all risk of injury, harm or damage to any person or property (including but not limited to all risk of injury, harm or damage to Tenant's officers, agents, employees, contractors, customers or invitees or to their property) arising out of, during, or in connection with the rental or use of the POT warehouse property or any portion thereof and the activities hereunder which injury, harm or damage is alleged to be related to the presence of mold at or in the Premises, and to defend, indemnify and hold the Landlord harmless from any such liability, claims, damages, losses or expenses.
- c. Covenant against liens: Tenant shall not cause or permit any lien against the Landlord's property or any improvements thereto to arise out of or accrue from any action or use thereof by Tenant and shall hold the Landlord harmless therefrom; provided, however, that Tenant may in good faith contest the validity

of any alleged lien. Upon request of the Landlord, Tenant shall post a bond warranting payment of any such lien in the event Tenant contests such lien.

- d. Survival. The Terms of this Section shall expressly survive the expiration or termination of this Agreement.

**14. Insurance.**

- a. Amounts. Without expense to the Landlord, and with no lapse in coverage, Tenant shall procure and maintain, at its own cost, and show evidence to the Landlord of the following insurance to protect the Landlord from claims and damages which may arise from Tenant's operations under this Agreement, whether such operations shall be performed by the Tenant or by anyone directly or indirectly employed by it, in the types and minimum amounts set forth below:

<u>Description</u>	<u>Coverage</u>	<u>Each Occurrence</u>
(i) Commercial General Liability	B.I./P.D.	\$1,000,000
(ii) Automobile Liability Insurance		\$ 400,000
(iii) Worker's Compensation		Maine statutory amount

- b. Landlord protected. The Landlord shall be named as an additional insured under items (i) and (ii) above. Tenant shall provide evidence of Workers Compensation coverage in the statutory amounts.
- c. Notice to Landlord. All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Landlord. Each liability policy required to be obtained hereunder shall be on an occurrence basis. In the event that policies are not available on an occurrence basis, Tenant shall purchase a "tail" which provides coverage hereunder for a minimum of six (6) years after termination of this Agreement.

All policies required hereunder shall be primary to any insurance or self-insurance which Landlord may maintain for its own benefit. Liability insurance coverage shall also extend to damage, destruction, and injury to City-owned or City-leased property and City personnel, to the extent caused by, or resulting from negligent acts, operations, or omissions of Tenant, its officers, agents, employees, invitees, and/or contractors.

- d. Certificates. Certificates or other evidence of insurance coverages required of Tenant in this Section, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the Landlord prior to use of the Premises. Such certificate or certificates shall at all times while this Agreement is in effect provide Landlord with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier.

**15. Assignment/Subletting.**

Tenant shall not sublease, transfer or assign this Agreement or the rights granted hereunder at any time during the term of this Agreement without the prior written approval of Landlord, which may be granted or withheld in Landlord's discretion. No such assignment or subletting shall relieve Tenant of any obligations hereunder and any person accepting such assignment shall take the Agreement subject to all prior breaches and shall be liable therefore in the same manner as Tenant.

**16. Casualty Damage.**

- a. If the Premises or any part thereof shall be destroyed or damaged by fire or other unavoidable casualty so that the same shall be thereby rendered unfit for use, then, and in such case, the Rent hereinabove stated or a just and proportional part thereof, according to the nature and extent of injuries sustained, shall be suspended or abated, until the Premises shall have been put in proper condition for use by Tenant. Provided, however, in the event of such destruction or damage, either Landlord or Tenant shall have the right to terminate this Lease by giving the other party written notice of such termination within thirty (30) days after such damage or destruction, and upon the giving of such notice, the term of this Agreement shall cease and come to an end as of the date of such damage or destruction and any unearned rent shall be returned to Tenant.
- b. Tenant shall be responsible for covering the equipment and supplies with such property and casualty insurance as it deems necessary and Landlord shall have no responsibility therefor. Tenant assumes all risk of damage, loss or casualty to its property, equipment and/or supplies while located at the POT, even if the cause of such damage is the result of the negligent act or omission of Landlord, its officers or employees. Tenant shall defend, indemnify and hold the Landlord harmless from any claim based upon any damage, loss or casualty to its property, equipment and/or supplies while at the POT. Any casualty insurance obtained by Tenant for its property, equipment or supplies at POT shall include a waiver of subrogation against the Landlord.

**17. Termination for Convenience or Cause.**

- a. Either party may, in its discretion and for its convenience, terminate this Agreement upon no less than Thirty (30) days prior written notice to the non-terminating party. In the event of termination during a rental period, Landlord

will reimburse to Tenant the pro-rated amount paid in rent for any time period after the effective date of the termination; provided, however, that Tenant shall remain liable to pay any Rent accrued and owed for the time period prior to the effective date of termination.

- b. In the event Landlord terminates this Agreement for its convenience prior to the expiration date, the Landlord will reimburse Tenant for documented construction expenditures made by Tenant for the purposes of build-out, improvements, additions or installations to the Premises, made in 2013-2014 as part of the then expansion, but such reimbursement shall: (1) in no event shall exceed \$375,000; and (2) such reimbursement shall be reduced over ten (10) years, on a straight-line basis, from the date of installation.
- c. Either party may terminate this Agreement upon no less than Thirty (30) calendar days' prior written notice for failure of the non-terminating party to comply with the terms and conditions of this Agreement. In such event, the non-terminating party shall have the right to cure such default within the Thirty (30) day period, or in the case of default in any payment due hereunder, within Ten (10) calendar days of receipt of notice of such default. Such notice of default shall not be required to coincide with a rental period.
- d. Upon any termination of this Lease, Tenant shall quit and surrender to Landlord the Premises in accordance with the provisions of Section 16 hereof. If this lease is terminated, Tenant shall remain liable to Landlord for all Rent accrued and unpaid up to the date of such termination. In no event shall either party be liable to the other for incidental, special, or consequential damages of any nature claimed as a result of the breach of any term of this Agreement or termination of this Agreement.

**18. Return of Premises; Trade Fixtures.**

Tenant at the expiration or termination of this Agreement shall peaceably yield up to Landlord the Premises in good repair in all respects, reasonable use and wear and damage by fire and all other unavoidable casualties not caused by Tenant, its officers, employees, agents, invitees or contractors excepted. Tenant shall remove all trade fixtures, equipment and other personal property installed or placed by it at its expense in, on or about the Premises; provided, however, all damage caused by or as a result of such removal shall be repaired by Tenant at its expense. Should Tenant fail to remove its fixtures, equipment or property within Thirty (30) days of a notice to do so from Landlord, ownership of such fixtures, equipment and property shall automatically be vested in Landlord and Landlord have the right dispose of such fixtures, equipment and property in any manner it sees fit, and retain all proceeds therefrom. Notwithstanding the foregoing, Tenant shall continue to be liable to Tenant for the costs of any such removal and disposal in excess of any such proceeds.

**19. Covenants.**

Landlord covenants that it is the owner in fee of the Premises and can and will provide quiet enjoyment of the Premises during the term of this Agreement. Each party covenants that the Agreement is signed by a duly authorized individual.

**20. Notices.**

Any notice required to be given under this Lease shall be in writing and shall be hand-delivered or sent by U.S. certified mail, return receipt requested, postage prepaid, addressed to the parties as stated below or such other address as either party may designate in writing to which its future notices shall be sent.

To Tenant:

Ready Seafood  
ATTN: Brendan Ready, President  
P.O. Box 17652  
Portland, Maine 04112

To Landlord:

~~Sheila Hill-Christian~~ MICHAEL SAUSCHUCK  
Acting City Manager  
389 Congress Street  
Portland, Maine 04101  
cc: Director of Public Buildings

The Landlord's representative for administration of this Agreement shall be the Director of Public Buildings or his/her authorized designee.

**21. Amendment.**

Both parties hereto acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties except such as are expressed herein. The terms of this Lease may be modified or amended by the mutual assent of the parties hereto; provided, however, that no such modification or amendment to this Lease shall be binding until in writing and signed by both parties.

**22. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Maine.

23. **Force Majeure.**

Neither Tenant nor Landlord shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, war, acts of superior governmental authority or other reason over which it has no control; provided, however, that the suspension of performance shall be no longer than that required by the force majeure and the party prevented from performance has given written notice thereof to the other party.

24. **Non-Waiver.**

No waiver of any breach of any one or more of the conditions of this Lease by the Landlord or Tenant shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

25. **Brokers.**

Landlord and Tenant each represent and warrant to the other that it has not dealt with any agents, brokers or finders in connection with this Agreement. Each party agrees to hold and indemnify the other harmless from and against any losses, damages, costs or expenses (including attorneys' fees) that either party may suffer as a result of claims made or suits brought by any broker in connection with this transaction, the obligated party hereunder to be the party whose conduct gives rise to such claim.

26. **Transition Provision.**

Prior to the Effective Date, the rights and obligations of Landlord and Tenant are those described in the Existing Lease. On the Effective Date, the Existing Lease shall be deemed amended and restated so as to contain all of the terms of this Lease, and this Lease as amended and restated shall govern all future rights, obligations, duties and liabilities of the parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be duly executed the day and year first above written.

**WITNESS:**

John Rudy

**READY SEAFOOD CO.**

By: [Signature]  
Name: Bierdan Ready  
Its: owner

**WITNESS**

Sonia Bean

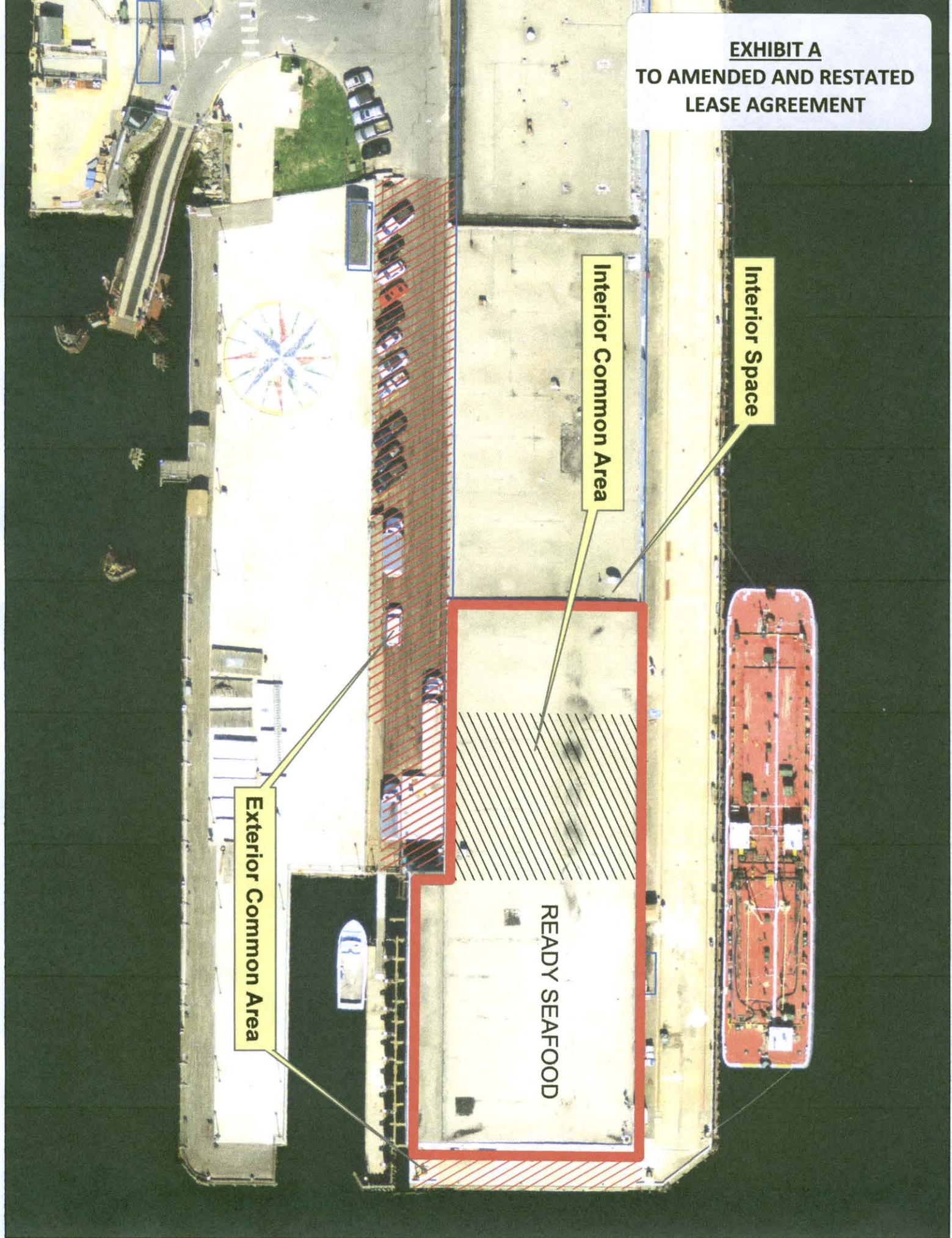
**CITY OF PORTLAND**

By: [Signature]  
~~Sheila Hill-Christian~~ MICHAEL SAUSCHUCK  
Its Acting City Manager

**APPROVED AS TO FORM:**

[Signature]  
CORPORATION COUNSEL'S OFFICE

**EXHIBIT A  
TO AMENDED AND RESTATED  
LEASE AGREEMENT**





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/19/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Cross Insurance-Portland 2331 Congress Street  Portland ME 04102	<b>CONTACT NAME:</b> Hope Cote <b>PHONE (A/C No. Ext):</b> (207)780-1677 <b>E-MAIL ADDRESS:</b> hcote@crossagency.com		<b>FAX (A/C, No):</b> (207)780-6377
	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> Ready Seafood Company, Inc.; Maine Seafood Ventures, LLC PO Box 17652 Portland ME 04112	<b>INSURER A:</b> The Netherlands Insurance Co.		24171
	<b>INSURER B:</b> Peerless Insurance Co.		24198
	<b>INSURER C:</b> Ohio Casualty Ins. Co.		24074
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		
<b>INSURER F:</b>			

**COVERAGES**

CERTIFICATE NUMBER: CL1561741704

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:			CBP8109501	6/23/2015	6/23/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			BA8109459	6/23/2015	6/23/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 2,000
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CU8109566	6/23/2015	6/23/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	<b>Excess Umbrella</b>			ECO(16)56524647	6/23/2015	6/23/2016	Each Occurrence 3,000,000 Aggregate 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Lease of space at Portland Ocean

Terminal warehouse on the Maine State Pier. City of Portland is Additional Insured on a primary and non-contributory basis under general liability and auto liability. 30 day notice of cancellation applies except 10 days for non-payment of premium pursuant to Maine Law.

**CERTIFICATE HOLDER**

City of Portland  
 389 Congress Street  
 Portland, ME 04101

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Hope Cote/HAC

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**COMMERCIAL GENERAL LIABILITY EXTENSION ENDORSEMENT**

This endorsement modifies insurance under the

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

The following endorsement provision does not apply when "X" is shown in the space provided below:

- Provision **C. PROPERTY DAMAGE – BORROWED EQUIPMENT** does not apply
- Provision **D. PROPERTY DAMAGE – CUSTOMERS' GOODS** does not apply
- Provision **G. MEDICAL PAYMENTS EXTENSION** does not apply
- Provision **I. ADDITIONAL INSUREDS – BY CONTRACT, AGREEMENT OR PERMIT** does not apply
- Provision **J. ADDITIONAL INSUREDS – VENDORS** does not apply
- Provision **K. BROAD FORM NAMED INSURED** does not apply
- Provision **L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES** does not apply
- Provision **M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT** does not apply

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement)

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

**A. NON-OWNED AIRCRAFT**

Under paragraph 2. **Exclusions** of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY (SECTION I)**, exclusion **g. Aircraft, Auto Or Watercraft** does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

**B. NON-OWNED WATERCRAFT**

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Under paragraph 2. **Exclusions** of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY (SECTION I)**, provision (2)(a) of exclusion **g. Aircraft, Auto Or Watercraft** is replaced by the following:

This exclusion does not apply to:

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

#### **C. PROPERTY DAMAGE - BORROWED EQUIPMENT**

1. Under paragraph 2. **Exclusions** of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY (SECTION I)**, provision (4) of exclusion **j. Damage To Property** does not apply to "property damage" to borrowed equipment while that equipment is not being used to perform operations at the job site.
2. Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, the following is added to Condition 4. **Other Insurance**, paragraph **b. Excess Insurance**:

The insurance afforded by provision **C.** in the Commercial General Liability Extension Endorsement is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is property insurance.

3. This endorsement provision **C.** does not apply when it is shown in the Schedule as not applicable.

#### **D. PROPERTY DAMAGE – CUSTOMERS’ GOODS**

1. Under paragraph 2. **Exclusions** of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY (SECTION I)**, provisions (3), (4) and (6) of exclusion **j. Damage To Property** do not apply to "property damage" to "customers' goods" while on your premises.
2. Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, the following is added to Condition 4. **Other Insurance**, paragraph **b. Excess Insurance**:

The insurance afforded by provision **D.** in the Commercial General Liability Extension Endorsement is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is property insurance.

3. The following is added to **SECTION V - DEFINITIONS**:

"Customers' goods" means property of your customer on your premises for the purpose of being worked on or used in your manufacturing process.

4. This endorsement provision **D.** does not apply when it is shown in the Schedule as not applicable.

#### **E. PROPERTY DAMAGE LIABILITY – ELEVATORS**

1. Under paragraph 2. **Exclusions** of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY (SECTION I)**, provisions (3), (4) and (6) of exclusion **j. Damage To Property** do not apply if such "property damage" results from the use of elevators.

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2. The following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, Condition **4. Other Insurance**, paragraph **b. Excess Insurance**:

The insurance afforded by provision **E.** in the Commercial General Liability Extension Endorsement is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is property insurance.

#### **F. DAMAGE BY FIRE, LIGHTNING, EXPLOSION, SMOKE OR LEAKAGE**

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under subsection **2. Exclusions** of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY (SECTION I)**:

- a. The fourth from the last paragraph of exclusion **j. Damage To Property** is replaced by the following:

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **SECTION III – LIMITS OF INSURANCE**.

- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **SECTION III - LIMITS OF INSURANCE**.

2. Paragraph **6.** under **SECTION III - LIMITS OF INSURANCE** is replaced by the following:

6. Subject to **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic protection systems, while rented to you or temporarily occupied by you with permission of the owner. This limit is the greater of:

- a. \$300,000; or

- b. The amount shown in the Declarations for Damage To Premises Rented To You Limit.

3. The word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protection systems" where it appears in:

- a. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Condition **4. Other Insurance**, paragraph **b. Excess Insurance**, subparagraph **(1)(b)**; and

- b. **SECTION V – DEFINITIONS**, paragraph **9.a.**

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## **G. MEDICAL PAYMENTS EXTENSION**

1. **SECTION III - LIMITS OF INSURANCE**, paragraph 7. is replaced by the following:
  7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C. for all medical expenses because of "bodily injury" sustained by any one person. The Medical Expense Limit is the greater of:
    - a. \$15,000; or
    - b. The Medical Expense Limit shown in the Declarations.
2. Under provision 1. **Insuring Agreement** of **COVERAGE C MEDICAL PAYMENTS (SECTION I)**, the second subparagraph (2) of paragraph a. is replaced by the following:
  - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
3. This endorsement provision G. does not apply when:
  - a. It is shown in the Schedule as not applicable; or
  - b. **COVERAGE C. MEDICAL PAYMENTS (SECTION I)** is otherwise excluded from this Coverage Part.

## **H. EXTENSION OF SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

Under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**:

1. Paragraph 1.b. is replaced by the following:
  - b. Up to \$2500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
2. Paragraph 1.d. is replaced by the following:
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$300 a day because of time off from work.

## **I. ADDITIONAL INSUREDS - BY CONTRACT, AGREEMENT OR PERMIT**

1. Paragraph 2. under **SECTION II - WHO IS AN INSURED** is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy to provide insurance such as is afforded under this Coverage Part. Such person or organization is an additional insured only with respect to liability arising out of:
  - a. Your ongoing operations performed for that person or organization; or

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**b.** Premises or facilities owned or used by you.

With respect to provision **1.a.** above, a person's or organization's status as an insured under this endorsement ends when your operations for that person or organization are completed.

With respect to provision **1.b.** above, a person's or organization's status as an insured under this endorsement ends when their contract or agreement with you for such premises or facilities ends.

**2.** This endorsement provision **I.** does not apply:

**a.** Unless the written contract or agreement has been executed, or permit has been issued, prior to the "bodily injury", "property damage" or "personal and advertising injury";

**b.** To "bodily injury" or "property damage" occurring after:

**(1)** All work, including materials, parts or equipment furnished in connection with such work, in the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

**(2)** That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project;

**c.** To the rendering of or failure to render any professional services including, but not limited to, any professional architectural, engineering or surveying services such as:

**(1)** The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and

**(2)** Supervisory, inspection, architectural or engineering activities;

**d.** To "bodily injury", "property damage" or "personal and advertising injury" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing;

**e.** To any person or organization included as an insured under provision **J.** of this endorsement;

**f.** To any person or organization included as an insured by a separate additional insured endorsement issued by us and made a part of this policy; or

**g.** When it is shown in the Schedule as not applicable.

## **J. ADDITIONAL INSURED – VENDORS**

Paragraph **2.** under **SECTION II - WHO IS AN INSURED** is amended to include as an insured any person or organization (referred to below as "vendor") with whom you agreed, in a written contract or agreement to provide insurance such as is afforded under this policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

**1.** The insurance afforded the vendor does not apply to:

**a.** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply

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to liability for damages that the vendor would have in the absence of the contract or agreement;

- b. Any express warranty unauthorized by you;
  - c. Any physical or chemical change in the product made intentionally by the vendor;
  - d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the course of business, in connection with the distribution or sale of the products;
  - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
  - h. To "bodily injury" or "property damage" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
  3. This endorsement provision J. does not apply when it is shown in the Schedule as not applicable.

#### **K. BROAD FORM NAMED INSURED**

1. **SECTION II - WHO IS AN INSURED** is amended to include as an insured any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period.
2. Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, the following is added to Condition 4. **Other Insurance**, paragraph b. **Excess Insurance**:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to an insured solely by reason of ownership by you of more than 50 percent of the voting stock.

3. Paragraph 2. of this endorsement provision K. does not apply to a policy written to apply specifically in excess of this policy.
4. This endorsement provision K. does not apply when it is shown in the Schedule as not applicable.

#### **L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES**

1. Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, the following is added to Condition 6. **Representations**:

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Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior "occurrences" is not intentional.

2. This endorsement provision **L.** does not apply when it is shown in the Schedule as not applicable.

#### **M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT**

1. Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, the following is added to Condition **2. Duties in the Event of Occurrence, Offense, Claim Or Suit**:

Knowledge of an "occurrence", offense, claim or "suit" by an agent, servant or "employee" of any insured shall not in itself constitute knowledge of the insured unless an insured listed under paragraph **1.** of **SECTION II – WHO IS AN INSURED** or a person who has been designated by them to receive reports of occurrences, offenses, claims and "suits" shall have received such notice from the agent, servant or "employee".

2. This endorsement provision **M.** does not apply when it is shown in the Schedule as not applicable.

#### **N. LIBERALIZATION CLAUSE**

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state. This does not apply to provisions that are shown in the Schedule as not applicable.

#### **O. BODILY INJURY REDEFINED**

Under **SECTION V - DEFINITIONS**, definition **3.** is replaced by the following:

3. "Bodily Injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BUSINESS AUTO EXTENSION ENDORSEMENT

### COVERAGE INDEX

Description	Page
TEMPORARY SUBSTITUTE AUTO PHYSICAL DAMAGE	1
BROAD FORM INSURED	2
EMPLOYEES AS INSURED	2
ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT	2
SUPPLEMENTARY PAYMENTS	2
AMENDED FELLOW EMPLOYEE EXCLUSION	3
HIRED AUTO PHYSICAL DAMAGE	3
TOWING AND LABOR	3
PHYSICAL DAMAGE- ADDITIONAL TRANSPORTATION EXPENSE COVERAGE	3
RENTAL REIMBURSEMENT	4
EXTRA EXPENSE - BROADENED COVERAGE	4
PERSONAL EFFECTS COVERAGE	4
AIRBAG COVERAGE	4
SOUND RECEIVING AND REPRODUCING EQUIPMENT - BROADENED COVERAGE	4
LEASE GAP	5
GLASS REPAIR - WAIVER OF DEDUCTIBLE	6
DRIVE OTHER CAR FOR EXECUTIVE OFFICERS	6
UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS	7
AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS	7
BODILY INJURY REDEFINED	7
EXTENDED CANCELLATION CONDITION	7

The following modifies insurance under the:  
BUSINESS AUTO COVERAGE FORM

### 1. TEMPORARY SUBSTITUTE AUTO PHYSICAL DAMAGE

SECTION I - COVERED AUTOS, paragraph C. is changed by adding the following:

If Physical Damage Coverage is provided under the Business Auto Coverage Form for an "auto" you own, the Physical Damage coverages provided for that owned "auto" are extended to any "auto" you do not own while used with the permission of its owner as a temporary substitute for the covered "auto" you own that is out of service because of its breakdown, repair, servicing, "loss", or destruction.

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## 2. BROAD FORM INSURED

SECTION II - LIABILITY COVERAGE - WHO IS AN INSURED is amended to include as an insured:

1. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the period for which this endorsement is effective, if there is no similar insurance available to that organization. However, the Named Insured does not include any organization:
  - a. that is a partnership or joint venture, or
  - b. that is an insured under any other policy, or has exhausted its Limit of Insurance under any other policy.
2. Paragraph 1. b. above does not apply to a policy written to apply specifically in excess of this policy.
3. Coverage for newly acquired or formed organizations is afforded only for 180 days from the date of acquisition or formation.
4. Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired that organization.

## 3. EMPLOYEES AS INSUREDS

SECTION II - LIABILITY COVERAGE - WHO IS AN INSURED is amended to include as an insured:

Any employee of yours while using a covered "auto" you do not own, hire or borrow in your business or your personal affairs.

## 4. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT

SECTION II - LIABILITY COVERAGE - WHO IS AN INSURED is amended to include as an insured any person or organization with whom you have agreed in writing in a contract, agreement or permit, to provide insurance such as is afforded under this policy.

This provision 4. does not apply unless the written contract or agreement has been executed, or permit has been issued, prior to the "bodily injury" or "property damage."

## 5. SUPPLEMENTARY PAYMENTS

SECTION II - LIABILITY COVERAGE, 2.a. Supplementary Payments, items (2) and (4) are replaced by the following:

- (2) Up to \$2500 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$300 a day because of time off from work.

## 6. AMENDED FELLOW EMPLOYEE EXCLUSION

SECTION II - LIABILITY, exclusion 5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

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The insurance provided under this provision 6. is excess over any other collectible insurance.

## **7. HIRED AUTO PHYSICAL DAMAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss, or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos" you hire, subject to the following limit and deductible:

The most we will pay for "loss" to any hired "auto" is \$50,000 or Actual Cash Value or Cost of Repair, whichever is smallest, minus a deductible.

The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning.

Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

Subject to a maximum of \$500 per "accident", we will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable, and the lessor incurs an actual financial loss.

The insurance provided under this provision 7. is excess over any other collectible insurance.

## **8. TOWING AND LABOR**

SECTION III - PHYSICAL DAMAGE COVERAGE, A.2.Towing, is replaced by the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles or "light trucks" we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- b. For "medium trucks" we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 - 20,000 pounds.

However, the labor must be performed at the place of disablement.

## **9. PHYSICAL DAMAGE- ADDITIONAL TRANSPORTATION EXPENSE COVERAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE, A.4. Coverage Extension, is amended to provide a limit of \$50 per day and a maximum limit of \$1000.

## **10. RENTAL REIMBURSEMENT**

SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of

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“accident” or “loss”, other than theft, to a covered “auto”. We will pay only for those expenses incurred after the first 24 hours following the “accident” or “loss” to the covered “auto.”

The most we will pay for any one “accident” or “loss” is \$1000. No deductible applies to this coverage.

#### **11. EXTRA EXPENSE - BROADENED COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, we will pay for the expense of returning a stolen covered “auto” to you.

#### **12. PERSONAL EFFECTS COVERAGE**

A. SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an “auto” you own and that “auto” is stolen, we will pay, without application of a deductible, up to \$600 for “personal effects” stolen with the “auto.”

The insurance provided under this provision 12. is excess over any other collectible insurance.

B. SECTION V - DEFINITIONS is amended by adding the following:

“Personal effects” means tangible property that is worn or carried by an “insured”. “Personal effects” does not include tools, jewelry, money or securities.

#### **13. AIRBAG COVERAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion relating to mechanical breakdown does not apply to the accidental discharge of an air bag.

#### **14. SOUND RECEIVING AND REPRODUCING EQUIPMENT - BROADENED COVERAGE**

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS is amended by adding the following:

The exclusion as it relates to sound receiving or reproducing equipment does not apply to sound receiving or reproducing equipment that is permanently installed in a covered “auto.”

## 15. LEASE GAP

- A. SECTION III - PHYSICAL DAMAGE COVERAGE - LIMIT OF INSURANCE is amended by adding the following:

The most we will pay for a "total loss" in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
  - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
  - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
  - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
  - d. Transfer or rollover balances from previous loans or leases,
  - e. Final payment due under a "Balloon Loan",
  - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
  - g. Security deposits not refunded by a lessor,
  - h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
  - i. Any amount representing taxes,
  - j. Loan or lease termination fees, or;
2. The actual cash value of the damaged or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of the "loss".

- B. ADDITIONAL CONDITIONS

This coverage applies only to the original loan or lease written on a covered "auto".

- C. SECTION V - DEFINITIONS is changed by adding the following:

As used in this endorsement, "total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.

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## 16. GLASS REPAIR - WAIVER OF DEDUCTIBLE

SECTION III - PHYSICAL DAMAGE COVERAGE is amended by adding the following to D. DEDUCTIBLE :

No deductible applies to glass damage if the glass is repaired rather than replaced.

## 17. DRIVE OTHER CAR FOR EXECUTIVE OFFICERS

A. This provision 17. changes only those coverages where a limit and premium is shown in the Declarations.

B. CHANGES IN LIABILITY COVERAGE:

Any "auto" you do not own, hire or borrow is a covered "auto" for Liability Coverage while being used by any of your "executive officers", except:

Any "auto" owned by that "executive officer" or a member of that person's household, or

Any "auto" used by that "executive officer" while working in a business of selling, servicing, repairing or parking "autos".

C. CHANGES IN AUTO MEDICAL PAYMENTS AND UNINSURED MOTORISTS AND UNDERINSURED MOTORISTS COVERAGE

The following is added to WHO IS AN INSURED:

Any individual "insured" and his or her "family members" are "insured" while "occupying" or while a pedestrian when being struck by any "auto" you do not own except:

Any "auto" owned by that individual or by any "family member".

D. CHANGES IN PHYSICAL DAMAGE COVERAGE:

Any private passenger type "auto" you do not own, hire or borrow is a covered "auto" while in the care, custody or control of any of your "executive officers" except:

Any "auto" owned by that individual or by any member of his or her household.

Any "auto" owned by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

E. ADDITIONAL DEFINITIONS:

As used in this endorsement:

"Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and that person's spouse, while a resident of the same household.

"Family member" means a person related to an "executive officer" by blood, marriage or adoption who is a resident of the individual's household, including a ward or foster child.

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F. The insurance provided under this provision 17. will be:

Equal to the broadest of those coverages afforded any covered "auto", and

Excess over any other collectible insurance.

## **18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

If you unintentionally fail to disclose any hazards or exposures existing as of the inception date of the Business Auto Coverage Part, the coverage afforded by this policy will not be prejudiced. However, you must report the undisclosed hazard or exposure as soon as practicable after its discovery, and we have the right to collect additional premium for same.

## **19. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR "LOSS"**

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph A.2.a. is amended by adding the following:

You must give us notice of an "accident", claim, "suit" or "loss" only when it is known to:

1. You, if you are an individual,
2. A partner, if you are a partnership,
3. A member, if you are a limited liability company, or
4. An executive officer or the "employee" designated by the Named Insured to give such notice, if you are a corporation.

## **20. BODILY INJURY REDEFINED**

Under SECTION V - DEFINITIONS, definition C. is replaced by the following:

"Bodily Injury" means physical injury, sickness or disease sustained by a person including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

## **21. EXTENDED CANCELLATION CONDITION**

The COMMON POLICY CONDITIONS - CANCELLATION provision applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision 21. does not apply in those states which require more than 60 days prior notice of cancellation.



Economic Development Department  
Gregory A. Mitchell, Director

## **MEMORANDUM**

**TO:** Economic Development Committee

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

**DATE:** March 14, 2018

**SUBJECT:** Lease Renewal for Bay Ferries Limited/  
Third Amendment to Amended and Restated Lease

### **I. ONE SENTENCE SUMMARY**

A one-year Lease renewal is being requested by Bay Ferries Limited for use of the Ocean Gateway facility for the 2018 season to support ferry service between Portland, Maine and Yarmouth, Nova Scotia.

### **II. BACKGROUND**

In 2016, Bay Ferries returned to the Port of Portland operating the CAT ferry service between Yarmouth, Nova Scotia and Portland, Maine. At that time, the City Council approved a lease with Bay Ferries Limited on May 2, 2016. The Lease was for a two-year term with a single one-year renewal option, which is the subject of the current request.

Amendments to the approved Amended and Restated Lease for the 2018 season include:

- *Term;*
- *Annual Rent and Fees;*
- *Employee Parking;*
- *Custom Border and Protection (CBP) required Federal security equipment; and*
- *2018 Season Schedule.*

### ***Term***

A one-year renewal through 2018 is requested, with one additional one year renewal through 2019 based upon mutually agreeable terms.

### ***Rent/Fee Schedule***

Staff is proposing no changes to the rent and fee schedule included in the Amended and Restated Lease, with the exception of deleting parking fees.

### ***Parking***

No employee parking will be provided at the City owned Thames Street parking lot with the proposed amendments.

### ***Custom Border and Protection (CBP)***

CBP is requiring upgrades to Federal security equipment to continue ferry service in 2018.

The City and Bay Ferries are working with CBP and their preferred contractors to upgrade security equipment at Ocean Gateway. Bay Ferries will cover all costs associated with Federal security equipment investments.

### ***2018 Season Schedule***

See new Exhibit D for the 2018 ferry season schedule.

## **III. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED**

City Council vote to approve the Third Amendment to the Amended and Restated Lease Agreement between the City of Portland and Bay Ferries Limited.

## **IV. FINANCIAL IMPACT**

During the 2016 sailing season, the Lease with Bay Ferries generated \$142,500 from space rent, parking, passenger/vehicle fees, and berthing fees.

During the 2017 sailing season, the Lease with Bay Ferries generated over \$200,000 from the same space rent, parking, passenger/vehicle fees, and berthing fees.

## **V. STAFF ANALYSIS**

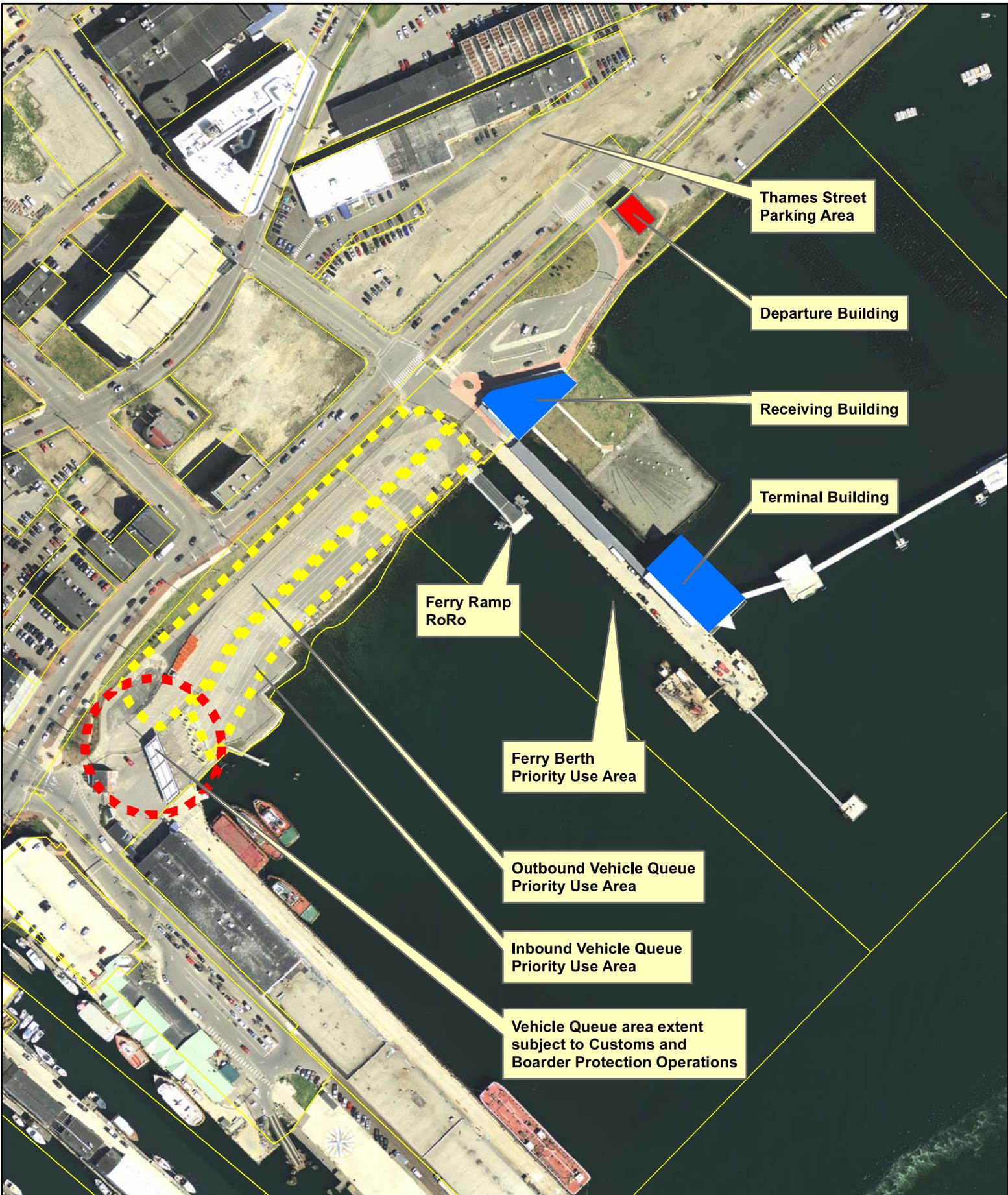
Staff has been working with Bay Ferries to prepare the attached proposed Third Amendment to the Amended and Restated Lease Agreement to address 2018 season needs and requirements.

## **VI. STAFF RECOMMENDATION**

To recommend approval, to the City Council, of the Proposed Third Amendment to the Amended and Restated Lease.

## **VII. LIST ATTACHMENTS**

- Map of Ocean Gateway
- Proposed Third Amendment to Amended and Restated Lease Agreement
- Amended and Restated Lease Agreement
- First Amendment to Amended and Restated Lease Agreement
- Second Amendment to Amended and Restated Lease Agreement



Thames Street  
Parking Area

Departure Building

Receiving Building

Terminal Building

Ferry Ramp  
RoRo

Ferry Berth  
Priority Use Area

Outbound Vehicle Queue  
Priority Use Area

Inbound Vehicle Queue  
Priority Use Area

Vehicle Queue area extent  
subject to Customs and  
Border Protection Operations

250 125 0 250 Feet



**Ocean Gateway Site and Facilities**  
**Bay Ferries, Limited**  
**Lease Exhibit A**

April 2016

3 of 40

**THIRD AMENDMENT TO**  
**AMENDED AND RESTATED LEASE AGREEMENT BETWEEN**  
**CITY OF PORTLAND AND BAY FERRIES LIMITED RE: OCEAN GATEWAY**

THIS THIRD AMENDMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (“Landlord”) and BAY FERRIES LIMITED, a Canadian registered corporation with a principal office at 94 Water Street, Charlottetown, Prince Edward Island, Canada C1A 7L3 (the “Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into an Amended and Restated Lease Agreement dated May 26, 2017, as amended by a First Amendment dated August 28, 2017, and a Second Amendment dated October 13, 2017 (collectively, the “Lease”) with respect to certain space at Landlord’s property known as Ocean Gateway, where Tenant operates an international ferry service between Portland, Maine and Yarmouth, Nova Scotia; and

WHEREAS, Landlord and Tenant wish to renew the Lease for the 2018 Operating Season subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Section 1(c) of the Lease, Parking, is hereby deleted in its entirety and replaced with the following: “There shall be no parking included in this Lease.”
2. Section 2(a) of the Lease is hereby deleted and replaced with the following:

“Term. The Term of this Lease shall be from the date set forth above to November 15, 2018. Provided that Landlord, in its sole discretion, determines that Tenant is not in default of any term or condition of this Lease, Landlord may agree to renew this Lease for up to one additional year upon terms mutually agreeable to the parties. If Tenant desires to so renew this Lease, Tenant shall notify Landlord on or before October 15, 2018.

3. Section 2(b) of the Lease is hereby deleted and replaced with the following:

**“Operating Season; Wind Up and Wind Down Seasons; Off Season.”** Tenant’s Operating Season shall be June 8, 2018 to October 8, 2018 (the “Operating Season”). The term “Wind Up Season” shall mean June 5-7, 2018. The term “Wind Down Season” shall be October 9-12, 2018, or the three (3) day period following the Operating Season if the Operating Season terminates before October 8, 2018. Tenant shall have no right to occupy, and shall vacate, the Queuing Area, the Berthing Area, the Ramp, the Exterior Common Areas, the Terminal Building, and any other City-owned property, other than the Departure Building, after October 21, 2018. Tenant shall vacate the Departure Building and surrender possession of it to the

Landlord in accordance with the terms of the Lease on or before November 15, 2018. The term "Off Season" shall mean from the date first set forth above until June 4, 2108. In the event that Landlord agrees to renew this Lease as set forth above, the term "Off Season" shall also mean the period between the end of the 2018 Wind Down Season and commencement of the 2019 Wind Up Season"

4. Section 5(b) is hereby deleted in its entirety and replaced with the following:

"In the event Tenant wishes to make any improvements to any portion of the Premises, including any improvements required by CBP, it shall obtain the written approval of Landlord prior to undertaking any such improvements, which approval shall not be unreasonably withheld. All such improvements shall be at Tenant's sole cost and expense."

5. The following language is added to the Lease as section 7(t):

"On or before May 1, 2018, Tenant shall present Landlord with a licensed engineer's plan ("Plan") satisfactory to the City's Waterfront Manager, to mitigate future damage to the Seawall or any other part of the City's property which shall include installation of riprap by Cross Excavation at the quoted cost of \$15,698. Prior to the commencement of the 2018 Operating Season, Tenant shall complete construction of any required facilities described in said Plan, up to a maximum expenditure cap of \$20,000 (inclusive of the \$15,698 referred to above), to the Waterfront Manager's satisfaction. Compliance with this paragraph shall not relieve Tenant of any responsibility otherwise existing for any damage to, or its obligation to maintain or repair, the Premises or other City property."

6. The following is added to the Lease as section 28:

**28. USCBP 2018 Security Equipment Requirements:** U.S. Customs and Border Protection ("CBP") requires that a series of equipment and operational changes (the "CBP Requirements") be made to the Premises as a prerequisite to CBP providing inspection services for the 2018 Operating Season. The details and exact terms of the CBP Requirements are being discussed on an ongoing basis between CBP, the Tenant, and the Landlord. The parties acknowledge and agree that without such inspection services, Tenant cannot operate its ferry service. Accordingly, notwithstanding anything to the contrary in the Lease, in the event that CBP, at any time, decides to terminate its international inspection services for Tenant's ferry service, the Lease shall automatically terminate. Within 5 days after the date of CBP's decision to terminate such inspection services, Tenant shall vacate the Queuing Area, the Berthing Area, the Ramp, the Exterior Common Areas, the Terminal Building, and any other City-owned property, other than the Departure Building; and within 30 days after CBP's decision to terminate the inspection services, Tenant shall vacate the Departure Building and all other portions of the Premises not previously vacated.

Tenant acknowledges and agrees that it shall be solely responsible for all of the costs associated with the CBP Requirements, including, without limitation, all costs associated with the initial

assessments undertaken by third party contractors, all costs associated with the purchase and installation of equipment required by CBP, and all other costs associated with complying with, and maintaining, any CBP Requirements for approval of the Premises for Tenant's operation of its international ferry service (the "CBP Improvements Costs"). It is the intent of the parties that the Landlord shall incur no expense in connection with obtaining CBP's approval of the Premises for Tenant's operation of its international ferry service and maintaining that approval during the term of the Lease, and the Landlord shall not be responsible for any portion of the CBP Improvements Costs.

It is understood that the contracts for the most significant elements of the CBP Improvements (the "CBP Improvement Contracts") may be entered into with Battelle Memorial Institute, Pacific Northwest Division, UNISYS, or other contractors (collectively the "CBP Contractors"). If permitted by the CBP Contractors, Tenant will enter into any CBP Improvement Contracts with the CBP Contractors. The CBP Improvement Contracts shall be subject to the Landlord's approval, but Landlord shall not be liable for any expenses, costs, losses, damages, or claims incurred under such contracts. Should it become necessary that Landlord, as owner of the Premises, be a party to any CBP Improvement Contracts, the Landlord's execution of such contracts shall be conditioned upon Tenant first paying to Landlord all amounts due to the contractors under such contracts, or, at Landlord's option, providing some other financial security in form and amount satisfactory to Landlord, acting reasonably, which is reflective of Landlord's financial exposure pursuant to the terms of the CBP Improvement Contract(s). Notwithstanding the foregoing, in the event that Landlord incurs any costs related to the CPB Requirements, Tenant shall pay Landlord for such costs within five days of Landlord's demand for same, failing which the Lease shall automatically terminate.

Provided that Tenant has paid for all costs associated with the CBP Requirements as set forth herein, Landlord will not assert any ownership or other interest in any goods or equipment installed pursuant to or as a result of the CBP Requirements. Landlord will not object to any subsequent removal of any such goods or equipment to another location upon termination of this Lease.

Tenant further agrees that to the fullest extent permitted by law, it shall defend, indemnify, and hold harmless Landlord, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorney's fees arising out of or resulting from the performance of any and all CBP Improvement Contracts, provided that any such claims, damage, loss damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use therefrom. Such obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the Landlord that otherwise exists. The extent of the indemnification provision shall not be limited by the provision for insurance in Lease. Tenant's obligations under this paragraph shall survive termination of the Lease.

7. The following language in Exhibit B attached to the Lease is hereby deleted: “Daily Parking per space, per month \$75.00.”
8. Exhibit D (2017 CAT Schedule) attached to the Lease is hereby deleted in its entirety and replaced with Amended Exhibit D (2018 CAT Schedule), which is attached hereto and made a part hereof.
9. Any and all terms of the Lease not herein amended shall remain in full force and effect for the duration of the Lease as amended hereby and are hereby ratified. In the event of any conflict between the terms of this Amendment and the terms of the Lease and any exhibits thereto, the terms of this Amendment shall govern and control so long as this Amendment is in effect. Except as amended hereby, any capitalized terms herein shall have the meanings set forth in the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed by their duly authorized representatives or officers, as of the date first written above.

WITNESS:

CITY OF PORTLAND

\_\_\_\_\_

By: \_\_\_\_\_  
 Jon P. Jennings  
 Its City Manager

WITNESS:

BAY FERRIES LIMITED

\_\_\_\_\_

By: \_\_\_\_\_  
 Mark MacDonald  
 Its: Chairman and CEO

\_\_\_\_\_  
 Approved as to Form:  
 City Corporation Counsel's Office

\_\_\_\_\_  
 Approved as to Funds:  
 City Finance Director

# AMENDED EXHIBIT D



## Tentative CAT Ferry Operating Schedule 2018\*

[www.ferries.ca/TheCAT](http://www.ferries.ca/TheCAT)

Departure Times						
Yarmouth, NS: 8:30 AM (Atlantic)						
Portland, ME: 2:30 PM (Eastern)						
(Atlantic Time is one hour ahead of Eastern Time)						
Passengers must check in 1-1.5 hours before departure.						
Passports are required for entry to Canada and USA.						

JUNE						
Su	Mo	Tu	We	Th	Fr	Sa
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
1	2	3	4	5	6	7

JULY						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

AUGUST						
Su	Mo	Tu	We	Th	Fr	Sa
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1
2	3	4	5	6	7	8

SEPTEMBER						
Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6

OCTOBER						
Su	Mo	Tu	We	Th	Fr	Sa
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

Service Dates are shaded in the calendars above. Non-service dates are white.

**AMENDED AND  
RESTATED LEASE  
AGREEMENT BETWEEN  
CITY OF PORTLAND AND  
BAY FERRIES  
LIMITED RE:  
OCEAN  
GATEWAY**

**THIS AMENDED AND RESTATED LEASE AGREEMENT** dated this 26<sup>th</sup> day of May, 2017 is by and between the City of Portland, Maine, Maine municipal corporation with a principal office at 389 Congress Street, Portland, Maine 04101 (the "Landlord"), and Bay Ferries Limited, a Canadian registered corporation with a principal office at 94 Water Street, Charlottetown, Prince Edward Island, Canada, C1A 7L3 (the "Tenant").

**WHEREAS**, Landlord and Tenant are parties to a Lease Agreement dated June 1, 2016 (the "Original Lease") for certain space at the Landlord's property known as Ocean Gateway where Tenant operates an international ferry service between Portland, Maine and Yarmouth, Nova Scotia (the "Ferry Service") on a ferry vessel known as "Alakai" (commercially branded as "The Cat"), 106.5 meters in length (the "Vessel"); and

**WHEREAS**, Landlord and Tenant desire to make substantial amendments to the terms and conditions of the Original Lease and wish to enter into an amended and restated lease agreement to address those amendments; and

**NOW THEREFORE**, in consideration of the mutual covenants and considerations herein contained, the sufficiency of which is hereby acknowledged, Landlord and Tenant hereby mutually agree that the Original Lease be amended and restated as of the Effective Date (as defined in Section 2 below).

**1. Premises; As-Is Condition; Permitted Uses.**

Landlord does hereby lease, demise and let unto Tenant, to have and to hold on the terms herein, subject to the reservations and conditions below, the premises identified herein and shown on Exhibit A, attached hereto and incorporated herein. Tenant agrees to accept the premises in "as-is" condition without representation or warranty by Landlord as to its condition or fitness for a particular purpose.

a. **Spaces for exclusive use at certain times.** The following spaces are available for the Exclusive use of Tenant for the hours stated during the Operating Season (as defined below):

i. **Queuing Areas.** The sole areas to be used for marshalling inbound and outbound vehicles and processing of passengers by U.S. Customs and Border Protection ("CBP") are the areas labeled "Outbound Queuing Area" and "Inbound Queuing Area" on Exhibit A (collectively the "Queuing Areas"), as may be



modified to meet CBP requirements. The Outbound Queuing Area is to be used for vehicles and passengers preparing to depart from Portland. The Inbound Queuing Area is to be used for vehicles and passengers arriving in Portland. Said Queuing Areas are to be used by Tenant on a non-exclusive but priority basis during the Operating Season to accommodate its sailing schedule, as outlined below. During the Operating Season, the Inbound Queuing area will only be available to the Tenant for its exclusive use, between the hours of 1:15 P.M. and 3:15 P.M., only on the Service Dates listed on Exhibit D attached hereto (the "Service Dates"), and the Outbound Queuing area will be available to the Tenant for its exclusive use between the hours of 12:00 P.M. (or earlier, if permitted by the City of Portland's Director of Facilities Management or his/her designee (the "Director") and 3:00 P.M. only on the Service Dates. The Queuing Areas may be reduced temporarily by mutual agreement of the Director and the Tenant. Tenant may place in the Queuing area any trailers or other facilities or improvements required by CPB with the prior approval of the Landlord, which may not be unreasonably withheld, and subject to any applicable permits, licenses or approvals required federal, state, and municipal laws, rules, and regulations. No tractor trailer trucks, or other trucks or vehicles with trailers exceeding a total of fifty (50) feet in length, shall be allowed to transit on the Ferry Service or be present in the Queuing Areas.

ii. **Berthing Area.** During the Operating Season, the Berthing Area depicted on Exhibit A will be available to the Tenant for its exclusive use between the hours of 1:30 P.M. and 3:00 P.M., only on the Service Dates. In the event Tenant desires unscheduled berthing, Tenant shall request such berthing with as much advance notice as possible. Landlord shall grant such requests if berthing is available. When off-schedule berthing is not available, the Landlord shall use reasonable efforts to assign a secondary berth to Tenant. Tenant shall be solely responsible for the cost of moving its vessel to off-schedule secondary berthing, including but not limited to any security costs, and Landlord shall have no responsibility for such moving, security or related costs. During the Operating Season, as that term is defined below, Tenant's use of the Berthing Area shall at all times include the exclusive use of the "roll-on, roll-off" ramp facilities at the OG Terminal (the "Ramp") (as depicted on Exhibit A) for vehicle and passenger loading and unloading. During the "Wind Up and Wind Down" Seasons, as those terms are defined below, if Tenant desires unscheduled use of the Ramp, Tenant shall request such use with as much advance notice as possible. It is understood that Tenant may require some, although not exclusive, daytime and nighttime use of the ramp in the Wind Up Season for training and preparation purposes and Landlord and Tenant agree to work cooperatively to schedule such usage, if available, and to also enable Landlord's continued generation of berthage revenue from other parties. Tenant's use of the Ramp is at Tenant's sole risk. Unless otherwise agreed to by Landlord, Tenant shall have no right to use the Berthing Area at any time during the Off Season, as that term is defined below. It is further understood between the parties as follows:

- (a) On those days during the Operating Season when there is no cruise ship berthed at the Portland Ocean Terminal, and otherwise no operating restrictions within the Port, Tenant shall be free to berth earlier than 1:30 P.M.; and

(b) On those days within the Operating Season when there is a cruise ship berthed at the Portland Ocean Terminal, the Vessel may be secured at the berthing area prior to 1:30 P.M. provided passengers and vehicles are not released prior to 1:30 P.M. and provided such does not otherwise impede port operations. The parties intend there to be close collaboration and communication at all times so as to facilitate the most efficient operations for all parties.

iii. **Departure Building.** Tenant will have the exclusive use of the Departure Building (depicted on Exhibit A) for the term of this Lease for ticketing, processing of passengers, passenger waiting area, restrooms, and related uses.

iv. **Terminal Building:** The Tenant shall have the right to access the inbound Customs processing facility in the Terminal Building depicted on Exhibit A for processing inbound pedestrian passengers, who shall be moved by the Tenant from the Vessel to the Terminal Building by means acceptable to CBP and the Landlord. Such processing shall be limited to the hours of 1:30 p.m. and 3:00 p.m. on the Service Dates.

b. **Exterior Common Areas.** The following spaces are available for the non-exclusive use of Tenant during the Operating, Wind Up, and Wind Down Seasons: The walkways, driveways and roadways at the Ocean Gateway may be used by **Tenant** on a non-exclusive basis, in common with others. However, during hours that another vessel (such as a cruise ship) or scheduled event is using the Ocean Gateway Terminal, the **Tenant** and its passengers will only use the area for dropping off of customers and passenger ticketing, and **Tenant** will cooperate with **Landlord** to adequately place personnel for incoming customers and passengers to be aware of this use restriction. No outboard queuing is allowed in the Receiving Building parking lot or any area other than the Outbound Queuing Area.

c. **Parking.** Landlord will assign a maximum of 10 parking spaces to Tenant for employee parking in the City-owned Thames Street parking lot as generally depicted on Exhibit A (the "Parking Area") during the Operating, Wind Up and Wind Down Seasons of each year of the term of this Lease or any renewal term. No overnight parking will be allowed. Landlord reserves the right at any time during the term of this Lease to assign different parking spaces to Tenant. Landlord will not provide any customer parking. Employee vehicles parked in the Receiving Building Lot (as depicted on Exhibit A) are subject to ticketing if parked beyond posted limits.

d. **Landlord's Right to Relocate Premises.** The Queuing Areas, Berthing Area, the Ramp, the Departure Building, the Parking Area, and the Exterior Common Areas may be collectively referred to herein as the "Premises". Except for the Departure Building, Landlord reserves the right to change particular locations of the Premises, subject to the condition that such re-location(s) will not unreasonably burden the operations of Tenant. The intent of this reserved right to re-locate is to allow Landlord to continue the ongoing development and enhanced utilization of its limited waterfront real estate in coordination with other parties using or desiring to use nearby locations.



- e. **Use of Premises for Ferry Service.** During the term of this Lease, Tenant is permitted to use the Premises for the sole purpose of conducting an international Ferry Service between Portland, Maine and Yarmouth, Nova Scotia via the Vessel. Tenant agrees to provide four (4) to seven (7) days of service per week during the Operating Season, subject to normal exigencies of the ferry business, including weather and mechanical breakdown, lack of consumer demand, and other events beyond Tenant's control. Should sailings be fewer than seven (7) days per week during the Operating Season, monthly berthage payment shall not be reduced. Sailings shall be only on Service Dates with arrivals at 1:30 p.m. and departures before 3:00 p.m. Should Tenant wish to reduce its schedule of service, Tenant will provide as much notice as reasonably practicable and will provide best efforts to give notice at least fifteen (60) days in advance. Tenant acknowledges that no trade or occupation shall be conducted on or from the Premises or use made thereof that would be unlawful, improper, or offensive, or contrary to any law or any municipal by-law or ordinance.

There shall be no additional charge to the Tenant for overnight berthing in the Berthing Area during the Wind Up and Wind Down seasons, provided, however, that the Berthing Area will not be available overnight on Fridays during those periods.

- f. **Service Dates.** Tenant may only use the Berthing Area, the Terminal Building, and the Queuing Area on the Service Dates.
- g. **Landlord's Right to Relocate.** This Lease Agreement is non-exclusive, and nothing herein shall prevent or prohibit the Landlord from leasing other available space at either the Ocean Gateway or any other facility owned or operated by Landlord, to another Tenant for any purposes Landlord deems suitable, including but not limited to the operation of a similar ferry service. In no event, however, is the Landlord permitted to impair in any way the operations by Tenant. Tenant's use of the Queuing area and all other areas to be used by passengers is subject to any reduction in size or configuration or availability as may be required, at any time, by any security agencies having jurisdiction with respect to such areas.

## 2. **Term: Seasons.**

- a. **Term.** Except as provided below, the Term of this Lease shall be from June 1, 2016 (the "Effective Date") through October 15, 2017. Provided that Landlord, in its sole discretion, first determines that Tenant is not in default of any term or condition of this Lease, Landlord, in its sole discretion, may renew this Lease for up to one (1) additional year upon terms mutually agreeable to the parties. If Landlord desires to renew this Lease, Landlord shall so notify Tenant on or before September 15, 2017.
- b. **Operating Season; Wind Up and Wind Down Seasons; Off-Season.** Tenant's Operating Season shall be May 31, 2017 to October 15, 2017 (the "Operating Season"). The term "Wind Up Season" shall mean May 26, 2017

to May 30, 2017. The term "Wind Down Season" shall mean October 16, 2017 to October 19, 2017, or the three (3) day period following the Operating Season if that Season terminates before October 15, 2017. In the event that Landlord agrees to renew this lease as set forth above, the term "Off Season" shall mean the period between the end of the 2017 Wind Down Season and commencement of the 2018 Wind Up Season.

3. **Rent; Fees; Security Deposit.**

Tenant shall pay all rent and fees, when due, as provided below and on Exhibit B, attached hereto and incorporated herein.

4. **Payment; Statements.**

- a. On or before the fifteenth (15th) day of each month, Tenant shall pay to Landlord the per-passenger and per-vehicle fees on Exhibit B that were incurred in the previous month. Such payment shall be made without the need for an invoice from Landlord and shall be accompanied by Tenant's statement as provided below.
- b. Fees due during the Operating Season in paragraph a. above shall begin as of the first day of the month of said Operating Season. Tenant shall be responsible for payment of personal property taxes which may be payable on their trade fixtures and equipment, and for payment of any federal, state or local fees or taxes which may apply to their operations hereunder.
- c. **Late payment:** Tenant shall make prompt and timely payment of all rentals, fees, and other charges due hereunder as the same may from time to time come due. In the event that any such payment is not made within thirty (30) days of the invoice due date, a penalty of one percent (1%) per month 12% per annum) shall be assessed and paid on all such amounts outstanding.
- d. **Address:** All payments hereunder shall be written to the City of Portland and sent to the attention of: Public Assembly Facilities, Accounting Office, Portland Exposition Building, 239 Park Avenue, Portland, Maine 04102 or such other place as the Director may designate in writing from time to time.

Any invoices shall be sent to Tenant at the following address: Bay Ferries Limited, 94 Water Street, PO Box 634, Charlottetown, Prince Edward Island, Canada, C1A 7L3, Attn: Danny Bartlett, Vice President, Finance and Administration, or such other person or address as Tenant may designate in writing from time to time.

- e. **Tenant Statements:** Tenant shall submit its official manifest or other official documentation (or electronic equivalent) showing the number of passengers and vehicles transported by Tenant both to and from the City of Portland each month when it submits its per passenger and per vehicle fees under



Exhibit B. No amount shall be payable to the City of Portland in respect of passengers or vehicles transported by the Tenant on a complimentary basis.

- f. Landlord reserves the right to conduct an audit of Tenant's traffic records, upon reasonable notice and during regular business hours, to determine the accuracy of amounts paid hereunder. In the event such audit discloses an underpayment to Landlord of more than Five Percent (5%) in any year, Tenant shall pay to Landlord, in addition to the amount owed and any applicable late charges, the reasonable cost to Landlord of its audit, including legal, accounting, and consulting fees unless the underpayment shall have been the result of a bona fide mistake or miscalculation.

**5. Condition of Premises: Improvements to Premises.**

- a. "As is." Tenant has had the full opportunity to inspect the Premises prior to execution of this Lease and takes all such space, specifically including the Ramp, "as is," except as specifically provided herein. Should Tenant's Vessel require modifications to, improvements or replacement of the Ramp, such modifications or replacement shall be solely at Tenant's cost and expense, and subject to all required reviews and permits for such structure, including but not limited to approval of the Director which shall not be unreasonably withheld. Should Tenant require modification or improvements to the Queuing Areas, such modifications or improvements shall be solely at Tenant's cost and expense, and subject to all required reviews and permits for such improvements or modifications, including but not limited to approval of the Director, which shall not be unreasonably withheld.
- b. In the event Tenant wishes to make any improvements to any portion of the Premises, it shall obtain the written approval of Landlord prior to undertaking any such improvements, which approval shall not be unreasonably withheld. All such improvements shall be at Tenant's sole cost and expense, provided, however, that upon submission by Tenant and approval by Landlord of documented expenses for improvements to the Departure Building, Tenant shall be entitled to a credit against rent in the amount of twenty-four thousand dollars (\$25,000.00) for improvements to the Departure Building. Such credit shall be provided in two \$12,500.00 increments against rent due in June and July 2016.
- c. Notwithstanding the foregoing, Landlord agrees that Tenant may install, at Tenant's expense, only at particular locations approved in advance by the Director, its security camera system in order to monitor the docking basin, vehicle inspection or processing booth and waiting areas for security and operational issues; subject to the condition, however, that Tenant will share access with the Landlord to the 'live feed' from such cameras, as well as any recordings from such cameras if and when requested.



**6. Obligations of Landlord; Maintenance, Utilities.**

Except as otherwise provided herein, the Landlord shall provide for the 'landside' facilities only, at its expense, the following:

- a. Except as otherwise provided in this Lease, Tenant acknowledges and agrees that this Lease is a 'net lease', for the Landlord, and that the Landlord shall not be responsible for any costs, charges, expenses or the like whatsoever arising from or related to the leased Premises or rights, or the business carried on or related to said Premises or rights, and Tenant shall pay all costs, charges, expenses or the like of every nature and kind whatsoever relating to the leased premises or rights, including any passenger or vehicle ramps, unless specifically agreed to in advance in writing by Landlord.
- b. Landlord will provide heat and sewer services to the Departure Building. In addition, Landlord will provide water (including potable water) to the Vessel, at the Rates in Exhibit B.
- c. Landlord shall ensure that the roof, exterior walls, and structure of the Departure Building are secure, water-tight, and allow the Departure Building to be occupied as offices and a public sales facility. Landlord shall also maintain and repair the marine infrastructure (i.e., the passenger bridge, security fencing, and fendering, in the same condition as they are in at the commencement of the term of this Lease or as they may be put in during the term of this Agreement, reasonable wear and tear, damage by fire and other casualty only excepted, unless such maintenance or repair is made necessary by fault or neglect of Tenant or the employees, contractors, agents or invitees of Tenant, in which case such maintenance or repair shall be at the expense of the Tenant and Tenant shall pay all costs therefor.
- d. Maintenance and reasonable cleaning of the Exterior Common Areas, Queuing Area, and Parking Areas available for use by Tenant, its employees and invitees, including snow and ice removal.
- e. After Tenant reconfigures and repaints the travel lanes in the Queuing Areas as set forth below, Landlord may, in its discretion, repaint the lines for the travel lanes, but it has no obligation to do so.
- f. Access to washroom facilities in the Ocean Gateway on an escorted basis (if permitted by CBP) for outbound customers waiting in the Outbound Queuing Areas.

**7. Obligations of Tenant.**

Tenant covenants that it shall, at its expense:

- a. Provide four (4) to seven (7) days of service per week during the Operating Season in accordance with the schedule set forth in Exhibit D, subject to normal

exigencies of the ferry business, including weather and mechanical breakdown, lack of consumer demand, and other events beyond Tenant's control. Any suspension of operation of the vessel in excess of ten (10) consecutive days during the Operating Season, for reasons other than major mechanical failure of the Vessel, shall, at Landlord's option, be deemed to be a default and termination of this Lease. During any period of suspension, Tenant shall continue to be liable for any rent or utility payments.

- b. Keep Landlord informed of any unavoidable changes to sailing times sufficiently in advance so that Landlord can accommodate its berthing needs, if possible; however, Landlord does not guarantee that any revised sailing times can be accommodated. But for such notice, Landlord may presume the Vessel will arrive at approximately 1:30 P.M., and depart between 2:30 P.M. and 3:00 P.M. on the Service Dates during the Operating Season;
- c. Pay when due, all Rent, Fees and other charges or assessments hereunder;
- d. Pay all costs associated with the ferry operation (except as otherwise stipulated herein), including but not limited to, office and ticketing staff, provision of all office and ticketing equipment, and direct Vessel costs including but not limited to fuel, water, electricity, stevedoring, screening and security staff, staff to direct and supervise vehicle traffic and queuing, trash removal and pilotage. Tenant shall be responsible for the repair, maintenance and cost of its own Vessel and fueling system subject to all applicable federal, state and local regulations.
- e. Be directly and solely responsible for all expenses for electricity, water, sewer, natural gas, heating oil, HVAC, telephone, internet and any other utility or communications services. The rent does not include any utility expenses. Landlord shall install a submeter as needed for electrical service, for which Tenant shall pay Landlord monthly.
- f. Utilize full service stevedores licensed by the City for line handling, loading and unloading luggage and baggage;
- g. Pay all expenses for all installation and periodic charges associated with communications systems, including but not limited to phone systems and services, computer systems and communication services, television and cable access, satellite services, and security and video equipment and services within the exclusive use areas and used, except as provided herein, solely by the Tenant;
- h. Maintain the Premises in such repair as on the commencement of this Agreement, except only for reasonable wear and tear and damage caused by fire or other unavoidable casualty not the fault of Tenant, its employees, contractors, agents or invitees. Tenant shall not injure or deface the Premises or any other property nor permit anyone else to do so. Tenant agrees to report to Landlord promptly, but in any case within 24 hours of when it knew or reasonably should have known of any substantial damage to the Premises or the Ocean Gateway facilities that poses any potential health or safety issue, including but not limited to any water damage or intrusion;



- i. Be solely responsible for all repairs, maintenance, modifications, and replacement of the Ramp, which shall only be undertaken pursuant to a stamped drawing by an appropriately qualified professional engineer. In no event is Tenant responsible for damage of any kind attributable to the non-exclusive use of premises by others in privity with Landlord;
- j. Properly contain and dispose of all trash and garbage from its operations, including but not limited to all vessel trash and garbage, in containers suitable for pickup by Tenant or Tenant's contractor. Landlord shall provide regular trash pickup for the Exterior Common Areas only;
- k. Maintain in full force and effect the insurance coverage required below, and such fire and extended coverage or business interruption insurance for its own property or benefit as it may deem to be appropriate. Tenant shall hold its property, including fixtures, furniture, equipment and the like, or that of any other owner, on the Premises at Tenant's own risk;
- l. Notify the Landlord in advance of any proposed alterations to the Premises, including but not limited to posting of signage by Tenant. All such alterations are subject to the prior written approval of the Director, which approval shall not be unreasonably withheld;
- m. Pay and discharge punctually all generally applicable taxes and governmental assessments on any of Tenant's activities or property. The parties understand and agree that there are no real estate property taxes to be assessed against the Premises leased hereunder and chargeable to Tenant, but Tenant shall be responsible for payment of any personal property taxes which may be assessed. Tenant reserves the right to contest the imposition or amount of any such taxes or assessments by any means provided by law;
- n. Permit Landlord at reasonable times to inspect the Premises and to permit Landlord to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to said Premises or any part thereof, and during such operations to take into and through said Premises or any part of the Premises all materials required, Landlord agreeing, however, that it will carry out such work in a manner which will cause Tenant minimum inconvenience;
- o. Not permit any employee, agent, contractor or invitee of Tenant to violate any covenant or obligation of Tenant hereunder nor create a nuisance at the Premises or any City owned property;
- p. Keep the Premises equipped with all safety appliances required by law or any public authority to the extent such results from the exclusive use made by the Tenant of the Premises;
- q. Provide all security personnel, and any CPB facilities, utility connections and utilities services for the same, together with any required traffic control, at Tenant's cost



and expense, as may be required by, or for compliance with, CPB or the United States Coast Guard operations, and such additional security personnel as may be deemed reasonably necessary by Tenant. It is the mutual intent of the parties that all such requirements be identified prior to the entry into this Lease. All such required facilities and improvements shall be property of Landlord at the end of the lease term;

- r. Should any maintenance or repair of the Premises, the Ocean Gateway terminal building and pier, or the systems serving those facilities require repair or replacement as a result of the negligence or willful act of the Tenant or the Tenant's invitees, agents or contractors, Tenant shall be responsible for the timely repair or replacement of same. Any damage caused to such facilities including but not limited to waiting areas, hallways, stairwells, and restrooms, caused by any of Tenant's employees, contractors, agents or invitees, may be repaired by Landlord, in its sole discretion, and the cost of such repair shall be billed to Tenant at Landlord's cost, and shall be paid by Tenant as additional rent with the next due Rent payment; or, alternatively, taken from any security deposit being held by the Landlord, in which case the Tenant shall replenish that security deposit within ten (10) days of being informed in writing that this is necessary.
- s. After reconfiguring the travel lanes in the Queuing Areas, Tenant shall, at its expense, paint or repaint the lines for the travel lanes to accommodate the Ferry Service.

**8. Certain Rights Reserved to the Landlord.**

The Landlord reserves the following rights:

- a. To retain and use in appropriate instances keys to all doors within and into the Premises and to change the locks to the Premises if Landlord deems it advisable. No lock shall be changed by Tenant without the prior written consent of Landlord. Landlord shall have the right to access the utility rooms through Tenant's exclusive use space as reasonably necessary;
- b. On reasonable prior notice to Tenant, to exhibit the Premises to prospective Tenants or users of the Ocean Gateway facilities and to others having a legitimate interest at any time during the term;
- c. To adopt reasonable rules and regulations relating to the Premises and the Ocean Gateway facilities from time to time during the Term; provided, however, such rules and regulations shall not materially interfere with Tenant's permitted use of the Premises. Tenant agrees to comply with reasonable rules and regulations from and after the fifteenth (15th) day after Tenant's receipt thereof, unless earlier required by law;
- d. To remove from the Premises, at Tenant's expense, any improvements, alterations, additions, signs, awnings, or the like, not consented to in writing by the Director; and
- e. Landlord reserves the right, in its sole discretion, to berth vessels of any type



at and otherwise make use of and allow events at the Ocean Gateway facilities, subject to Tenant's rights under this Lease.

**9. Signage.**

Tenant shall have the right to have signage on the Premises, including but not limited to outdoor signage, which signage shall be approved by the Director and shall be at Tenant's sole cost. It is the intent of the parties to prominently promote Tenant's Ferry Service. Tenant may also display flags referencing, as applicable, Tenant, the Vessel, the Tenant's Ferry Service, and the Province of Nova Scotia. Installation of such signage and flags may be done by the Landlord, or by the Tenant by a contractor acceptable to the Landlord, at Tenant's expense. All signage and flags shall be installed and maintained in accordance with all applicable local and state governmental codes. Subject to Landlord's approval which shall not be unreasonably withheld, Tenant may, at its expense, place murals and/or photographs and/or graphics on interior and exterior walls of the Departure Building for promotion of the Ferry Service.

Subject to applicable local and state governmental laws and codes, Landlord and Tenant shall cooperate to ensure prominent directional signage within the City of Portland to direct customers to the Ferry Service and to request the State of Maine to provide appropriate signage on its interstate highway system. Tenant acknowledges and agrees that the City of Portland is acting as landlord, and not in its regulatory capacity, in connection with this Lease.

**10. Compliance with Laws.**

Tenant agrees to comply with all present and future laws, ordinances, orders, rules, regulations and requirements of the federal, state and local governments or any of their departments, bureaus, boards, commissions and officials thereof (collectively, the "Laws") with respect to Tenant's use or occupancy of the Premises, including without limitation, all Laws relating to (i) air emissions, (ii) water discharges, (iii) noise emissions, (iv) air, water or ground pollution, or (v) any other environmental and health matter during the Term in connection with its use and occupancy of the Premises. Tenant shall not be responsible for any compliance attributable to the obligations of Landlord hereunder nor to any event, condition, act, or omission which occurred prior to the execution date or after the expiration date of this Lease Agreement, unless caused by the error or omission of Tenant, its officers, agents, employees, contractors or invitees.

**11. Security Rules.**

- a. Tenant shall comply with all safety and security requirements in its operations hereunder. Tenant further agrees that its officers, employees and agents shall abide by the provisions of the Water Access Security/Safety Restrictions attached hereto as Exhibit C and incorporated herein, and with any other security directives or policies that may be promulgated from time to time by the Landlord, the State of Maine or by agencies of the Federal Government during the term of this Agreement. The Landlord agrees to provide Tenant with copies of the relevant portions of Landlord's Plan to permit Tenant to comply with its terms.



- b. Tenant shall comply with the lawful directions of the City's Facility Security Officer's directions and commands, with respect to its operations at the OG Terminal and berthing area. Tenant shall designate a particular person, who must be readily available, as its Security Contact Person, for the purposes of emergency and other communications to, from and with the City's Facility Security Officer.
  - c. Tenant shall, to the extent required by law or any agency with jurisdiction, prepare and file its own Facility Security Plan, which shall then become an amendment to Landlord's Facility Security Plan, for Tenant's operations and its use of Landlord's Facilities, and provide a copy of such Plan and amendment to the Landlord.
  - d. Transportation Workers Identification Credential Requirement: All persons requiring unescorted access to the secure areas of vessels, facilities, and OCS facilities regulated by parts 104, 105, and 106 of 33 CFR (Code of Federal Regulations) must, to the extent required by law and applicable authorities, possess a TWIC (Transportation Workers Identification Credential) before such access will be granted. A TWIC must be obtained via the procedures established by TSA (Transportation Security Administration) in 49 CFR part 1572.
  - e. In addition, Tenant employees working at the OG Facilities shall have Landlord- approved identification badges, including BIW identity badges, displayed at all times when at the OG Facilities, whether within the Premises or the common use space.
  - f. In the event that Tenant fails to provide adequate security, Tenant shall pay all reasonable costs and expenses for additional security, associated with the Tenant's use of the facilities, in accordance with the rates set forth in Article 4 Rent and Fees.
  - g. In addition, Tenant shall pay all reasonable security costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, which may arise directly out of Tenant's failure to comply with the covenants of this paragraph, and such failure shall be deemed a default under this Agreement. Tenant shall be responsible for obtaining all necessary permits and licenses required for its use and occupancy of the OG Facilities at its own cost and expense.
12. **Indemnification.**
- a. **General.** To the fullest extent permitted by law, Tenant shall at its own expense defend, indemnify, and hold harmless the Landlord, its officers, agents, and employees, from and against any and all liability, claims, damages, penalties, losses, expenses, including costs of investigation and attorneys' fees, or judgments, just or unjust, arising from injury or death to any person, or damage to, or loss of use of, property sustained by anyone (including but not limited to Landlord's



employees or property) and arising, in whole or in part, out of Tenant's use, activities at or on, or occupancy of the OG Facilities, except that such obligation of indemnification shall not include indemnification for claims to the extent such claim is caused by (i) the acts or omissions of Landlord, its officers, agents, employees or contractors, (ii) the acts or omissions of third parties (including but not limited to other users of the Premises), or (iii) a breach by Landlord of its obligations under this Lease. Tenant shall include Tenant, its officers, agents, employees, contractors, subcontractors and/or invitees.

Tenant shall, at its own cost and expense, defend any and all suits or actions, just or unjust, which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. In cases in which Landlord is a party, Landlord shall have the right to participate at its own discretion and expense and no such suit or action shall be settled without prior written consent of Landlord. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to Landlord which would otherwise exist.

- b. **Covenant against Liens:** Tenant shall not cause nor permit any lien against the Landlord's property or any improvements thereto to arise out of or accrue from any action or use thereof by Tenant and shall hold the Landlord harmless therefrom; provided, however, that Tenant may in good faith contest the validity of any alleged lien. Upon request of the Landlord, Tenant shall post a bond warranting payment of any such lien, or provide other security acceptable to Landlord, in the event Tenant contests such lien.
- c. As used in this Lease, "Environmental Condition" shall mean any material adverse condition relating to surface water, ground water, drinking water supply, land, surface or subsurface strata or the ambient air, and includes, without limitation, air, land and water pollutants, noise, vibration, light and odors, which may result in a claim of liability under the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), or the Resource Conservation and Recovery Act ("RCRA"), or any claim of violation of the Clean Air Act, the Clean Water Act, the Toxic Substance Control Act ("TSCA"), or any claim of liability or of violation under any federal statute hereafter enacted dealing with the protection of the environment or with the health and safety of employees or members of the general public, or under any rule, regulation, permit or plan under any of the foregoing, or under any law, rule or regulation now or hereafter promulgated by the state in which the Premises are located, or any political subdivision thereof, relating to such matters (collectively, "Environmental Laws"). "Hazardous Materials" shall include, but shall not be limited to, substances requiring investigation, removal or remediation under any federal, state or local statute, regulation, ordinance or policy including substances defined as "hazardous substances" in CERCLA; "toxic substances" TSCA; "hazardous wastes" in RCRA; or radon, asbestos and petroleum products.

Tenant shall, at all times during the term, comply with all environmental laws applicable to the Premises and Tenant's use and occupancy thereof. Except to the

extent caused by Landlord or any other tenant at the Premises or attributable in whole or in part to a preexisting environmental condition, Tenant will defend, indemnify and save harmless Landlord and its directors, officers, shareholders, employees and agents from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' and consultants' fees and expenses) of whatever kind or nature, contingent or otherwise, known or unknown, incurred or imposed, based upon any Environmental Laws or resulting from any Environmental Condition on or about the Premises which is caused by Tenant during the Term of this Lease, which indemnity, in the case of an Environmental Condition caused by Tenant shall include costs incurred by Landlord to remediate such Environmental Condition to clean-up or remediation standards consistent with Tenant's use of the Premises specified in this Lease. In case any action, suit or proceeding is brought against any of the parties indemnified herein by reason of any occurrence described in this section Tenant will, at Tenant's expense, by counsel reasonably approved by Landlord, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended.

- d. **Survival.** The Terms of this section shall expressly survive the expiration or termination of this Lease.

13. **Insurance.**

- a. Amounts. Without expense to the Landlord, and with no lapse in coverage, Tenant shall procure and maintain, at its own cost, and show evidence to the Landlord of the following insurance to protect the Landlord from claims and damages which may arise from Tenant's operations under this Agreement, whether such operations shall be performed by the Tenant or by anyone directly or indirectly employed by it in the types and minimum amounts set forth below:

<u>Description</u>	<u>Coverage</u>	<u>Each Occurrence</u>
(i) Commercial General Liability, including Broad Form Property Damage	B.I./P.D./ Death	\$5,000,000
(ii) Vehicle Liability, including owned, hired, or non-owned	B.I./P.D./ Death	\$2,000,000
(iii) Workers' Compensation, Including U.S. Longshoremen and Harbor Workers' Coverage, as Applicable	B.I./Death	Statutory
(iv) Protection & Indemnity Insurance Including Federal Maritime and Jones Act Coverage		\$5,000,000

- |   |             |
|---|-------------|
| (v) Pollution coverage/Sea to Sea/<br>Land to Sea/Land to Land                                      | \$5,000,000 |
| (vi) Employers Liability<br>B.I./P.D. including Us. Longshoremen<br>& Harbor Workers, as applicable | \$1,000,000 |

b. **Landlord protected.** The Landlord shall be named as an additional insured under items (i) and (ii) above. Item (iii) shall include a waiver of subrogation against Landlord. To the extent that Tenant has any employees who are not covered by the Longshoremen & Harbor Workers, Federal Maritime and Jones Act coverages, Tenant shall provide evidence of Workers Compensation coverage in the statutory amounts, including a waiver of subrogation against Landlord.

c. **Notice to Landlord.** All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Landlord. Each liability policy required to be obtained hereunder shall be on an occurrence basis. In the event that policies are not available on an occurrence basis, Tenant shall purchase a "tail" which provides coverage hereunder for a minimum of six (6) years after termination of this Agreement.

All policies required hereunder shall be primary to any insurance or self-insurance which Landlord may maintain for its own benefit. Liability insurance coverage shall also extend to damage, destruction, and injury to Landlord-owned or Landlord-leased property and Landlord personnel, to the extent caused by, or resulting from negligent acts, operations, or omissions of Tenant, its officers, agents, employees, invitees, and/or contractors.

d. **Certificates.** Certificates or other evidence of insurance coverages required of Tenant in this Section, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the Landlord prior to use of the Premises. Such certificate or certificates shall at all times while this Lease Agreement is in effect provide Landlord with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier.

e. **Tenant Property Insurance.** Tenant shall procure and maintain, at its option and election, such all risks fire and casualty insurance covering its property on the Premises as it deems necessary.

f. Landlord reserves the right to require a commercially reasonable increase in the minimum insurance limits hereunder at the commencement of any Renewal Term of this Lease.

14. **Assignment/Subletting.**

- a. **By Tenant.** Tenant shall not sublease, transfer or assign this Agreement or the rights granted hereunder at any time during the Term of this Agreement without the prior written approval of Landlord, which may be granted or withheld in Landlord's discretion; except, however, Tenant may, if required by written agreement written agreement between Tenant and the Province of Nova Scotia, assign this Agreement and the rights granted hereunder to the Province of Nova Scotia in the event the Tenant is itself unable to continue operating the Service, in which case the Province of Nova Scotia will assume all of the obligations of Tenants herein, as well as the rights of Tenant herein. No such assignment or subletting shall relieve Tenant of any obligations hereunder and any person accepting such assignment shall take the Agreement subject to all prior breaches and shall be liable therefor in the same manner as Tenant.
- b. **By Landlord.** Landlord reserves the right to assign this Lease to a quasi-municipal or State entity, provided, however, that in such event such entity shall agree to assume all of the terms and obligations of the Landlord under this Lease. Landlord shall not assign this Lease to a private party without the prior written approval of Tenant, which may be granted or withheld in Tenant's discretion.

15. **Casualty Damage.**

- a. If the Premises or any part thereof shall be destroyed or damaged by fire or other unavoidable casualty, so that the same shall be thereby rendered unfit for use, then, and in such case, the Rent hereinabove stated or a just and proportional part thereof, according to the nature and extent of injuries sustained, shall be suspended or abated, until the Premises shall have been put in proper condition for use by Tenant; provided, however, in the event of such destruction or damage, either Landlord or Tenant shall have the right to terminate this Lease by giving the other party written notice of such termination within thirty (30) days after such damage or destruction, and upon the giving of such notice, the term of this Agreement shall cease and come to an end as of the date of such damage or destruction and any unearned rent shall be returned to Tenant.
- b. Landlord and Tenant each hereby waive any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the property of either party, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the parties, or either of them. Landlord and Tenant shall each be responsible for maintaining such casualty insurance on its property as it deems necessary and such policies shall waive any right of subrogation thereunder against the other party.



16. **Default.**

- a. Tenant shall be determined to be in default hereunder if it shall fail to perform any obligations or comply with any terms or conditions stated herein within fifteen (15) days after receipt of notice of such failure from the other party or (if the default is of such nature that it cannot be cured within such period) if it shall fail to commence to cure the default within such period and thereafter diligently prosecute the cure to completion within a reasonable time. Upon such default and failure to cure, Landlord shall have the right, at its option, and in addition to any other remedies, to terminate this Lease by giving the party in default written notice thereof and upon the giving of such notice, this Lease and the term hereof shall cease. Upon any termination of this Lease, Tenant shall quit and surrender to Landlord the Demised Premises in accordance with the provisions of this Lease. Further, upon any termination of this Lease, Tenant shall remain liable to Landlord for all rent and fees accrued and unpaid up to the date of such termination. Tenant shall pay all reasonable costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel and consultant fees, incurred by Landlord on account of Tenant's failure to comply with any of the terms of this lease, holding-over, and/or as a result of Tenant's default under this Lease.
- b. In no event shall either party be liable to the other for incidental, special, or consequential damages of any nature claimed as a result of the breach of any term of the termination of this Lease.

17. **Return of Premises; Holding Over.**

- a. At the expiration or earlier termination of this Lease, Tenant shall promptly ensure that all vessels with which it is in any way affiliated are removed from the Premises and all of Landlord's berthing areas, and will also promptly quit and surrender the Premises to Landlord broom clean and in good order and condition, ordinary wear excepted, and free from debris, trash and waste, and shall cease its operations from the Premises. Tenant shall, if, and only if, so requested by Landlord, remove all trade fixtures, equipment and other personal property installed or placed by it at its expense in, on or about the Premises; provided, however, all damage caused by or as a result of such removal shall be repaired by Tenant at its sole expense. All trade fixtures, equipment, furniture, furnishings and personal effects not removed by Tenant within thirty (30) days after expiration or termination of this Lease shall, at Landlord's option, be deemed to have been conveyed to Landlord in fee title, and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without obligation to account therefor, or, at Landlord's option, Landlord can have such trade fixtures and items removed and the cost of any such removal and the expense of any repair necessitated by such removal shall be borne by Tenant.
- b. If Tenant or any party claiming through or under Tenant shall remain or continue to be in possession of the Premises or any part thereof after the termination of the Lease or any renewal thereof, without Landlord's consent, then, at Landlord's option, Tenant or such party or both shall be deemed to be illegally retaining possession or, at Landlord's option, shall be deemed to be a

month-to-month Tenant of the Premises and subject to all the terms and conditions of this Lease except that the monthly rent hereunder shall be One Hundred and Fifty Percent (150%) of the rent payable during the month prior to such termination. This section shall not be construed as giving Tenant any right to hold over after the expiration of the Term or to limit Landlord's rights to obtain possession of the Premises upon termination by any lawful means available to Landlord if Landlord does not elect to treat the continued possession by Tenant or any party claiming through or under Tenant as a month-to-month tenancy.

- c. Landlord lawfully may upon termination of this Lease Agreement, enter into and upon the said Premises or any part thereof in the name of the whole, and repossess the same as of its former estate, and expel Tenant, and those claiming through or under Tenant, by any lawful means, and remove its or their effects without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant.

**18. Quiet Enjoyment.**

So long as Tenant shall observe and perform the covenants and agreements binding on it hereunder, Tenant shall at all times during the term herein granted peacefully and quietly have and enjoy possession of the Premises without any encumbrance or hindrance by, from or through the Landlord.

**19. Notices.**

Any notice required to be given under this Lease shall be in writing and shall be hand-delivered or sent by U.S. certified mail, return receipt requested, postage prepaid, addressed to the parties as stated below or such other address as either party may designate in writing to which its future notices shall be sent:

To Tenant:                    Mark MacDonald  
                                     Bay Ferries Limited  
                                     Suite A201  
                                     5855 Spring Garden Road  
                                     Halifax, Nova Scotia  
                                     Canada B3H 4S2

With a copy to:             Danny Bartlett  
                                     Bay Ferries Limited  
                                     94 Water Street  
                                     PO Box 634  
                                     Charlottetown, Prince Edward Island  
                                     Canada C1A 7L3



To Landlord: Jon P. Jennings, City Manager  
City of Portland  
389 Congress Street  
Portland, Maine 04101

With a copy to: Corporation Counsel  
City of Portland  
389 Congress Street  
Portland, ME 04101

**20. Amendment: Authority.**

Both parties hereto acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties except such as are expressed herein. The terms of this Lease may be modified or amended by the mutual assent of the parties hereto; provided, however, that no such modification or amendment to this Lease shall be binding until in writing and signed by both parties.

Each party warrants that this Lease Agreement has been signed by a representative duly authorized to bind that party to this Lease Agreement.

**21. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Maine. Tenant warrants to Landlord that it is licensed to do business in the State of Maine and has an agent authorized to accept service of process in said State. Tenant shall provide such information upon request to Landlord.

**22. Force Majeure.**

Neither Tenant nor Landlord shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, war, acts of superior governmental authority or other reason over which it has no control; provided, however, that the suspension of performance shall be no longer than that required by the force majeure and the party prevented from performance has given written notice thereof to the other party.

**23. Non-Waiver.**

No waiver of any breach of any one or more of the conditions of this Lease by the Landlord or Tenant shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

**24. Maritime Rights Preserved**

Nothing in this Lease is intended by Landlord to waive any rights or claims it may have against *The Cat*, or any other vessel utilized by Tenant in performing the Ferry Service, either in rem or in personam, arising under the maritime law of the United States, including, without limitation, rights under The Maritime Lien Act, 46 USC 31341 *et. seq.*,

The Suits in Admiralty Act, 46 USC 30901 and 30903 *et seq.*, and/or The Public Vessels Act, 46 USC 781 *et. seq.*

**25. Brokers.**

**Landlord and Tenant** each represent and warrant to the other that it has not dealt with any agents, brokers or finders in connection with this Agreement. Each party agrees to hold and indemnify the other harmless from and against any losses, damages, costs or expenses (including attorneys' fees) that either party may suffer as a result of claims made or suits brought by any broker in connection with this transaction, the obligated party hereunder to be the party whose conduct gives rise to such claim.

**26. Special Right of Termination**

In the event of termination or discontinuance of the Ferry Service, or any other material adverse event impacting the Ferry Service, Tenant shall have the right to terminate this Lease without penalty upon providing six (6) months' notice in writing to Landlord. Tenant's obligations applicable to termination of the Lease as set forth herein shall continue to apply.

**27. Transition Provision.**

Prior to the Effective Date, the rights and obligations of Landlord and Tenant are those described in the Original Lease. On the Effective Date, the Existing Lease shall be deemed amended and restated so as to contain all of the terms of this Lease, and this Lease as amended and restated shall govern all future rights, obligations, duties and liabilities of the parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be duly executed as of the day and year first above written.

**WITNESS:**

R. L. Latta  
R. L. Latta

**BAY FERRIES LIMITED**

By: Mark MacDonald

Mark MacDonald  
Its Chairman and CEO

**CITY OF PORTLAND**

By: Jon P. Jennings

Jon P. Jennings  
Its City Manager

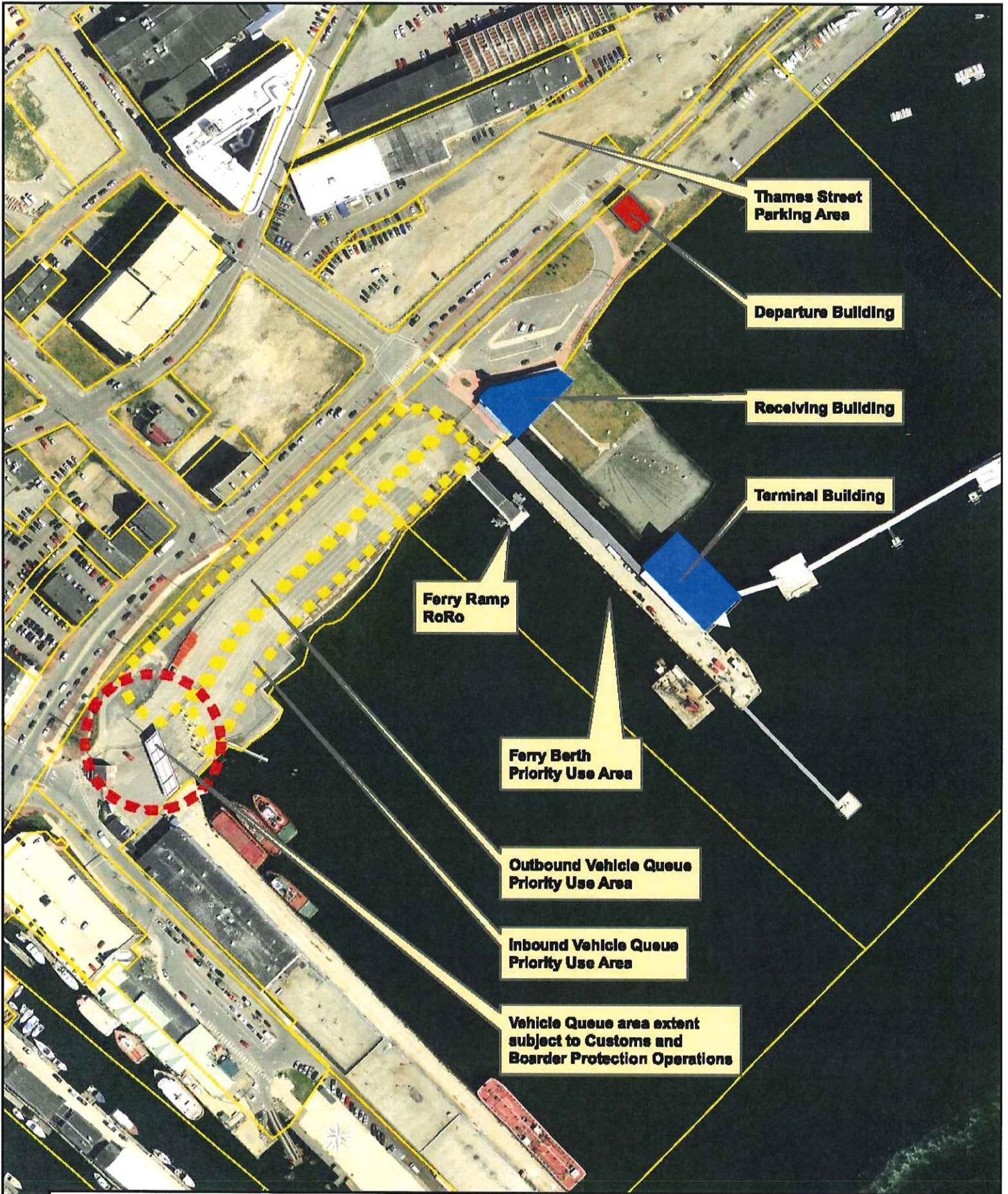
**APPROVED AS TO FORM:**

[Signature]  
CORPORATION COUNSEL'S OFFICE

Brian T. O'Connell  
Finance Director

**EXHIBIT A**  
**DIAGRAM OF PREMISES**





Thames Street  
Parking Area

Departure Building

Receiving Building

Terminal Building

Ferry Ramp  
RoRo

Ferry Berth  
Priority Use Area

Outbound Vehicle Queue  
Priority Use Area

Inbound Vehicle Queue  
Priority Use Area

Vehicle Queue area extent  
subject to Customs and  
Border Protection Operations

250 125 0 250 Feet



Ocean Gateway Site and Facilities  
Bay Ferries, Limited  
Lease Exhibit A  
Apr2016  
31 of 40

**Exhibit B**  
**Schedule of Rent and Fees**

**Monthly Rent**

**May 31, 2017 – September 30, 2017**

- Tenant shall make monthly rental payments for the Premises in advance on the 1<sup>st</sup> day of each month for the period from May 31, 2017 – September 30, 2017 in the amount of **\$16,629.60**; October 1, 2017 – October 15, 2017 monthly rent will be at **\$8,314.80**.

**October 1, 2016 – May 30, 2017 and October 16, 2017 – May 30, 2018 (if renewed)**

- Tenant shall make monthly rental payments for the Departure Building in advance on the 1<sup>st</sup> day of each month for the period from October 1, 2016 – May 30, 2017, and October 16, 2017 – May 30, 2018 (if renewed) in the amount of **\$4,000.00**.
- If Tenant requires parking or berthing during this period, it shall be provided, if available, at the rates set forth below.

**Passenger and Vehicle Fees**

On or before the fifteenth (15<sup>th</sup>) day of each month, Tenant shall pay to Landlord the following per-passenger and per-vehicle fees that were incurred in the previous month. Such payment shall be made without the need for an invoice from Landlord and shall be accompanied by Tenant's statement as provided below.

• Passenger (the first 60,000 per Operating Season)	\$ 2.00
• Passenger (over 60,000)	\$ 3.50
• Bicycle	\$ 0.50
• Motorcycle	\$ 1.00
• Passenger Vehicle (the first 60,000 per Operating Season)	\$ 3.00
• Passenger Vehicle (over 60,000)	\$ 5.00
• Passenger Vehicle with Camper/Utility Trailer	\$ 5.00
• Recreational Vehicles/Motor Homes	\$ 5.00
▪ Straight Trucks	\$10.00
• Tour Busses/Motor Coaches	\$20.00

**Other Fees**

• Fuel License, per season	\$100.00
• Daily Parking per space, per month	\$75.00
• Fresh Water, per metric ton	\$ 4.00
• Security Badges, each	\$ 2.50
• Security Badges, replacement, each	\$25.00
• Berthing (other than the exclusive use of the Berthing Area as allowed in section 1(a)(ii))	\$1.00/ft/day
▪ Electrical Service – sub-meter monthly actual usage charges apply.	



## Exhibit C

### Waterfront Access Security/Safety Restrictions

All visitors must check in with the Facility Security Officer ("FSO") or designee upon arrival. All visitors must provide photo identification or a Transportation Workers Identification Credential ("TWIC") card prior to accessing the facility. Vessel must provide an expected visitor list to on site security. All those not on the list will be denied access or Non TWIC'd personal must be escorted by a TWIC'd person. A single TWIC'd person can provide access for up to 5 Non TWIC'd personal, or otherwise directed by the FSO.

Crew must check in with on site security and provide photo identification.

Vessel must provide a crew and/or passenger manifest to the FSO or on site security.

A form of communication between vessel and on site security must be determined upon arrival.

A declaration of security must be signed upon arrival if deemed necessary by the FSO.

All deliveries, packages, crates, etc., must be accompanied by a manifest per US Federal Standards. All items including personal vehicles are subject to random search. All delivery drivers must provide photo identification upon arrival. A list of vendors will need to be provided prior to accepting deliveries.

All passenger buses are subject to a search prior to entering the facility.

No explosive devices, weapons, or open fires will be allowed within the facility at any time.

All fuel transfers must be done in accordance within DEP, EPA, OSHA, Coast Guard regulations. This applies to any quantity of gasoline, diesel, oil etc.

All employees working in or around the facility must meet all OSHA regulations.

"Hot Work" permits are required for work on the pier or vessel. These permits are issued through the Port Director or FSO. Permit costs apply. (\$125.00 each)

At no time will vehicles be left overnight within the facility without prior authorization from the Port Director or FSO.

Emergency vehicles must have a clear pathway at all times to service the entire pier. No objects or vehicles are to be left unattended at any time. Objects and vehicles must be able to be removed immediately upon notice of emergency personnel needing access to the pier.

Vessels must use "Bits and Bollards" only for vessel tie up. No lines are to be laid around steel piles.

No work is to be performed on the vessel's hull without prior authorization by the Port Director or FSO.

No dumping of gray water while alongside of the berth.



All small vessels performing maintenance, security, etc. for a berthed vessel must have prior authorization to do so from the Port Director or FSO.

All gates are to remain locked or staffed by facility trained security personal.



## EXHIBIT D

### 2017 The CAT Schedule

#### Departing from Yarmouth, Nova Scotia to Portland, Maine

2017 SERVICE DATES	DAYS	TIMES (Atlantic Time Zone)
MAY 31 - JUNE 28	MON, WED, FRI, SAT, SUN	8:30
JUNE 29 - JULY 27	MON, TUE, THU, FRI, SAT, SUN	8:30
JULY 28 - SEPT 2	MON, TUE, WED, THU, FRI, SAT, SUN	8:30
SEPT 3 - OCT 2	MON, WED, THU, FRI, SAT	8:30
OCT 3 - OCT 15	MON, FRI, SAT, SUN	8:30

#### Departing from Portland, Maine to Yarmouth, Nova Scotia

2017 SERVICE DATES	DAYS	TIMES (Eastern Time Zone)
MAY 31 - JUNE 28	MON, WED, FRI, SAT, SUN	14:30
JUNE 29 - JULY 27	MON, TUE, THU, FRI, SAT, SUN	14:30
JULY 28 - SEPT 2	MON, TUE, WED, THU, FRI, SAT, SUN	14:30
SEPT 3 - OCT 2	MON, WED, THU, FRI, SAT	14:30
OCT 3 - OCT 15	MON, FRI, SAT, SUN	14:30



**FIRST AMENDMENT**  
**TO**  
**AMENDED AND RESTATED LEASE AGREEMENT BETWEEN**  
**CITY OF PORTLAND AND BAY FERRIES LIMITED RE: OCEAN GATEWAY**

THIS FIRST AMENDMENT is made as of the 28<sup>th</sup> day of Aug., 2017, by and between the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (“Landlord”) and BAY FERRIES LIMITED, a Canadian registered corporation with a principal office at 94 Water Street, Charlottetown, Prince Edward Island, Canada C1A 7L3 (the “Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into an Amended and Restated Lease Agreement dated May 26, 2017 (the “Lease”) with respect to certain space at Landlord’s property known as Ocean Gateway where Tenant operates an international ferry service between Portland, Maine and Yarmouth, Nova Scotia; and

WHEREAS, Landlord and Tenant wish to amend the Lease solely as provided herein:

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The reference to “September 15, 2017” in Section 2(a) of the Agreement is hereby deleted and replaced with “October 13, 2017,” meaning and intending to extend until October 13, 2017 the deadline for Landlord to notify the Tenant of Landlord’s desire to renew the Lease.
2. Except as specifically amended hereby, the Lease shall remain in full force and effect, and the parties hereto ratify the terms and conditions of the Lease.

*(Signature Page Follows)*

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed by their duly authorized representatives or officers, as of the date first written above.

WITNESS:

CITY OF PORTLAND

Loei J. Ravelle

By: Jon P. Jennings  
for Jon P. Jennings  
Its Landlord Manager

WITNESS:

BAY FERRIES LIMITED

[Signature]

By: Mark MacDonald  
Mark MacDonald  
Its: Chairman and CEO

[Signature]  
Approved as to Form:  
Corporation Counsel's Office

**SECOND AMENDMENT TO**  
**AMENDED AND RESTATED LEASE AGREEMENT BETWEEN**  
**CITY OF PORTLAND AND BAY FERRIES LIMITED RE: OCEAN GATEWAY**

THIS SECOND AMENDMENT is made effective as of the 13th day of October, 2017, by and between the CITY OF PORTLAND, a Maine municipal corporation with a place of business in Portland, Maine and mailing address of 389 Congress Street, Portland, Maine 04101 (“Landlord”) and BAY FERRIES LIMITED, a Canadian registered corporation with a principal office at 94 Water Street, Charlottetown, Prince Edward Island, Canada C1A 7L3 (the “Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into an Amended and Restated Lease Agreement dated May 26, 2017, as amended by a First Amendment dated August 28, 2017 (collectively, the “Lease”) with respect to certain space at Landlord’s property known as Ocean Gateway, where Tenant operates an international ferry service between Portland, Maine and Yarmouth, Nova Scotia; and

WHEREAS, the term of the Lease expires on October 15, 2017 unless Landlord notifies Tenant of its desire to renew the Lease by October 13, 2017; and

WHEREAS, Landlord requires additional time to consider whether to renew the Lease; and

WHEREAS, Landlord and Tenant wish to amend the Lease solely as provided herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The deadline for the Landlord to notify Tenant of Landlord’s desire to renew the Lease, which, pursuant to the First Amendment, is October 13, 2017, is hereby extended until “December 29, 2017.”
2. Notwithstanding anything to the contrary in the Lease, upon execution of this Amendment, Tenant may continue to occupy the Departure Building, but no other parts of the Premises, subject to all terms and conditions of the Lease, including, without limitation, the obligation to pay monthly rental payments of \$4,000.00, and any other applicable fees described in the Lease, subject to the following conditions:
  - a. In the event that Landlord notifies Tenant that Landlord desires to renew the lease, and the parties reach an agreement on mutually acceptable terms for such renewal, the parties shall execute an amendment to renew the Lease on



such terms, and in such event, Tenant may continue to occupy the Departure Building in accordance with the terms and conditions of that amendment.

- b. In the event that Landlord decides, prior to December 29, 2017, not to renew the Lease, Landlord shall so notify Tenant, and Tenant shall vacate the Departure Building within 30 calendar days of the date of such notice (such 30<sup>th</sup> day being the effective date of termination of the Lease), and the Lease shall terminate according to its terms as of the effective date of termination.
  - c. In the event that Landlord has not notified Tenant, by December 29, 2017, that Landlord desires to renew the Lease or to further extend the deadline to notify Tenant of Landlord's desire to renew the Lease, the Lease shall terminate according to its terms on January 31, 2017, and Tenant shall vacate the Departure Building on or before that date.
  - d. Landlord may, in its sole discretion, in writing, extend the December 29, 2017 deadline to a later date as determined by the Landlord.
3. Any and all terms of the Lease not herein amended shall remain in full force and effect for the duration of the Lease as amended hereby and are hereby ratified. In the event of any conflict between the terms of this Amendment and the terms of the Lease and any exhibits thereto, the terms of this Amendment shall govern and control so long as this Amendment is in effect. Except as amended hereby, any capitalized terms herein shall have the meanings set forth in the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed by their duly authorized representatives or officers, as of the date first written above.

(Signature page follows)



WITNESS:

Lou J. Paquette

CITY OF PORTLAND

By: Jon P. Jennings  
Jon P. Jennings  
Its Landlord Manager

WITNESS:

Rhonda Hether  
Rhonda Hether

BAY FERRIES LIMITED

By: Mark MacDonald  
Mark MacDonald  
Its: Chairman and CEO

[Signature]  
Approved as to Form:  
Corporation Counsel's Office



Executive Department  
Julie Sullivan  
Senior Advisor to the City Manager

## MEMORANDUM

TO: Economic Development Committee  
FROM: Julie Sullivan  
DATE: March 15, 2018  
RE: Cost and Scope of Disparity Studies

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Before implementing focused policies granting contracting preference to a certain group or groups, the law requires that a disparity study be conducted. I have looked into the cost and scope of such studies nationally and present the following findings as you deliberate your course of action. I was unable to find smaller, perhaps more comparable cities who had conducted such studies.

- A disparity study examines whether there are differences between:
  - The percentage of dollars that minority-, woman- and veteran-owned businesses received on an agency's prime contracts and subcontracts during a particular time period (*utilization*); and
  - The percentage of dollars that those businesses would be expected to receive based on their availability to perform on the agency's prime contracts and subcontracts (*availability*).
- Typically, disparity studies also analyze other quantitative and qualitative information about:
  - Legal considerations surrounding implementation of M/W/VBEs
  - Contracting practices and business assistance programs that the agency currently has in place; and
  - Potential program measures for consideration as part of the agency's implementation of M/W/VBEs.
- Disparity studies conducted by cities most often focus on their own contracting practices, not of an entire marketplace.
- Studies can examine disparities across all agency contracting or in specific areas, like construction, professional services, and goods and support services.
- Most studies take about two years to complete.
- Scope is fairly standardized.
- Costs range from \$100,000 to over \$1,000,000.
  
- **Palm Beach County Solid Waste Authority**
  - Study objectives: Identify best practices that will help the SWA build business programs to stimulate the economic growth of local businesses
  - Study components: Collect prime and sub-contracts, analyze prime and sub-contractor use, identify willing and able market area businesses to participate, collect anecdotal accounts, make recommendations to eliminate barriers to contracting
  - Consultant: Mason Tillman Associates Ltd

- Study completed 2016
- Cost: \$377,325
- <https://swa.org/481/FY-2016-Disparity-Study>
  
- **City of Charlotte, NC**
  - Scope:
    - Examine what, if any, barriers may be adversely affecting the participation of MWBEs in contracts issued by the City;
    - Identify the availability of MWBEs that are ready, willing, and able to do business with the City in the relevant market area(s);
    - Analyze the contracting and procurement data of the City to determine its respective utilization of MWBEs;
    - Determine the extent to which any identified disparities in the utilization of available MWBEs by the City are attributable to discrimination;
    - Recommend programs to remedy the effects of any discrimination identified, and to reduce or eliminate any other marketplace barriers that adversely affect the contract participation of such MWBEs; and
    - Identify best practices for the policy recommendations on remediating any identified disparities, as well as effective tools for developing MWBE capacity.
  - Consultant: BBC Research and Consulting
  - Study completed 2017
  - Cost: \$345,750
  - <http://charlottenc.gov/mfs/cbi/Pages/Disparity-Study.aspx>
  
- **City of Denver**
  - Scope: To examine the city's procurement of services and products, the subcontracting participation of contractors/service providers who do business with the city, and anecdotal evidence collected from a cross-section of the local business community.
    - Assess disparities between the participation and availability of minority- and women-owned businesses for city contracts.
    - The study will focus on construction, design services, professional services, goods, general services, and airport concessions contracts awarded from 2012-2016.
    - Contracts and procurements from the city's Departments of Aviation, General Services, Public Works, and others will be examined.
  - Consultant: BBC Research and Consulting
  - Study in progress
  - Cost: \$797,653
  - [https://www.denvergov.org/content/denvergov/en/denver-office-of-economic-development/do-business-with-denver/DISPARITY\\_STUDY.html](https://www.denvergov.org/content/denvergov/en/denver-office-of-economic-development/do-business-with-denver/DISPARITY_STUDY.html)

- **City of Cleveland**

- Scope:
  - Ensure compliance with constitutional mandates and M/WBE best practices;
  - Examine the past and current status of minority-owned and women-owned business enterprises in the geographic and product markets for City of Cleveland contracting and procurement;
  - Recommend whether to implement renewed M/WBE and Cleveland Area Small Business policies that comply with the requirements of the courts;
  - Assess the extent to which previous efforts have assisted M/WBEs and CSBs to participate on a fair basis in the City's contracting and procurement activities; and
  - Assist the City to narrowly tailor existing race- and gender-based measures and any new measures that may be considered.
- Consultant: NERA Economic Consultants
- Study ended 2012
- Cost: \$873,254
- [http://www.city.cleveland.oh.us/sites/default/files/forms\\_publications/Final\\_Disparity\\_Study\\_2-14-13.pdf?id=3314](http://www.city.cleveland.oh.us/sites/default/files/forms_publications/Final_Disparity_Study_2-14-13.pdf?id=3314)

- **City of Houston**

- Scope:
  - The City's contracting activity during the five-year period FY 2012-16
  - Anecdotal data from focus groups, public hearings, surveys, and interviews
  - Current or past City policies, procedures, and programs that govern contract procurement.
  - Analysis of M/WBE availability and utilization; veteran, DBE (disadvantaged) and ACDBE (airport concessions DBE) availability and utilization
- Consultant: Colette Holt & Associates
- Study in progress, RFP online at:  
[http://purchasing.houstontx.gov/Bid\\_Display.aspx?id=T25658](http://purchasing.houstontx.gov/Bid_Display.aspx?id=T25658)
- Cost: \$942,608
- [http://www.houstontx.gov/obo/disparity\\_study.html](http://www.houstontx.gov/obo/disparity_study.html)

- **City of Oakland, CA**

- Scope: Determine how successful the City has been in achieving its goals of equity and inclusion in awarding contracts to local businesses owned by people of color and women.
  - Identify and provide an analysis of the number and percentage of M/WBEs and other businesses, whether for-profit or not-for-profit, in the geographic area
  - Develop an inventory of non-profit entities who are party to third-party agreements with developers

- Assess the capacity and qualifications of all deemed as ready, willing and able.
    - Consultant: Mason Tillmann Associates Ltd
    - Study in progress, RFP available hard copy
    - Cost: \$500,000
  - **City of New Orleans**
    - Scope:
      - Analyze whether there is a level playing field for minority- and women-owned firms when competing for City contracts.
      - Assess what the City might do to increase opportunities for M/WBEs and other small businesses.
    - Consultant: Keen Independent Research LLC
    - Study in progress, draft report available: <http://www.noladisparitystudy.com/get-involved#postings>
    - Cost: \$480,000
  - **City of Madison, WI**
    - Scope: City Public Works department contracting
      - Assist in determining if there is a level playing field for M/WBEs when competing for City public works contracts and subcontracts.
      - Evaluate current SBE program's efficacy in encouraging utilization of M/WBEs in City public works contracts.
      - Review other potential City actions, recognizing the legal case law, restrictions and issues that limit the ability of cities to implement M/WBE programs.
    - Consultant: Keen Independent Research LLC
    - Study completed 2015, final report available: <https://www.cityofmadison.com/madisoncontractingstudy/documents.cfm>
    - Cost: \$321,350
  - **City of Philadelphia**
    - Scope: The City of Philadelphia conducts a legislatively-mandated disparity study on an annual basis. Unlike some larger studies, this study measures the City's utilization of diverse firms and workforce against secondary sources for market availability such as the census. Larger and more comprehensive studies conduct both primary and secondary research to arrive at true market availability.
    - Consultant: Econsult Solutions and Milligan & Company
    - Study completed annually, available at: <https://drive.google.com/file/d/0B5br7yYwedGsVDhaNEhYaTJpUGM/view?ts=592ecc6d>
    - Cost: \$100,000 annually

- **City of Cincinnati**

- Scope: City contracting for construction, professional services and supplies during the January 1, 2009 through December 31, 2013 study period.
- Consultant: Mason Tillman Associates Ltd
- Study completed 2015, final report in hard copy
- Cost: \$946,589

**Additional cities and studies:**

<u>Jurisdiction - City / State</u>	<u>Project Commenced</u>	<u>Project Completed</u>	<u>Total Cost</u>	<u>Vendor</u>
City of Augusta, GA	April 2007	September 2009	\$586,265.00	NERA Economic Consulting
City of Austin, TX	January 2014	December 2015	\$1,000,000.00	NERA Economic Consulting
City of Cleveland, OH	April 2011	December 2012	\$758,000.00	NERA Economic Consulting
City of Durham, NC	August 2013	October 2014	\$300,000.00	Griffin & Strong, P.C.
City of Memphis, TN	June 2015	August 2016	\$394,620.00	Griffin & Strong, P.C.
City of Nashville, TN	October 2003	December 2004	\$290,200.00	Griffin & Strong, P.C.
City of Pensacola, FL	July 2011	May 2012	\$300,000.00	MGT of America, Inc.
City of Portland, OR	September 2009	January 2011 (draft report issued)	\$906,000.00	BBC Research & Consulting
City of Tampa, FL	December 2004	April 2006	\$221,000.00	Mason Tillman Associates, Ltd.
Georgia Dept. of Transportation	March 2015	December 2016	\$674,180.00	Griffin & Strong, P.C.
New York State / Empire State Development	October 2015	June 2017	\$1,732,352.00	Mason Tillman Associates, Ltd.
New York State / Empire State Development	May 2008	April 2010	\$1,328,690.00	NERA Economic Consulting
North Central Texas Council of Government	July 2008	June 2010	\$933,000.00	Mason Tillman Associates, Ltd.
Northeast Ohio Regional Sewer District	August 2009	August 2010	\$672,660.00	NERA Economic Consulting
Port Authority of NY & NJ	March 2016	on-going	\$778,631.00	Mason Tillman Associates, Ltd.
San Antonio Water System, TX	November 2006	March 2009	\$554,781.00	MGT of America, Inc.
State of Connecticut	September 2012 (Phase 1) August 2013 (Phase 2) August 2015 (Phase 3) TBD (Phase 4)	August 2013 (Phase 1) May 2014 (Phase 2) May 2016 (Phase 3) TBD (Phase 4)	\$500,000 (Phases 1 & 2) \$255,000 (Phase 3) \$590,000 (Phase 4)	Connecticut Academy of Science & Engineering
State of Tennessee	September 2007	September 2009	\$928,000.00	Griffin & Strong, P.C.
Washington State Dept. of Transportation	February 2012	May 2013	\$644,000.00	BBC Research & Consulting
Washington State Dept. of Transportation	June 2016	September 2017	\$950,000.00	Colette Holt & Associates

<sup>1</sup> The disparity study conducted for the State of Connecticut was divided into four phases, as follows:

Phase 1 - Connecticut's Small Business Set-Aside program review and analysis; legal issues; and stakeholder anecdotal information/analysis

Phase 2 - Legislative and administrative initiatives; diversity data management system review; review of issue areas; and data and methodology for statistical analysis

Phase 3 - Analysis and testing of disparities in Connecticut's geographic marketplace

Phase 4 - Analysis of availability and utilization of minority and women owned businesses in state procurements



Economic Development Department  
Gregory A. Mitchell, Director

**TO:** Chair Costa and Members of the Economic Development Committee

**FROM:** Bill Needelman, Waterfront Coordinator

**DATE:** March 16, 2018

**SUBJECT:** **March 20, 2018 Public Hearing:** Portland Ocean Terminal at the Maine State Pier – Concept for increased utilization

**CC:** Jon Jennings, City Manager  
Greg Mitchell, Economic Development Director  
Sally Deluca, Parks, Recreation and Facilities Director  
Kathy Alves, Facilities and Port Director

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**Introduction:**

The Economic Development Department requests a public hearing with the Economic Development Committee (EDC) to report on the results of stakeholder and public outreach on redevelopment concepts for portions of the Portland Ocean Terminal (POT) on the Maine State Pier. Staff additionally seeks guidance on next steps from Committee members.

**Background:**

Following briefings to the EDC and a workshop with the full City Council during the fall of 2017, City staff from Economic Development, Facilities, and Planning conducted a series of stakeholder and public meetings to solicit feedback and generate awareness of development concepts for the POT. These meetings included a presentation of the background informing redevelopment and concept graphics showing potential uses, circulation, and architectural improvements. Central to the meetings, City staff presented and circulated questions for consideration by the participants.

**Development Program:**

While looking to preserve +/-80% of the first floor of the POT for current marine operations, the current process is exploring introduction of a specific and limited set of potential new uses in the POT building and site improvements, including:

1. A first floor pedestrian open walkway;
2. A roundabout pick up and drop off circulation yard located at the northerly end of the POT;
3. 6000-8000 sq ft of first floor stall style market retail; and,
4. 28,000 sq ft of second floor incubator office and event space.

The above improvements and uses were specifically and carefully selected by staff as:

1. Functionally compatible and/or complementary to other pier uses;
2. Physically compatible with the pier circulation and existing POT building structure;
3. Reasonably achievable in scope;;
4. Generating limited external impacts – specifically in terms of parking and transportation demand; and,
5. Consistent with existing EWPZ zoning.

**Staff Work Group, Design Team, and Graphics Development:**

The current process has been conducted by an interdepartmental team consisting of:

- Bill Needelman, Waterfront Coordinator
- Kathy Alves, Facilities and Port Director
- Diane Gagnon, Facilities Project Manager
- Christian Roadman, Planner
- Bruce Hyman, Transportation Program Manager
- Nell Hanig, Business Programs Manager

John Peverada, Parking Manager has also contributed significantly. The process also benefitted from the active participation by staff from Casco Bay Lines, specifically Paul Pottle, Director of Projects.

Prior to meeting with the EDC in November 2017, City staff worked with Dick Reed Architecture and C. Michael Lewis, Illustrator, to translate the suggested program into visualization graphics. These graphics are intended to show how a reimagined POT building could look and to demonstrate that the suggested program physically fits within the anticipated footprint.

**Process and Outreach Schedule to Date:**

Under the leadership of former Councilor David Brennerman and the EDC during the Fall of 2017, establishing direction for the future of the Portland Ocean Terminal has been on the City Council priority list for several years. Consistent with this goal, the City Manager directed staff to generate concepts for discussion and to establish a process for public input and Council review.

This current process evaluating the POT began in September of 2017 at a workshop of the Economic Development Committee. City staff presented a general concept of limited market uses on portions of the first floor with event space and incubator office on the second floor. The EDC recommended a full City Council Workshop to gauge support for the concepts prior to further development. The Council conducted their workshop in October 2017, where staff was directed to conduct a rigorous stakeholder and public outreach process to inform the concepts and future process steps. Following this direction, Staff conducted the process outlined below.

*City Council Process*

- September 5, 2017 Economic Development Committee
- October 2, 2017 City Council Workshop
- November 28, 2017 Economic Development Committee

*Stakeholder and Public Outreach*

- February 13, 2018 Waterfront Alliance
- February 15, 2018 CBITD Operations Committee
- February 27, 2018 Seafood Industry
- February 28, 2018 Food and Beverage Industry
- March 1, 2018 Maine State Pier Tenant Meeting
- March 12, 2018 Open House with the public and islander stakeholders
- March 12, 2018 Peaks Island Public Meeting  
hosted by the Peaks Island Council

There have been four primary goals for the above process:

1. To inform stakeholders and the public on the potential new uses and improvements;
2. To gather input informing refinement of the concepts;
3. To generate interest among the development community and potential tenants; and,
4. To inform staff drafting and development of "Request for Proposal" documents, if so directed.

Staff specifically looked for feedback on uses and tenant types to encourage, uses to avoid, and potential for undue competition with private real estate and business enterprises. Understanding the standing concerns of island residents, pier tenants, and Casco Bay Lines, staff also looked for feedback on pier circulation, congestion, and parking.

**Public and Stakeholder Participation:**

With the notable exception of the February 28 Food and Beverage Industry meeting, all of the above meetings were well attended. Universally, all of the meetings generated thoughtful and meaningful dialogue and exchange. City staff is extremely grateful for the time, energy, and information provided by all stakeholders and participating members of the public.

The typical format for each meeting included a summary of background, policies, and recent development interest relevant to the POT building followed by a presentation of the suggested program and illustrations showing current thinking. The presentations concluded with questions to the participants as described above. The questionnaires used at each meeting are provided in the attachments along with the compiled answers.

### *Meeting Summaries*

#### February 13, 2018                      Waterfront Alliance

Approximately 20 members of the Waterfront Alliance heard the summary presentation which was followed by questions and comments. Minutes from the Waterfront Alliance meeting are attached to this memo.

#### February 15, 2018                      CBITD Operations Committee

Representatives from multiple Island Communities and Casco Bay Lines staff provided feedback on the suggested program. Parking and congestion were areas of primary concern.

#### February 27, 2018                      Seafood Industry

Approximately 19 participants in the seafood and development industries provided detailed feedback on the suggested development program. The balance between private competition and increased opportunity was discussed. The greatest enthusiasm expressed came from aquaculture start-ups and food cart vendors looking to settle into a fixed establishment.

#### February 28, 2018                      Food and Beverage Industry

Only three attendees participated in the Food and Beverage meeting, with one of them representing development interests. However, the two food representatives provided detailed and informative insights into the potential and limitations of the proposal. One participant was particularly interested in the education potential of the space.

#### March 1, 2018                              Maine State Pier Tenant Meeting

With the exception of the Portland Tug Boat, all current on-pier tenants participated in a presentation and discussion on the suggested program. There was a general consensus that the program could work, but tenants expressed concerns over pier congestion and truck access. A participant in the cruise ship industry cautioned against limiting future opportunities to further expand cruise ship operational capacity.

#### March 12, 2018                              Open House with the Public and Islander Stakeholders

A mixed group of about 15 islanders, interested parties, and food industry reps met at the Casco Bay Lines terminal. Islander concerns were largely consistent with the CBITD Operations Committee meeting and with the Peaks Island meeting described below. Other comments and questions were largely general interest and broadly supportive.

See details below:

**Outreach Outcomes:**

Based on feedback generated to date, interest in the potential redevelopment of the northerly end of the POT remains strong. Opinions and feedback generated in the above process are varied, both between stakeholder groups, and related to specific program elements. The bullets below capture some, but not all of the agreements and dichotomies expressed.

Areas of Consensus:

- The POT building and Pier circulation need improvement. Few, if any, participants expressed desires to preserve the existing conditions. There was general acceptance of the presumption that physical change and increased occupancy were reasonable, inevitable outcomes worthy of effort.
- The suggested redevelopment program is well considered and attractive. While there is a wide range of opinion regarding the prudence of specific program elements or whether the City should move forward with this or any redevelopment effort, the design approach was very well received. *The exception being Peaks Island, where the overwhelming opinion expressed was that the City should do nothing on the pier prior to addressing parking concerns.*
- Loading and servicing of any new uses needs to be timed and/or located to avoid causing congestion or interference with existing pier uses.
- Whatever new uses are considered, the direct and indirect parking impacts should be considered.
- Compatibility and collaboration with existing Pier uses, including Casco Bay Lines, will be critical.
- Generally, marine uses received greater support and more positive feedback than non-marine uses.
- Retail entities, whether seafood or non-seafood, should look to avoid competition with existing restaurants, raw seafood retailers, and on-island grocery.
- Smaller scale retail, with emphasis on prepared food and limited seating, generated the most positive feedback, when a positive opinion was expressed.

Differences of Opinion:

- Some participants believed that the circulation improvements (northerly roundabout and internal walkway) would greatly improve circulation on the pier, while other believed that the increased activity would exacerbate existing congestion issues.
- Many participants expressed support for small scale retail as an expansion of opportunity, while others expressed concerns over undue competition by a public entity over private enterprise. Concerns over competition were most strongly articulated by the Peaks Island participants.

### Peaks Island:

The Peaks Island meeting on March 12 generated an unambiguous and unvarnished negative response from the +/-36 attendees. Moreover, City staff was unsuccessful in getting participants to provide feedback on particular aspects of the suggested uses. While respectful, polite, and articulate, the participants were adamant and unified: *the City should not consider more uses on Maine State Pier until longstanding parking issues are addressed.*

Similar opinions were expressed by island residents from Peaks, the Diamonds, and Long Island at the CBITD Operations Committee meeting and at the March 12 Open House.

### **Concluding Thoughts and Next Steps:**

The recent outreach process provided substantial input informing future use and development of the Portland Ocean Terminal. Staff has received enough feedback to assist in the drafting and issuance of a Request for Proposals (RFP) reflecting the suggested development program.

However, the significant concerns raised by Islanders (parking and pier congestion) and by members of the retail and development community (competition with private enterprise) warrant consideration both within and apart from any pending procurement process.

### Competition:

If the City leadership directs staff to proceed with a RFP, the potential for undue competition needs to be addressed. The City should undertake sufficient market analysis to confirm healthy market conditions post development and avoid unfair competition with the private sector.

### Islander Parking:

Islanders have essentially demanded a halt to any redevelopment of the POT until longstanding grievances over expensive and constrained parking are addressed. The recent Fort Hill Infrastructure report, *City of Portland Parking Study for Downtown, the Old Port, and the Eastern Waterfront, Sept 2017* contains a number of recommendations targeted at relevant to Islander parking concerns. Recommendations include:

- Explore the Formation of a Non-Profit Transportation Association
- Explore expanding Specific Island Resident Parking Programs
- Improve Parking Management and Technology
- Explore shuttled parking
- Expand use of TNC (Lyft and Uber...)

If the City is to move forward with redevelopment efforts on the Maine State Pier, Council should consider a simultaneous and robust effort to implement relevant recommendations from the Fort Hill Report. Engagement with Island communities on parking and traffic issues should continue under any outcome.

**Next Steps:**

Staff recommends the EDC hold a public hearing on March 20, 2018 to present to the results of the public stakeholder meetings, receive additional public input and receive EDC direction on next steps.

Staff's position is that the Proposed Maine State Pier POT redevelopment can be accomplished only through a public-private partnership in order to maximize leveraging private funds and non-municipal public funds. Staff recommends the EDC direct staff to propose an RFP process to attract public-private interest to support the Proposed POT Redevelopment Plan.

**Attachments**

- 1. Waterfront Alliance Minutes, 2-13-18**
- 2. Maine State Pier Questionnaire Forms – Blank**
- 3. Maine State Pier Questionnaire – Compiled Responses**
- 4. Meeting Notes**
- 5. Casco Bay Lines Comments, Paul Pottle, Director of Projects**

Also attached is PowerPoint Presentation presented at the 3/20/2018 EDC Meeting.

## Waterfront Alliance Notes from 2-13-18

**Redevelopment Concepts for Maine State Pier** – slide presentation and discussion led by Bill Needelman,

Waterfront Coordinator, Department of Economic Development, City of Portland: (Please review attached slide presentation)

- Purpose of the redevelopment concept is to integrate use and revitalize “big blue building” on Maine State Pier. This is the launch of the public process and stakeholder meetings to ask what is needed; what are the opportunities for municipal sponsored facility versus competition with private sector development.
- Building on lessons learned from 2007-2008 effort and using the 2006 Policy Statement as a framework for direction with updates based on new market realities and changes. Several proposals did not come to fruition. Not looking for something grandiose, but rather based on range of possibilities coming from seafood, marine passenger transportation, and hotel/tourism industries.
- Concentrating efforts on north end of pier (Commercial Street end) with Casco Bay Island Transit District as critical design partner. Basic intent is to safely separate pedestrians and vehicle traffic. Idea to put a roundabout for car, bus, taxi drop off closer to Commercial Street, and let only necessary vehicles proceed further.
- Currently the whole building is a 105 Security Zone – need to change this for flexibility.
  - No zoning changes will be required. Concept includes higher utilization of upper floors of the building, consolidating and organizing operations, retaining existing marine tenants, and other operating parameters such that 80% of the first floor will be marine-related uses. All current uses will be accommodated. Not intended to be t-shirt shops nor all groceries nor all seafood. Conceptually urban- style walking with stall-style retail, open to outside, separated by wall from car traffic, attractive, mezzanine seating level above, return upper floor windows to building as was designed in 1922.
  - Kathy Alves responded to a question concerning the condition of the pilings and reported she and an engineering consultant spent 30 days under the pier in fall 2017. The deck itself and pile caps are in pretty good shape; maybe 15% need attention. There is a combination of wood and steel pilings. Discrepancy from previous evaluation (2006-ish) concerning condition of the pier was based on the intended new use of the pier (then) and what is contemplated now. Most of the new work with impact on pier structure will be needed to relocate mechanicals.
- Comments and discussion that followed included:
  - o Observation by John Spritz that the “bones” look real good. Idea to match notion from Pierce Atwood vis-à-vis repurposing a waterfront building. Old photo was compelling.
  - o Bill N. responded to question about “timeline” noting they are currently focusing on public outreach and next step after that is the need to find an appropriate development partner. City leadership is behind the effort. 2020 is an aggressive build date. Kathy A. noted that the outcome of stakeholder meetings may drive this project in a different direction.
  - o John Spritz wondered if this is an extension of the Commercial Street corridor congestion. Bill N. reported that Peaks Islander opinion about the needs of the facility

are critical. Will want a "seafood face" of processing, retail, and consumption. A modest 6 – 8,000 sq. ft. available for several small stalls. (Seafood? Coffee? Local beer? Bakery?). Idea is small vendors / pushcarts and not street vendors. Must be a tenant of building to sell. Avoiding crush of typical cruise ship events.

- o Hank Berg from Casco Bay Lines reported they are investing in several site upgrades and opined this project will be a transformational change and they are working closely with the city. Again, this is intended to solve problems that are caused by mix of vehicles and pedestrians vying for the same space. Separating them in an inviting way (covered walkway) is a good idea.
- o Again concerning congestion and short term parking, Bill N responded that the building will be for uses that would not encourage more activity. That is, people would be there as a secondary reason, not as the primary purpose of the trip. Think Islanders walking by to and from the ferry. Bruce Hyman noted that the city has PACTS planning funds for a Commercial Street Operations and Master Plan that includes the need for accessibility to the piers as a key to economic vitality. Bruce opined that development pressure [on Commercial Street] accentuates the need to catch.
- o Tom Meyers offered that the Waterfront Alliance was willing to discuss opportunities for another Open House for this project, similar to the one in 2017 for the rezoning effort on the western waterfront.
- o Dennis Keeler observed that he appreciated the thoughtful approach and analysis the city is taking in this renewed effort, suggesting the process will rebuild credibility lost in 2006.

### Maine State Pier Input: Seafood Industry

Please fill out the following. You do not need to include your name/contact info, but may if you'd like.

1. I am a (check all that apply)

- industry representative       retailer       processor  
 street vendor / food truck operator       harvester / grower / producer       start-up business  
 other: \_\_\_\_\_

2. I am  interested in  not interested in a market stall on the Maine State Pier.

2a. If interested: why? \_\_\_\_\_.

2b. If interested: the best size for a stall would be \_\_\_\_\_ square feet.

2c. If not interested: why not? \_\_\_\_\_.

3. A Maine State Pier market would be  good  bad  neutral for the seafood industry.

3a. Why? \_\_\_\_\_.

4. What support services, shared facilities, or amenities would make a market successful? Please rank your list.

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### Maine State Pier Input: Food and Beverage Industry

Please fill out the following. You do not need to include your name/contact info, but may if you'd like.

1. I am a (check all that apply)

- industry representative       retailer       processor  
 street vendor / food truck operator       harvester / grower / producer       start-up business  
 other: \_\_\_\_\_

2. I am  interested in  not interested in a market stall on the Maine State Pier.

2a. If interested: why? \_\_\_\_\_.

2b. If interested: the best size for a stall would be \_\_\_\_\_ square feet.

2c. If not interested: why not? \_\_\_\_\_.

3. A Maine State Pier market would be  good  bad  neutral for the food and beverage industry.

3a. Why? \_\_\_\_\_.

4. What support services, shared facilities, or amenities would make a market successful? Please rank your list.

5. Other thoughts?

### Maine State Pier Input: Tenants

Please fill out the following. You do not need to include your name/contact info, but may if you'd like.

1. My current experience with the Pier is  *very satisfactory*  *somewhat satisfactory*  *unsatisfactory*.
  
2. If a Maine State Pier Market is created, I would most like to see \_\_\_\_\_ included.
  
3. If a Maine State Pier Market is created, it should not include \_\_\_\_\_.
  
4. I am  *interested in*  *not interested in* a market stall on the Maine State Pier.
  - 2a. If *interested*: why? \_\_\_\_\_.
  - 2b. If *interested*: the best size for a stall would be \_\_\_\_\_ square feet.
  - 2c. If *not interested*: why not? \_\_\_\_\_.
  
5. The best way to improve my experience of the Maine State Pier is \_\_\_\_\_.
  
6. Other thoughts?

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### Maine State Pier Input: Ferry Users and Islanders

Please fill out the following:

1. When I arrive from the ferry at Maine State Pier, the first place I go afterwards is \_\_\_\_\_.
  
2. My current experience with the Pier is  *very satisfactory*  *somewhat satisfactory*  *unsatisfactory*.
  
3. If a Maine State Pier Market is created, I would most like to see \_\_\_\_\_ included.
  
4. If a Maine State Pier Market is created, it should not include \_\_\_\_\_.
  
4. During my morning commute through Maine State Pier, I would like to be able to \_\_\_\_\_.
  
5. During my evening commute through Maine State Pier, I would like to be able to \_\_\_\_\_.
  
6. The best way to improve my experience of the Maine State Pier is \_\_\_\_\_.
  
7. Other thoughts?

**Maine State Pier Input: Seafood Industry**

11 Responses

**1. I am a (check all that apply)**

<i>industry rep</i>	<i>retailer</i>	<i>processor</i>	<i>street vendor/ food truck operator</i>	<i>harvester/ grower/ producer</i>	<i>start-up business</i>	<i>other</i>	<i>[if other]</i>
x			x	x			
		x		x			
x				x	x	x	New England Ocean Cluster
				x		x	waitress
x		x				x	incubator developer / manager (MCE)
x						x	local property owner
						x	seafood importer
<b>4</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>5</b>	<b>1</b>	<b>5</b>	<b>5</b>

<b>2. I am</b>	<i>interested in a market on the Maine State Pier</i>	<i>why; how big?</i>	<i>not interested in a market on the Maine State Pier</i>	<i>why not?</i>
	<b>8</b>	Interested in a small stall for a more stable/reliable presence in portland; 200-400 sqft. Another way to sell product Another outlet for product Outlet for G'Town Oysters; ? Retail space for selling shellfish, smoked seafood To sell Maine seafood The Ocean Cluster in Iceland has public markets; <600 sqft	<b>3</b>	not in my business mix

**3. A Maine State Pier would be for the seafood industry**

<i>good</i>	<i>bad</i>	<i>neutral</i>	<i>why?</i>
x			Retail space for Maine's emerging aquaculture industry. An accelerator or incubator for Maine food businesses... ...would be interesting
		x	Competition with existing seafood retailers
x		x	New opportunities to connect more consumers with fish; Better experience for cruise, islanders, Old port. More... ...venues for chefs
x			We need to put a face and story to ME's superior seafood; I would like the opportunity to educate visitors about... ...the opportunity to have ME seafood shipped to them
x			Good way to showplace Maine seafood to visitors/tourists/cruise passengers; Office space and meeting space... ...will encourage seafood offices (brokers, sales offices, etc)
x			Sales and build Maine shellfish brand
		x	Plenty of distribution already
		x	Very easy to get seafood / Lots of distributors
x			Showcase smaller Maine vendors, share their story and promote small business that Maine is famous for
x			Allows SFD to assist control (?) future vision of City

**Also written:**

(re: important support services): Loading, unloading for fishermen  
Only 3 months of business a year  
The licensing will be hard; (also:) Think about eco-tourism

**Maine State Pier Input: Seafood Industry**

1 Response

**1. I am a (check all that apply)**

<i>industry rep</i>	<i>retailer</i>	<i>processor</i>	<i>street vendor/ food truck operator</i>	<i>harvester/ grower/ producer</i>	<i>start-up business</i>	<i>other</i>	<i>[if other]</i>
	x	x			x		
<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>

<b>2. I am</b>	<i>interested in a market on the Maine State Pier</i>	<i>why; how big?</i>	<i>not interested in a market on the Maine State Pier</i>	<i>why not?</i>
	<b>x</b>	Prepared foods/beverage; TBD		

**3. A Maine State Pier would be for the seafood industry**

<i>good</i>	<i>bad</i>	<i>neutral</i>	<i>why?</i>
x			Prime location - destination - complement marine, seafood industries agriculture

**4. What support services, shared facilities, or amenities would make a market successful? Please rank your list.**

Parking

**Also written:**

**Maine State Pier Input: Ferry Users and Islanders (Open House)**

6 Responses + 1 Email Response

**1. When I arrive from the ferry at Maine State Pier, the first place I go afterwards is**

parking lot  
parking garage  
office  
Casco Bay Garage, then grocery shopping (mostly produce)  
work related obligations  
CB Garage  
I often use Uber to get to our home on Vaughan Street or I walk to nearby shops

**2. My current experience with the Pier is**

<i>very satisfactory</i>	<i>somewhat satisfactory</i>	<i>unsatisfactory</i>
	x	
	x	x
	x	
	x	
	x	

**3. If a Maine State Pier is created, I would most like to see \_\_\_\_\_ included.**

self service tickets; convenience store  
parking  
seafood market  
parking nearby  
food service  
parking  
I like the idea of having a market. I would like to have some food stalls. A cafe would be great. The Maine Historical Society has some thought of creating a educational...  
...display/exhibit in the Commercial...Street area. This could be a perfect location. Greater Portland Landmarks or other groups might also be interested - so something...  
...educational but also oriented to tourism.

**4. If a Maine State Pier is created, it should not include**

fine dining  
lack of parking  
No parking please. No other answers.

**5. During my morning commute through Maine State Pier, I would like to be able to**

get a coffee, bottle of H2O  
get coffee  
grab a decent coffee without walking over to Commercial St.  
gather casual food/beverage items  
Buy coffee or tea

**6. During my evening commute through Maine State Pier, I would like to be able to**

get to the boat on time in the summer  
drop off my freight unimpeded by pedestrians and vehicles waiting to pick up passengers  
groceries  
It's important to be able to get to the ferry quickly, buy tickets if needed and get onto the Peaks ferry. I find the pier works quite well for my needs.

**7. The best way to improve my experience of the Maine State Pier is**

improve flow and increase parking for island residents and visitors  
visual improvement by adding shops, sidewalk, benches  
to have better signage for traffic flow, esp. exiting existing garage  
include grab + go retail / food / beverage  
I like the ideas for addressing circulation. The roundabout looks logical and useful so vehicles can come just part way down the pier if they don't need to go farther. I like the...  
...pedestrian walkway idea along the whale wall building.

**8. Other thoughts?**

**Maine State Pier Input: Peaks Island**

26 Responses

**1. When I arrive from the ferry at Maine State Pier, the first place I go afterwards is**

<p>Hannafords; Doctors appointments Scarborough garage to get my car the terminal my car in Casco Bay Garage CBC and Garage the parking garage to my destination; appt., work, event ATM or bathroom to my car to my office by foot drop off groceries</p>	<p>Standard Bakery to parking garage on Fore Street, or walk to Arabica to work remotely and meet clients, or walk to... ...local grocers or entertainment to the car parking parking garage to my car in the garage to my car in a lot several blocks away the garage the boat Casco Bay Garage</p>
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**2. My current experience with the Pier is**

<i>very satisfactory</i>	<i>somewhat satisfactory</i>	<i>unsatisfactory</i>	
	x		
	x		
	x		
x			
	x		
	x	x	"very unsatisfactory in the spring / summer/fall
	x	x	"too busy"
	x	x	"in winter" ; "from May to Nov"
	x		
	x		
	x		
	x	x	"in summer
	x	x	
x		x	
	x	x	
	x	x	
	x	x	"somewhat"

**3. If a Maine State Pier is created, I would most like to see \_\_\_\_\_ included.**

<p>parking would not use no competitive businesses access to the Bay parking / less people parking parking needs of islanders addressed first! no desire for anything but more parking nothing that competes with island businesses parking better pedestrian circulation</p>	<p>newsstand I like focus of marine goods or Maine made goods, local commerce environmental goals,... ...sustainable materials,energy efficiency should be goals of building 2030, 2040, 2050 goals parking parking items not sold on Island get light within 3 minutes [ed. note: first word (get? sat?) unclear] open space parking (Islander) green space no market</p>
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**4. If a Maine State Pier is created, it should not include**

<p>competition with existing businesses building - tear it down shops / bars / food vendors / more people hospitality (bars etc.) more people! alcohol, take out food with "disposable" utensils, plates, etc anything that increases traffic or competes with... ...island businesses any businesses that attract more people or compete with... ...island / local businesses businesses that generate more parking demand... ...and businesses that compete with island businesses zero advantage to this idea</p>	<p>businesses that compete with Island enterprises or small businesses close to ferry. Standard... ...Bakery, Arabica, etc food competing with island stores things that compete w/ local businesses more congestion any shops shops, creating non-ferry related congestion markets the music / concerts new business attractions that will draw EVEN MORE people and take away from already... ...present local business! no market - no trash</p>
--	---

**5. During my morning commute through Maine State Pier, I would like to be able to**

<p>leave down front quickly access my car in Casco Bay Garage move quickly leave without wading through congestion walk safely</p>	<p>get to my car for work 7 a - 7:30 p sit at a park park nearby avoid cars get where I'm going</p>
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**6. During my evening commute through Maine State Pier, I would like to be able to**

<p>get to the garage quickly get to my parking space without congestion access my car in Casco Bay Garage less traffic get to the boat without taking a shuttle get through safely make it to my boat on time without wading through congestion not get run over</p>	<p>get to boat on time make the boat - not competing with tourists place to work on the ferry side sit at a park leave my car nearby and catch the ferry make the ferry not have traffic get to the boat on time</p>
--	--

**7. The best way to improve my experience of the Maine State Pier is**

<p>make it into a parking garage for islanders mindfulness for "seniors" create the Franklin / Commercial roundabout now! tear the building down more parking / less people reduce congestion work on eliminating congestion to reduce congestion tear it down and have green space</p>	<p>improve pedestrian access and generate more traffic business whose workers take the bus control traffic more parking in area to help solve parking issues help solve our parking crisis, not tighten it scale back development and concerts no more concerts do away with concerts</p>
---	---

**8. Other thoughts?**

<p>No more shops / no more tourist traffic Thank you for coming! Add more affordable parking, please! Make the area a waterfront park. See the comprehensive parks plan '15 Create parking garage on land leave blue building as is no more businesses, events to attract tourists I question why the pier must be saved. Tear it down and have a waterfront ...park. I see zero advantage to the marketplace I don't see the need for more retail Need more parking in this area. Good point made is why does new ...business get to create a garage in this area? We need parking not markets. And we don't want more tourists in our path</p>	<p>Shuttles would have to accommodate commuters' schedule Area already over capacity - I think council members + planners should come down... ...+ see how impossible Give the islanders dedicated parking! Listen to our neighborhood and its needs I don't feel like I need a new pedestrian walkway... or the round about (second). Alternative idea... ...for the space - make part of it a public park / (or) public area like how the pier is, by the compass I feel so frustrated that commercial (luxury) items are being contemplated when we don't need... ..."attractive nuisances" to get more people down the pier. We need parking. If it can't be built... ...here, let's wait for a comprehensive response to island parking needs before tying up this... ...building. It may play a role, such as light rail, or other auxiliary supports for parking elsewhere</p>
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*\*This document is not a transcript or minutes. It is drawn from one staff member's meeting notes\**

**Seafood Industry (Main State Pier Mtg.)**

**2/27/18**

There are already a lot of retailers – cost of business is an issue of concern. The City is changing, and we have an opportunity to do something better. Founded on lobster industry – potential for “Maine Marine Discovery Museum?”

Not sure 8000 square feet is sufficient.

Regarding important services: refrigeration, ice machine, water. Require square footage.

New England Ocean Cluster: It seems like this is more of a street food vendor-level market (one step up from a food truck). Would capitalize on throughput of cruise ship passengers (limited processing). Similar to the market at the Iceland Ocean Cluster.

Presents an opportunity for Robin Hood Cove Oyster visibility. Interested potential vendor.

Pike's Place Market (Seattle): range of visitors crowding through, lack of parking. “Seafood market,” but more flower vendors than seafood vendors. Represents a different type of retail customer than someone going for fish / seafood sales.

Cruise ship traffic seems to get caught by small craft, card-table vendor types. Pike's-market style would be better.

“Don't forget the fishermen.”

Relevance of concept depends on what you're selling. Raw seafood requires parking. Boston Eataly – no parking. 40,000 sq. ft. facility but fish market is pretty small. Prepared foods represent much more.

Raw seafood is much more difficult in this concept.

Pike's Place: great view of harbor. Are there places at MSP to incorporate public space to take advantage of views?  
BN: Compass Park wildly underutilized.

2<sup>nd</sup> floor office space? Does this present an opportunity for views?

Opening up oysters on site would probably work. Could be designed as a showcase for Maine seafood products – what does Maine offer more than just lobster?

When in the area, people look around for fishermen to interact with. Great opportunity for educating community/visitors about how to buy Maine seafood.

“Don't know how to get folks to work together, but getting folks to eat oysters there doesn't make people not want to go to Eventide. May make them *want* to go to Eventide.”

Ecotourism, aquaculture. Most people that eat seafood don't know much about aquaculture.

Oyster food cart (shucks oysters): Wood like to have a nook where folks could eat. Likes the education piece idea. Education + fresh oyster = unique, satisfying experience. Supportive of idea, interested. Potential opportunity for some raw seafood? Baked oysters? Crudo?

*\*This document is not a transcript or minutes. It is drawn from one staff member's meeting notes\**

**Food and Beverage Industry (Main State Pier Mtg.)**

**2/28/18**

Non-City Attendees:

Matt Thornton, Identity Group

Mike Alfiero, Harbor Fish  
John Naylor, Rosemont Market

MA: Interesting concept. Congratulations.

JN: Nice looking concept. Parking and car issues in summertime. Retail season extended now. Stay away June, July, August. Eight months to really put it together. How do we get people in Jan, Feb, March? # of retailers on Commercial and India Streets, some opening up. How will this differ? .... Finding more opps off peninsula.

BN: But are we eating your lunch?

JN: Depends on islanders. If we could serve the islanders right there maybe it could be good for us.

KA: Affordable stalls. Year-round cruising. WEX and other development. → Potentially getting more customers.

JN: Something to think about for sure.

MA: IF it was a raw seafood market I would be concerned and might feel we need a stall. But yesterday, sounded like a lot of prepared foods.

BN: Takeaways from seafood ind. mtg: Importance of and opportunity for food-ready-to-eat, education.

MA: Discovery Center for seafood industry? History of, how lobsters are caught. Way for the industry to come together, opportunity to do something special.

JN: Food / agriculture history also notable.

MA: I think it would be worth the City's interest to at least look at the possibility of a marine discovery center. Food infrastructure is expensive: showcase can be \$30-40k. Kitchens are \$\$\$.

JN: Munjoy Hill store: ~ 900 sq. ft. Delivery 3 times/day. Warehouse supplies.

JP: Watch out for servicing semis.

MA: Question whether the City should be getting involved in private business.

JN: Supply spot for the islands?

JP: Cruise ship days: 15 min parking.

MA: Prepared foods the only way I am interested. Harbor Fish & Rosemont Market could share a space/ kitchen.

JN: Agriculture is growing. "Food museum," education and opportunities for processing. We produce a lot of food in Maine and a lot of people don't know about it.

*\*This document is not a transcript or minutes. It is drawn from one staff member's meeting notes\**

**Tenants (Main State Pier Mtg.)**

**3/1/18**

**Non-City Attendees:**

Casco Bay Lines (~3 employees)

Jack

Megan Jones

Scott

John Ready

Jack: Concern regarding new pedestrians being introduced to the pier when there is already constrained space. Why not doubling down on marine use? This is the last part of the eastern waterfront dedicated to marine use. \$\$ spent vs return? Start with the upper floor, skip the retail.

BN: If we don't do the retail I don't think we should do the corridor.

Jack: Look at *marine use* first, not non-marine.

KA: (Longer?) cruise ships want access to Portland.

BN: Maybe we should be talking with cruise ships.

Scott: From a perspective of sailing passengers, this could work. Customers wonder where they should go afterward for a coffee or sandwich.

John (?): Issues regarding pedestrian circulation and safety are real.

KA: Upper floor gets more attractive with the bottom area getting better / more attractive.

Scott: "Pie in the sky request." It would be great to see from one end of the building to the other – really great location on the pier. Water viewing would be great.

Jack(?): These changes preclude other developments that are marine based.

(?): I see this as a positive as well as long as you don't *prohibit* the potential development of another industry.

BN: I don't think this plan precludes longer ship turnarounds, but we should explore.

Megan: The rotary concept is brilliant, will help a lot. We struggle from an operational standpoint with our own vehicles. There are a lot of people down there in the summertime.

(?) Putting thought into vehicle traffic to Compass Point Park, police access.

BN(?): Pier being maintained as marine/fishery supporting is important.

Scott: can we mandate that 50% seafood be included in the final building/tenants? The authenticity is really important.

KA: Information re: where the food comes from and what processes are included.

BN / Scott: Ticket booth? Would that be helpful?

BN: Casco Bay ticket kiosk?

(?): Cruise ship industry is changing and can change quickly.

Scott: Rough time frame from here?

BN: Economic Development Committee, report out what we heard, suggest next steps. Not hearing showstoppers, but I do want to further explore potential operations constraints per Jack's comment.

KA: Waiting area in there?

Casco Bay Lines: Don't know.... People want to be outside in nice weather. Vehicular traffic is a problem. Important not to increase vehicular traffic that doesn't need to be there. Flow of peds / vehicles.

KA(?) BN(?): Re-emphasis of small space. 1000 feet of deep water berthing that needs to be maintained. Echo's Jack's thought that it should be flexible.

Casco Bay Lines: Overall thought: maintain or improve flow for peds and vehicles.

John: Vehicle traffic. Marketing and promotional power is good. 53' trailers. Having someone in an enforcement role other than tenants. 5 or 6 trailers a day coming in from secondary packaging companies. Improvements managing pedestrian crowds recently. Desire for enforcement / people management.

Megan: Point person at the rotary that decides whether you can go down the pier or not. Enforcement, management.

(?): We can't handle additional vehicles if we don't ease up other areas. Facility not designed with the volumes we are experiencing.

BN: Let's have a separate conversation about trucks and how to make that work.

(?): Let's get more box trucks in there and have more regular access.

Jack: I don't think you hit a fatal flaw, because you have to improve the pedestrian experience.

*\*This document is not a transcript or minutes. It is drawn from one staff member's meeting notes\**

**Casco Bay Lines Open House (Main State Pier Mtg.)**

**3/12/18**

What do you mean by business incubator / why?

BN: Low barrier for entry. Small business, startups. More manageable size and use for the space that we have.

San Francisco Ferry terminal is an example of this type of facility. Great treasure of the city. Retail use, offices. Walkability is a big issue. 21<sup>st</sup> century, people are in the terminal all the time, very well utilized. Farmers' market. Vote against the bar, incubator towards other retail related spaces like pottery / artist studios and retail that are open until 9 (cafés, etc). Businesses spaces are not public.

I think it's pretty exciting. I think it's a pipe dream to think that you can do this without parking. Funnel of parking need does not get reflected in the study numbers alluded to. The last great hope for island people to have a parking place. People walk from cars to the ferry in the winter with their bags. Not buying the idea that this is tangential to the project. It's just more.

Just wrong. Presentation doesn't show lines of traffic. Islanders are not going to support 5 or 6 shops. Harbor Fish. Ready seafood.

BN: There is zero use in the upstairs.

The idea of developing the space overall is good. Sitting there as it is now is problematic. But a parking crisis exists now and this is just going to add to it.

What would it take to put in infrastructure for parking?

BN: We would have to exclude uses. We can explore parking, but would include extraordinary expense or excluding uses. Assumption that doing nothing is a bad option.

Why do we always talk about parking and not getting folks to take public transit?

BH: Responds re: public transit initiatives, Metro #1 and #8. We hear you but we're not quite there yet.

What are the current City uses / sq. footages? All marine uses?

KA: Yes. Big gangways, etc.

Queuing? How do you plan to manage that?

KA: Working on that now. Perhaps similar to taxi management at airport.

Ocean Gateway Flow? Would changes in that help?

BN: Can be informed both ways. Depends on their flow, throughputs, and needs.

Does this plan require rezoning?

BN: Should not, per 2006 zoning. I think this is the opportunity to do more and better.

Another deck to the Casco Bay Garage? There has to be more creativity on this parking issue.

Shuttles?

KA: The Wave will be coming online. 4 passengers at a time, not sure about impact, but a step in the right direction. Chebeague Island lot has shuttle service. Land off peninsula with shuttle?

Looking at developer for each floor?

BN: Probably one for the whole building.

We are business owners on island, and some kind of convenience store would be great.

BN: Very interested in uses that will save people a trip. Pharmacy, florist, convenience store, grocery.

Removing need for trips to the store / owning a car may help with the parking issue ("subtraction by addition.") Grandparents owned two cars, lived on island. Maybe wouldn't have needed the with redevelopment proposed here.

Green grocer, all-purpose grocer.

Needs to survive winter, can't survive on islanders alone. Not enough of them.

Doesn't the Nova Scotia ferry potentially offer some opportunities to other uses (i.e. parking).

Customs / clearance flexibility?

BN: Great potential there is flexibility. Depends.

*\*This document is not a transcript or minutes. It is drawn from one staff member's meeting notes\**

**Peaks Island (Main State Pier Mtg.)**

**3/12/18**

Grocery store owner: what do I do with a 15% cut in business? Am I supposed to retire, pack up shop, and have store be developed for condos?

Doesn't fit City's Comprehensive Plan. Light and noise pollution. More people. Won't improve access to the water. Going to bring hundreds, thousands?, to the site. More congestion. Parking isn't a static situation. It's been shrinking for years.

What do you mean by a market?

Parking strategy and overall strategy and comp plan of community development.

The City keeps hearing the issue of parking and kicking it down the road. Please take back to the City how important the issue of parking for islanders is.

General discontent re: idea of shuttle parking.

We don't need a lot of the things you are talking about (bagels, coffee, market). Also, I was at the Casco Bay Lines meeting and did not hear that the shuttle idea was well received.

WEX employees should be in a satellite lot. Not Peaks Islanders.

Light rail connection from Marginal Way. What I want to hear is parking. That's the issue for this group.

BN: We are not getting quality feedback on reuse because we are thinking about parking. I don't want to ignore this problem or burden this process with it.

We don't need more of a party down there.

Seems like you've done a good job within the constraints that you've been given, but those constraints aren't allowing you to address the problem.

The message to the City Council is that you can't bring more people, will make it unlivable.

I think the last thing that any islander is interested in talking about is another cute shop. Your business is attractive for others, not islanders. Overhang piers with about 60 spaces, make some \$\$\$\$. Most of the lot that is now roped off was a free lot for islanders (50 or 60 bucks for 3 months). What about that huge lot that used to belong to us? Somewhere that islanders could park.

Re: roundabout: you'd have another at Franklin a few yards away. Circulation is also pedestrians, who are oblivious. Roundabout won't solve that - it's for cars.

Understand you have a job to do, appreciate that the whole existing area is congested. Have there been other uses explored? Marine-related or educational? Things that would have less impact and also benefit those that are in need.

KA: This whole thing came out of how to help with pedestrian flow.

[Attendee suggests a show of hands]. Who wants shops? (Essentially no response). Who wants parking? (Many hands up). The issue of little shops is not of interest.

Parking is the cost of doing business. It's what you get for living here.

Casco Bay Lines Comments, Paul Pottle, Director of Projects

**Casco Bay Lines Feedback**

Bill;

You wanted a list of concerns or issues that Casco Bay Lines might have as the City looks at the development of the Maine State Pier building known as the Portland Ocean Terminal (POT). The following comments come from discussions with some of our staff, but does not necessary represent the position of all of our Board members. You heard from some of the Board at the Operations Committee meeting and you may have also received comments during the Open House as well as the meeting on Peaks. I will assume that those comments were captured at that time and are included in your report.

- CBL would not want to see anything that would increase vehicle traffic through the site. We understand the need to maintain good access for Ready Seafood, the activities and events that take place at Compass Park and for there to be some type of access for vehicles going into the POT site to service any development there, but it should try and avoid the need to stage anywhere in the open site or to park in one of the lanes and off-load any commodities that they may carry. Development of the POT building should also allow for that type of activity to happen within the site as well as some limited circulation. Any staging in what would otherwise be through or maneuvering lanes would have an adverse impact on those vehicles that are queuing up or being off-loaded from the car ferry or those dropping freight or passengers at our facility for transporting on a ferry. This would cause a jamming of traffic and have a very negative impact on our operation and ability to maintain scheduled service.
- POT enhancements should be focused on improving pedestrian access through the site in making the experience more enjoyable as well as enhancing safety. The types of development should be focused on pedestrian traffic and not rely on users who would need to arrive by vehicle.
- CBL supports site changes at the northern end of the site (entrance area) that provide ways to reduce traffic through our operational areas. Things like providing a place for a bus stand and taxi stand for the pick-up and drop-off of potential customers while keeping those vehicles out of our operational area would improve the flow of traffic through the site as well as enhance safety for all users and employees. This would also include identifying a space for a bus waiting shelter to service any new drop off area. Additionally, informative signs that re-direct traffic not intended for CBL or that inadvertently entered the site as well as discourages non users to exit before proceeding through the operational area.
- It would be the desire of CBL that any increased activity for the POT building would have traffic accommodations within the footprint of the POT site as much as possible as well as limited movement to allow traffic to exit the site after completing and business.
- That any development would be evaluated such that it does not intentionally or unintentionally add to the parking demand on the site. As we think all are aware, parking seems to be a major issue with many of the islanders and our customers. While this

**Casco Bay Lines Comments, Paul Pottle, Director of Projects**

project or our Phase II project does not directly address parking, we need to remain very sensitive to what is done so as not to exacerbate the issue.

- That the City and CBL would cooperatively collaborate on way-finding signage that is also consistent with our branding so as to improve the visibility of our operation to visitors and first time users of our service.
- We assume that the City will continue to collaborate with CBL and we with the City as plans are developed so that our outcomes are more complementary with each other. We would not want either of us to compete for the same areas and that we will continue to work to eliminating items that could be better served elsewhere.

We think all know that the nature of our business requires us to be located on the waterfront and that in order to maintain an effect service that meets the needs of our customers and assists us in keeping our fares reasonable, that adding non-marine dependent activities that create operational conflicts detracts from that purpose. We support development of the POT building for we understand that in order to maintain such a facility, that the City needs an income stream to assist with day to day maintenance and improvement costs. That maintenance allows the facility to operate more efficiently and continues to support the marine dependent uses at the pier like the cruise ship visits, the schooners, tug boat operations and Ready Seafood. All of these enhance the waterfront and add to the uniqueness that makes Portland what it is.

I trust this will help the City as it evaluates options and makes decisions regarding the development and use of the Maine State Pier facility.

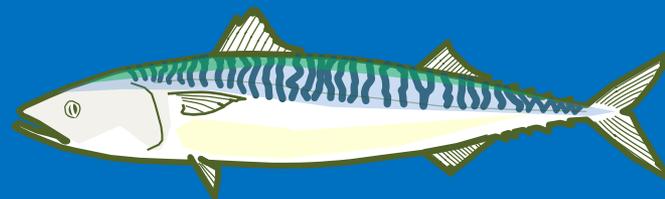
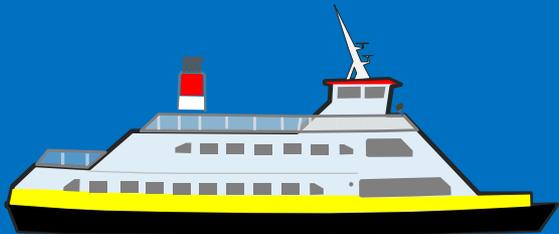
Paul

Paul D. Pottle, Director of Projects

**Casco Bay Lines**

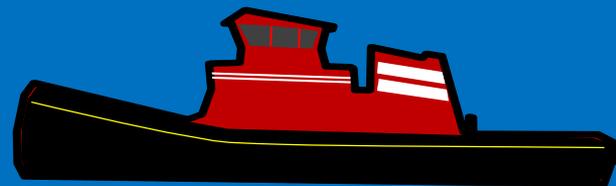
P.O. Box 4656

[56 Commercial Street](#)  
[Portland, Maine 04112](#)



Redevelopment Options  
for the

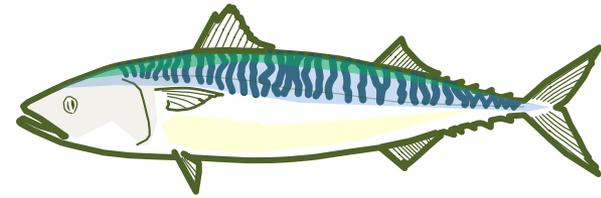
# MAINE STATE PIER



**Stakeholder Engagement Results**  
**Economic Development Committee**

March 20, 2018  
25 of 72

# Stakeholder Outreach:

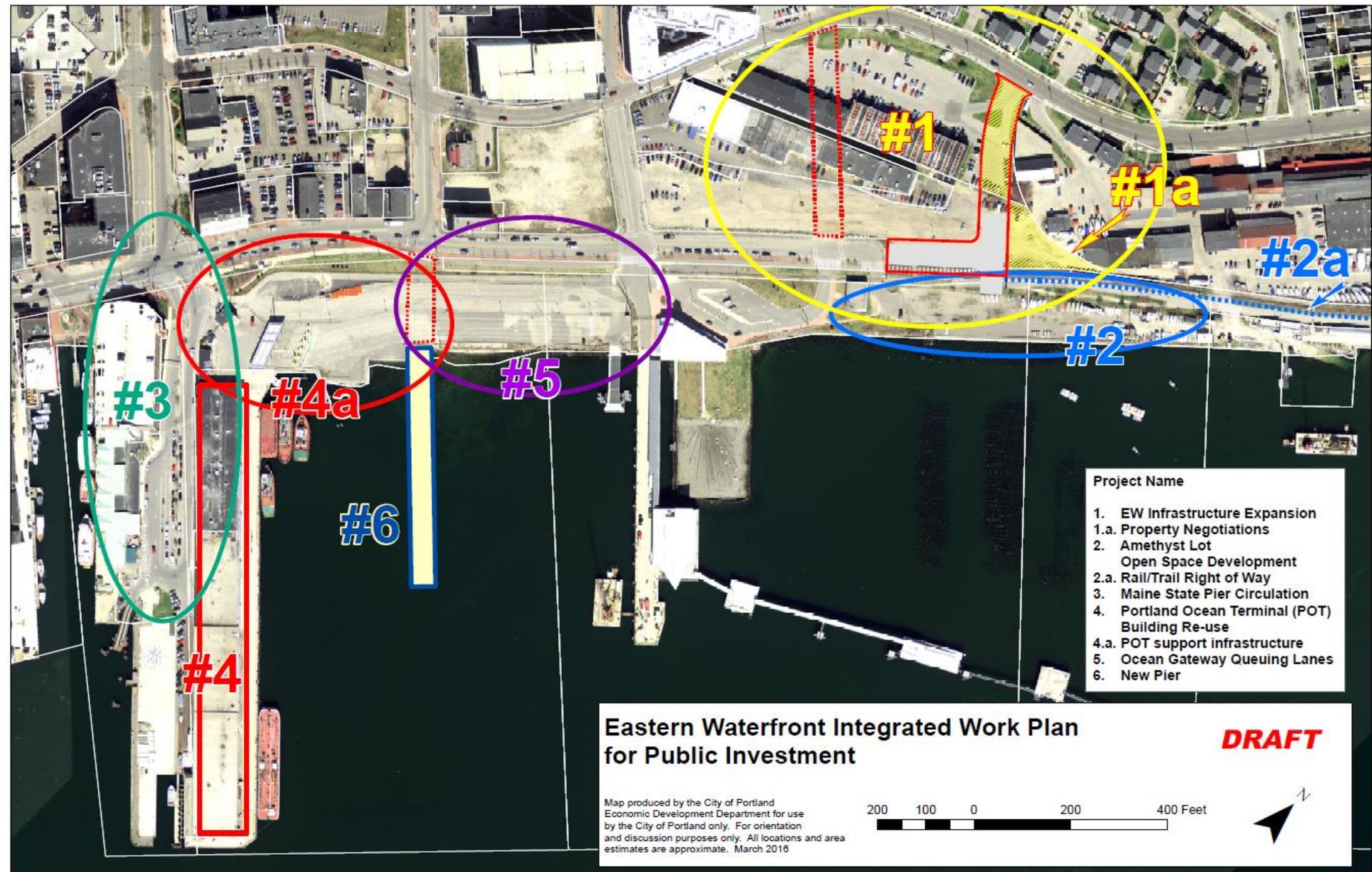


- Waterfront Alliance +/- 20 participants
- CBITD Operations Committee +/- 8 participants
- Pier Tenants +/- 7 participants
- Seafood Industry +/- 19 participants
- Food and Beverage Industry 3 participants
- Islander/Public Open House +/- 15 participants
- Peaks Island +/- 50 participants

**+/-120 individuals, some representing larger constituencies (CBITD Board Members, Peaks Island Council....)**

- Economic Development Committee

**Tuesday, March 20**



- Project Name**
1. EW Infrastructure Expansion
  - 1.a. Property Negotiations
  2. Amethyst Lot  
Open Space Development
  - 2.a. Rail/Trail Right of Way
  3. Maine State Pier Circulation
  4. Portland Ocean Terminal (POT)  
Building Re-use
  - 4.a. POT support infrastructure
  5. Ocean Gateway Queuing Lanes
  6. New Pier

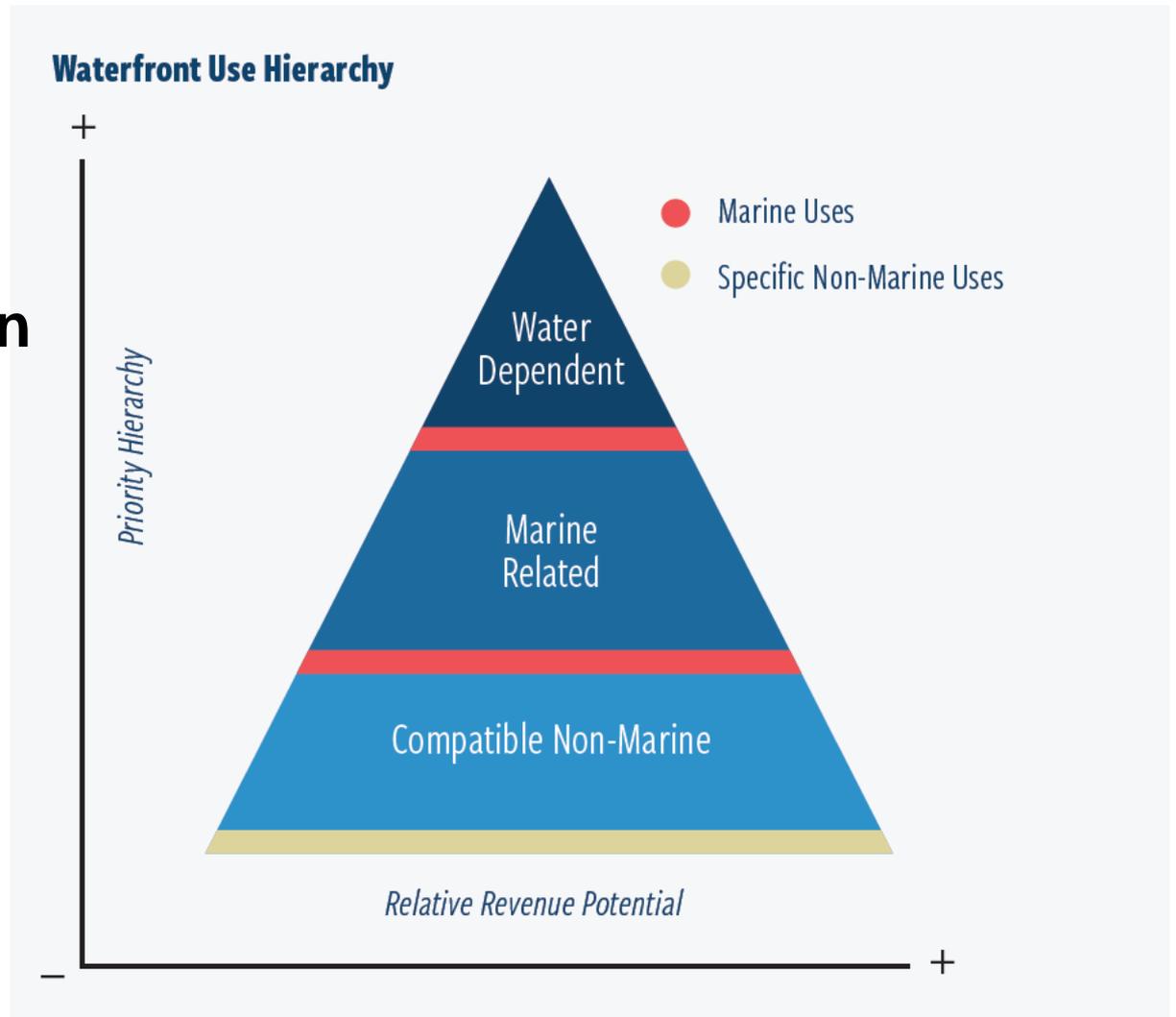
## Eastern Waterfront Integrated Work Plan for Public Investment

**DRAFT**

Map produced by the City of Portland  
Economic Development Department for use  
by the City of Portland only. For orientation  
and discussion purposes only. All locations and area  
estimates are approximate. March 2016



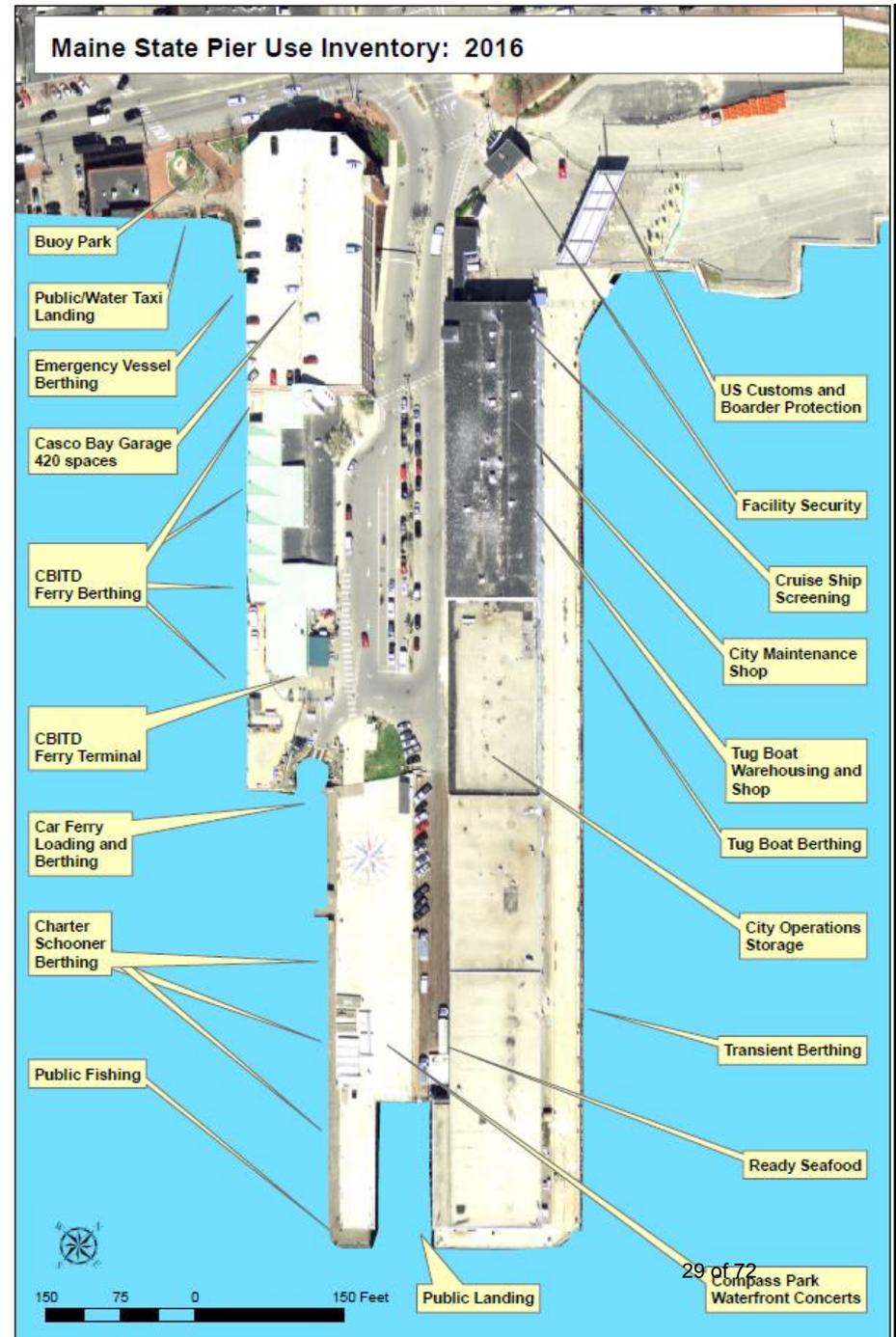
**Redevelopment on the Maine State Pier should be consistent with longstanding waterfront land use policies**



**Over 20 public and private operations share the Maine State Pier**

**Integration and coordination is crucial**

**Current policies informing Future pier changes were Adopted in 2006**



# 2006 Policy Statement, Summarized

## The Maine State Pier:

- Is a regionally significant asset
- Is needed for the Marine Passenger industry
- Needs investment and revenues
- Mixed Use has a role on the Pier

## Policies:

- Preserve Deep Water Access and Marine Utility:
- Create Economic and Structural Stability for the Pier through *Appropriate* Mixed Use Development
- Respect and Enhance Other Vital Water Dependent Uses of the Pier:

## Development Strategies:

“The City will approach the future of the pier by encouraging a mix of appropriate uses that both promote deep water berthing options and provide the revenues needed to maintain the infrastructure for future generations....”

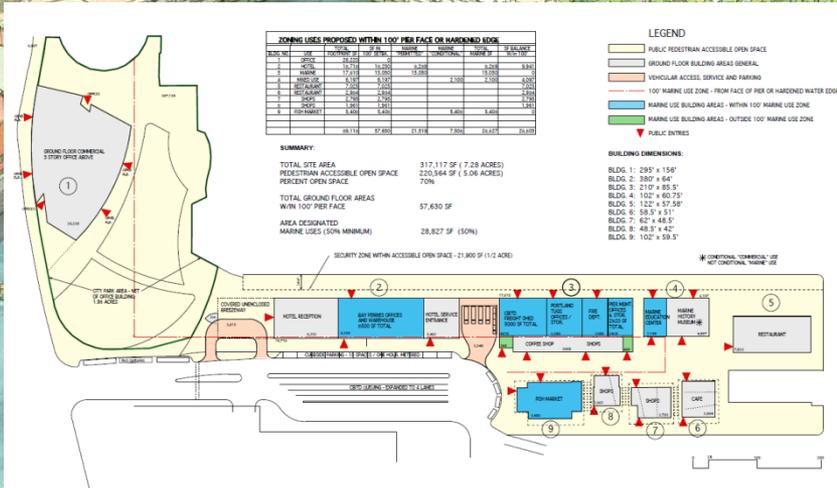
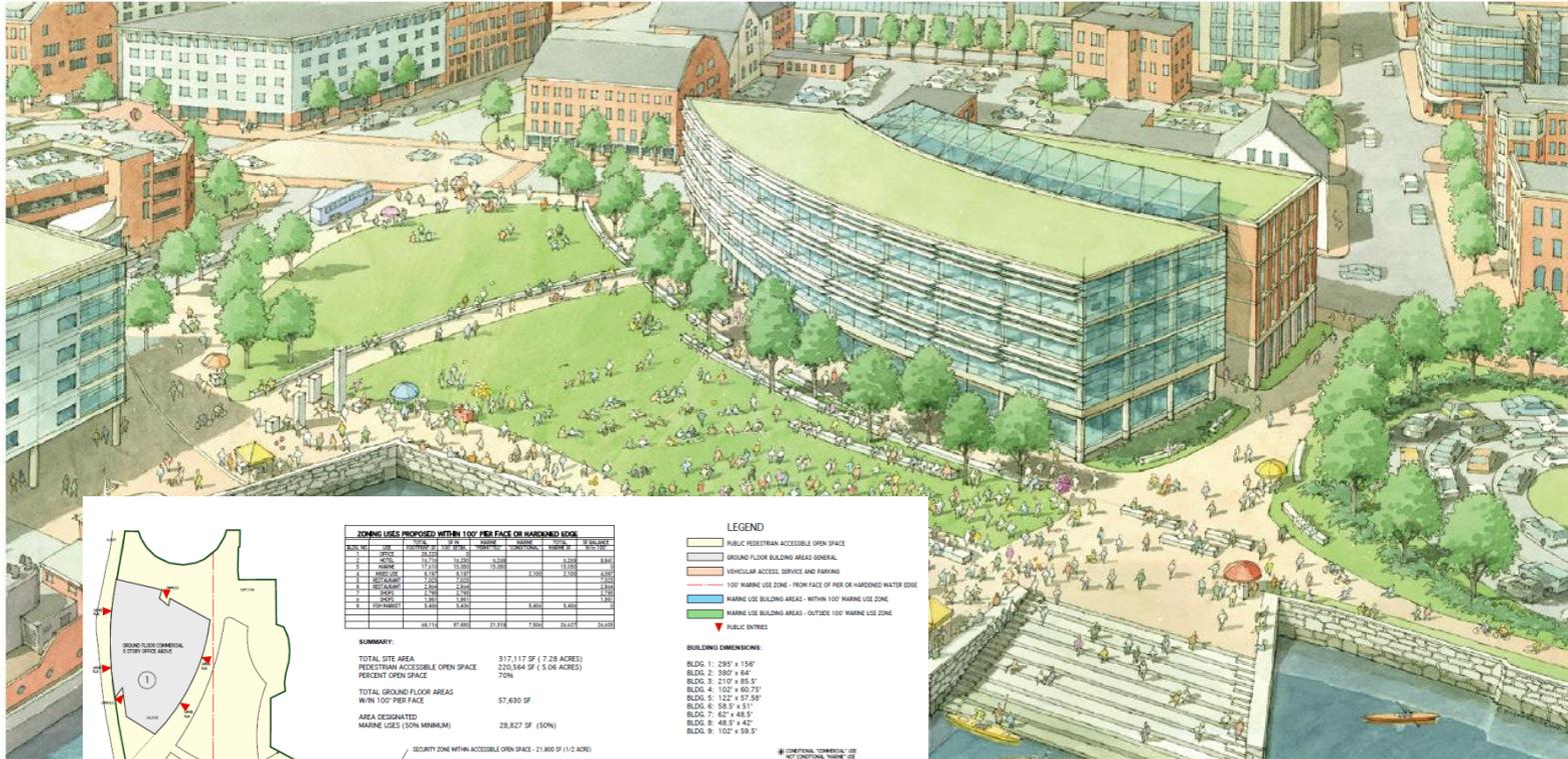
## 2006 Continued:

### Spatial Relationships for Non-marine Use

- The pier edge and deck adjacent to the pier edges must remain available for anticipated and future marine uses.
- **Non-marine uses** should be concentrated on upper floors
- **Circulation areas**, should **focus activity to the interior of the pier**, away from the seaward edges.
- Where non-marine uses are proposed, respect the interior of the pier as an urban pedestrian space and create a welcoming, safe, and attractive extension of the city fabric onto the pier.
- In general, non-marine activity should **concentrate toward the northerly end of the pier**, leaving the southerly harbor-side end of the pier available for marine and open space uses.

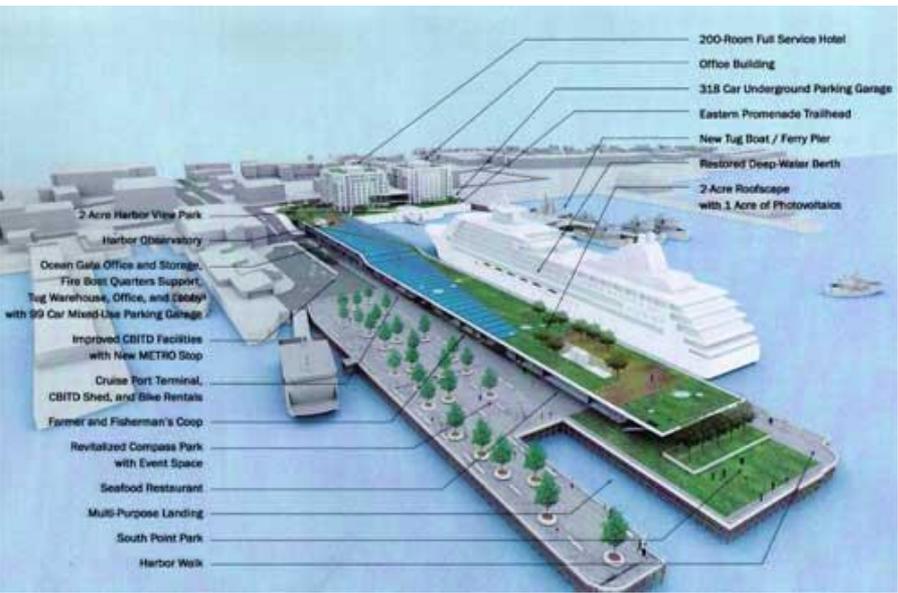
Protect and Create Views

# Multiple proposals have come forward since the Request for Proposals in 2007



**Olympia Companies**

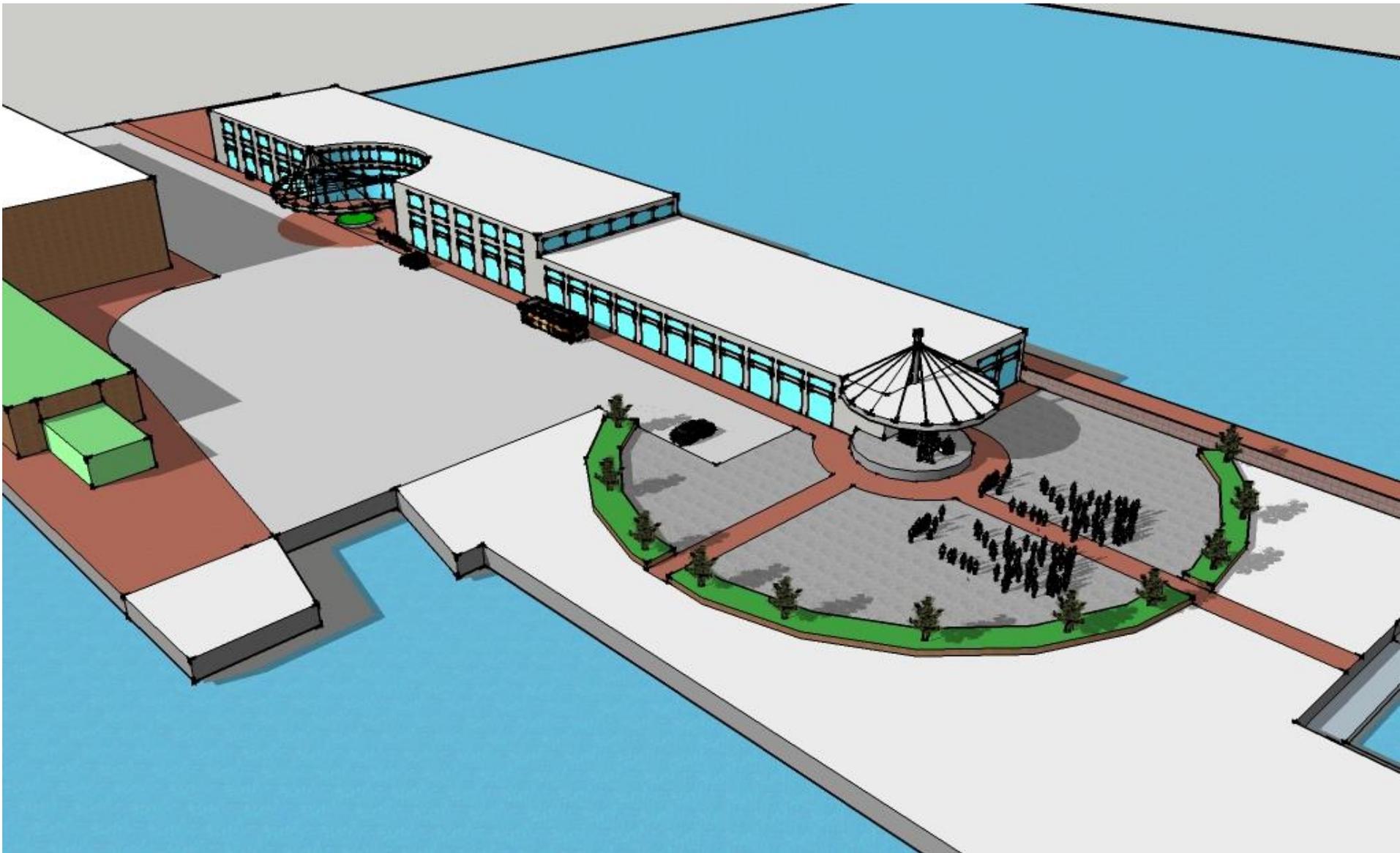
## Lease & Redevelopment of the Maine State Pier



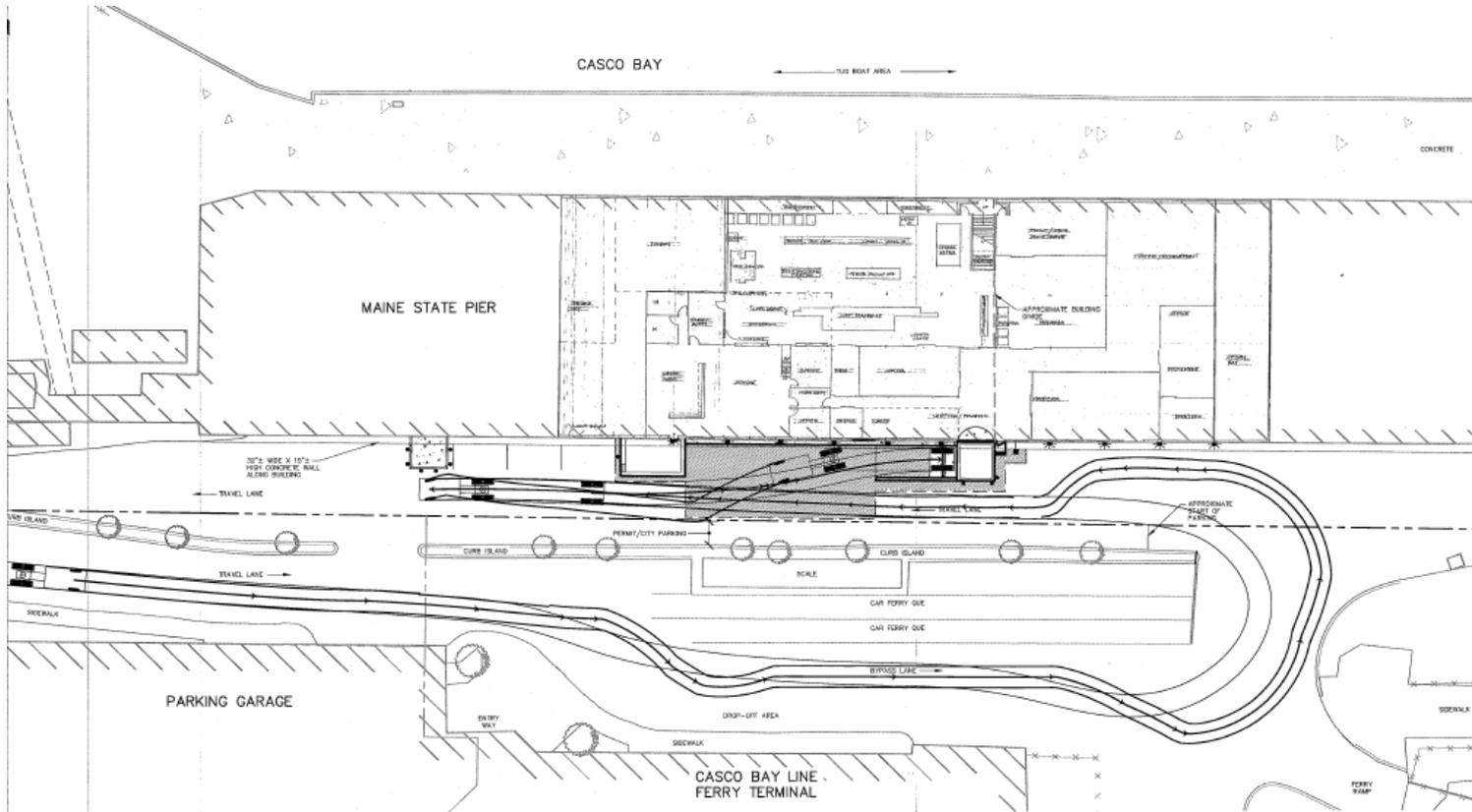
**2006-2009**  
**Maine State Pier RFP**  
**Ocean Properties**



Both proposals eventually walked away.  
 The Great Recession of 2008 didn't help



# City of Portland 2009



# Shucks Maine Lobster 2014



NEW ENGLAND  
OCEAN CLUSTER

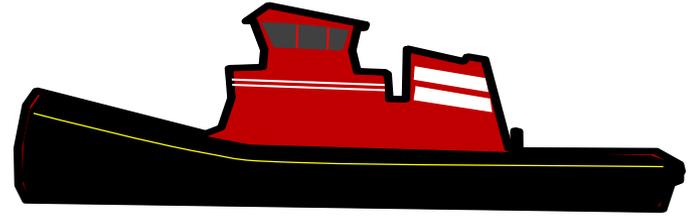
A Catalyst for Innovation  
and Entrepreneurship in the Marine Industries



Figure Y: main entryway

# New England Ocean Cluster House 2015

# Proposed Policy

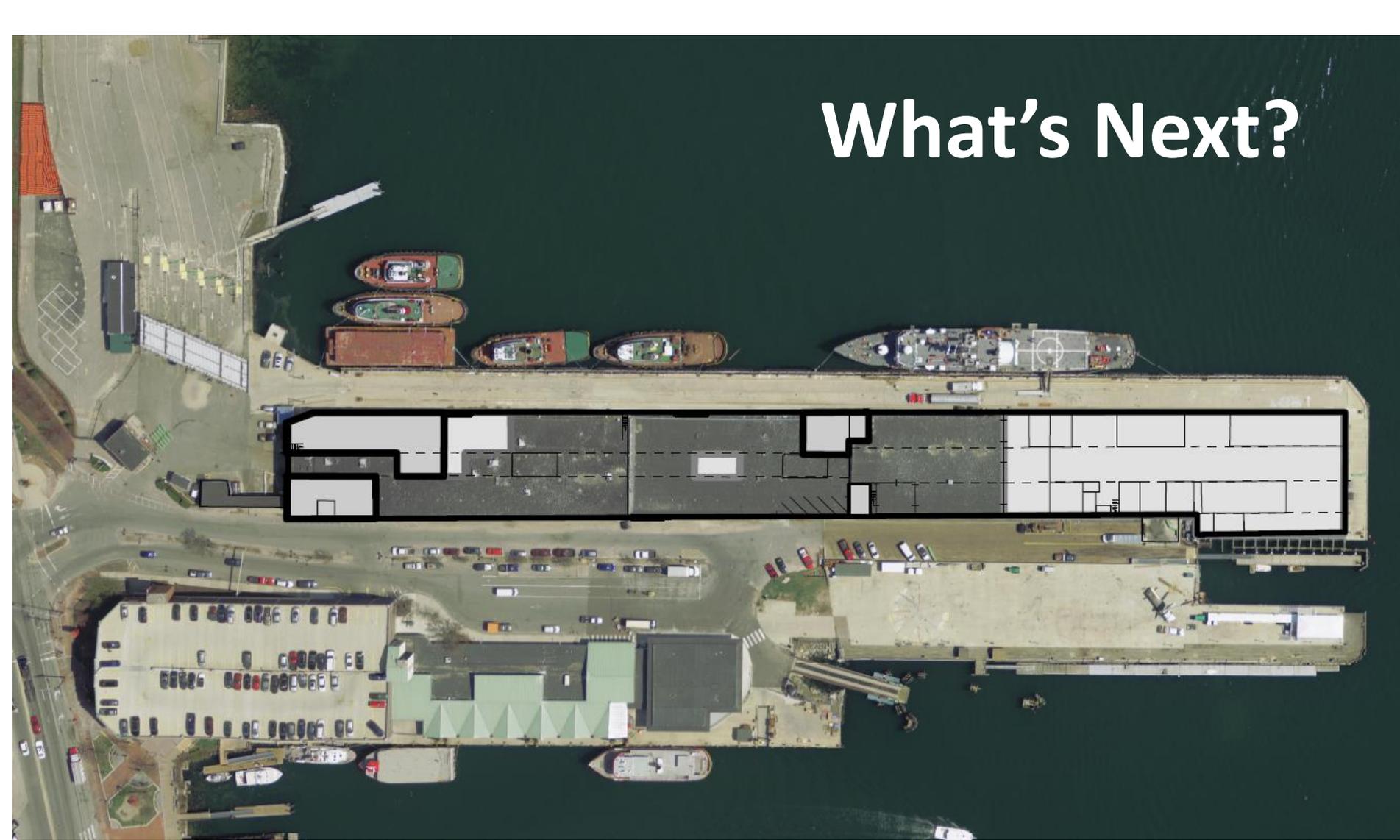


Recognize changes since 2006

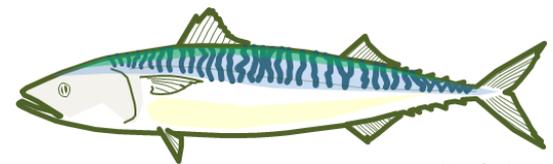
- *The arrival and success of Ready Seafood in the southerly end of the POT*
- *Growth of Marine Passenger Transportation*
- *Growth of Hotel and Tourism Development*

Remove expectations for wholesale redevelopment of the pier from the policies

# What's Next?

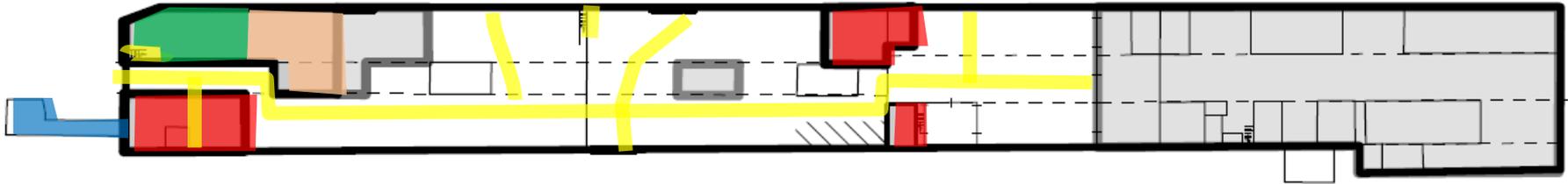


## Portland Ocean Terminal: Immediate Context





**Concentrating efforts on the  
“Northerly End of the Pier”**



## Portland Ocean Terminal: Current Uses

**Cruise Ship Support**



**City Shop/Maintenance**



**Private Leases**



**Mechanical Core**



**Circulation**



**Tenant Storage**

**Variable**

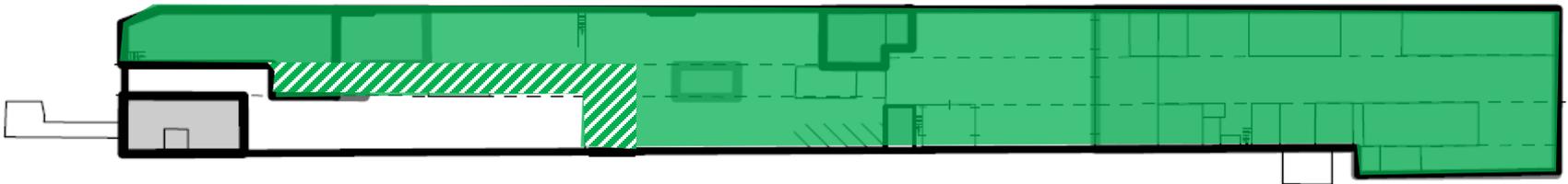
**City Storage**

**Seasonal**

**Vehicles**

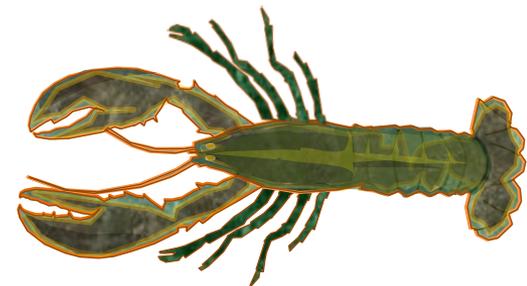
**Variable**

# Concepts for higher utilization of the Upper floor and Northerly End of the POT

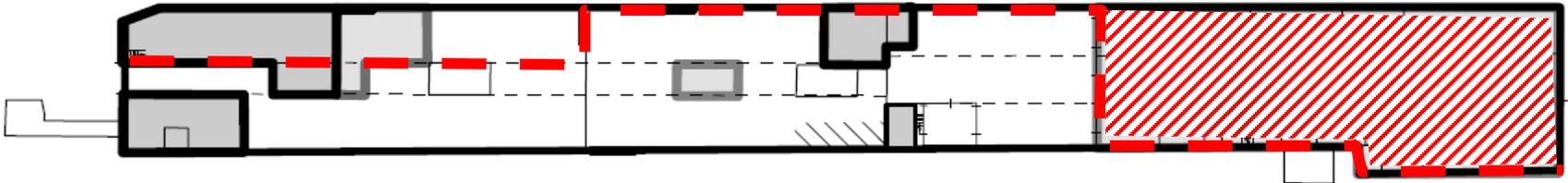


- Consolidate and organize City and tenant marine operations and storage
- Retain Existing Marine Tenants – Charter, Tugs, Ready

**Over 80% of the first floor  
would be retained for Marine Use**

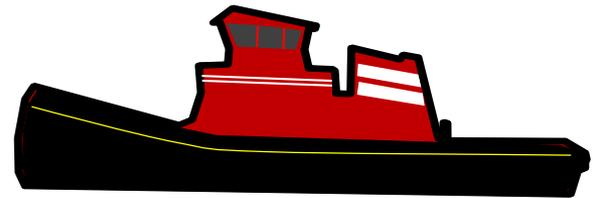


# Concepts for higher utilization of the Upper floor and Northerly End of the POT

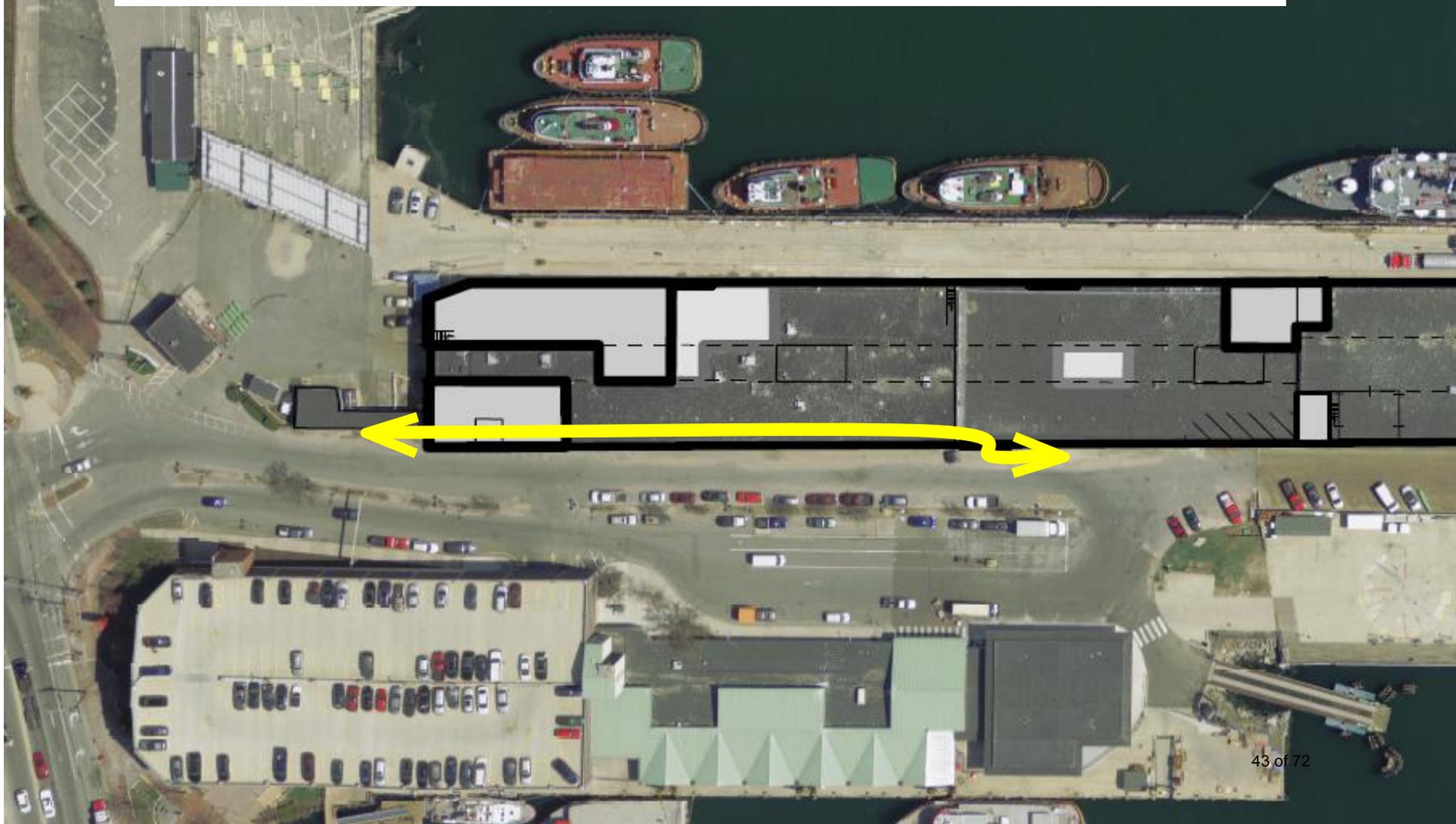
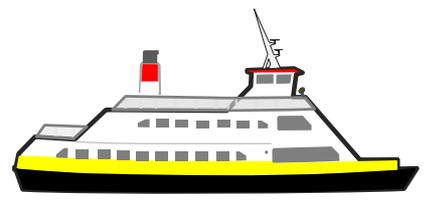


- Create a new security plan, protecting current marine operations, including: Tugs, Cruise Ships, others...

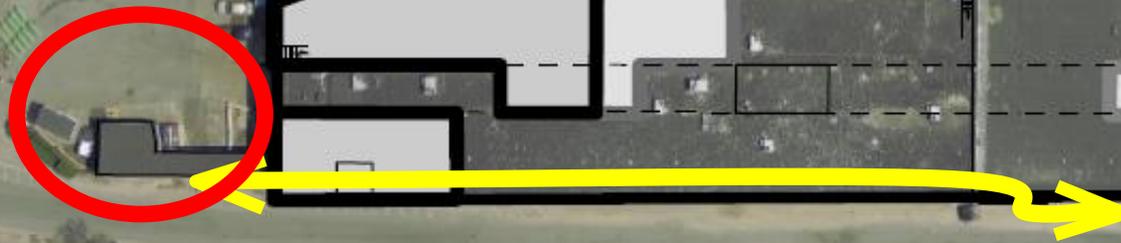
**1<sup>st</sup> Floor Areas Proposed to Remain within the “105” secure zone**



**Create covered pedestrian way  
within westerly edge of the POT**



# Concepts for higher utilization of the Upper floor and Northerly End of the POT depend on improved circulation

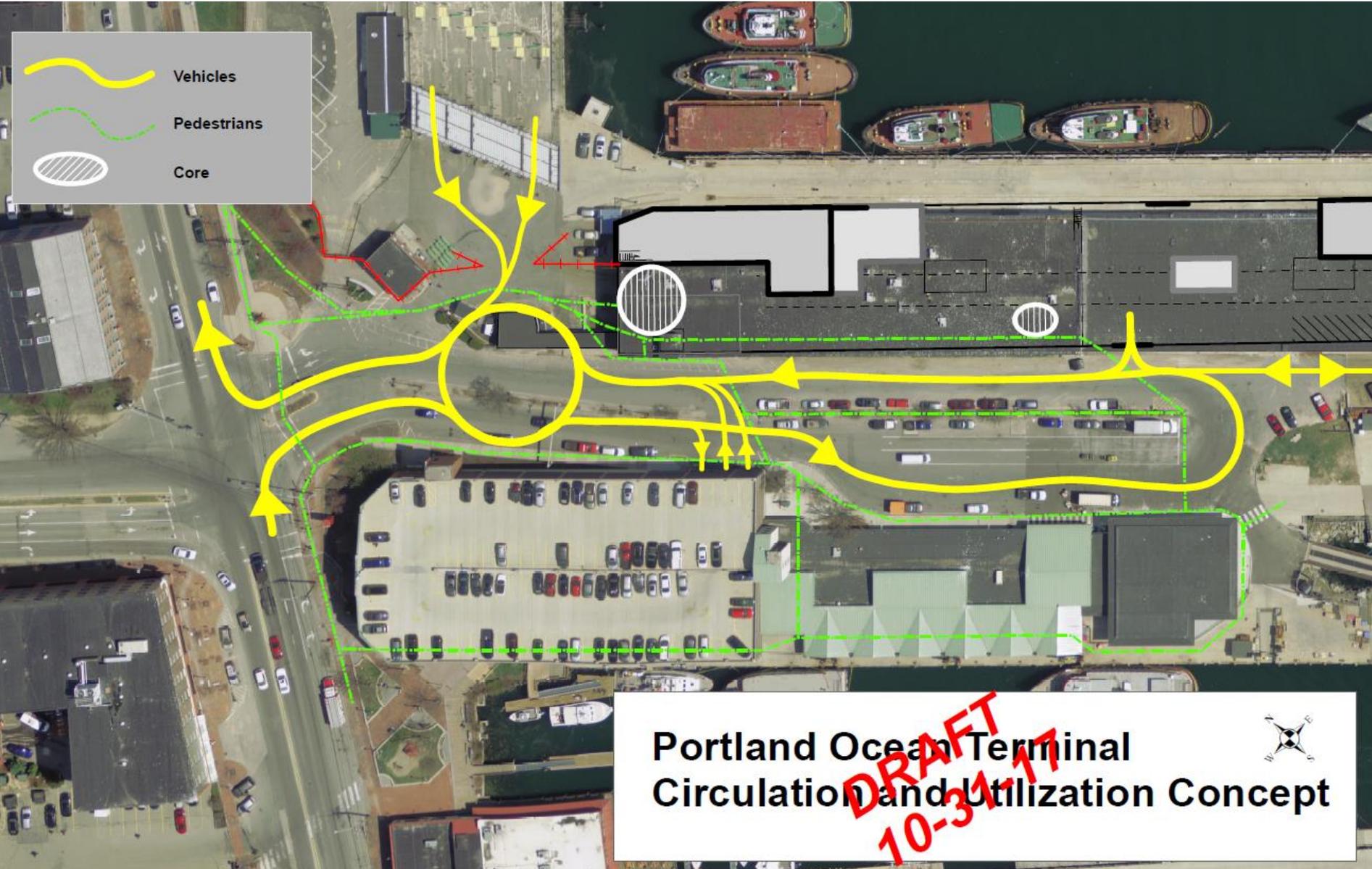


- Improved entrance, pick up – drop off
- Walkway
- Coordinated with Casco Bay Lines

Vehicles

Pedestrians

Core



**Portland Ocean Terminal  
Circulation and Utilization Concept**

**DRAFT  
10-31-17**

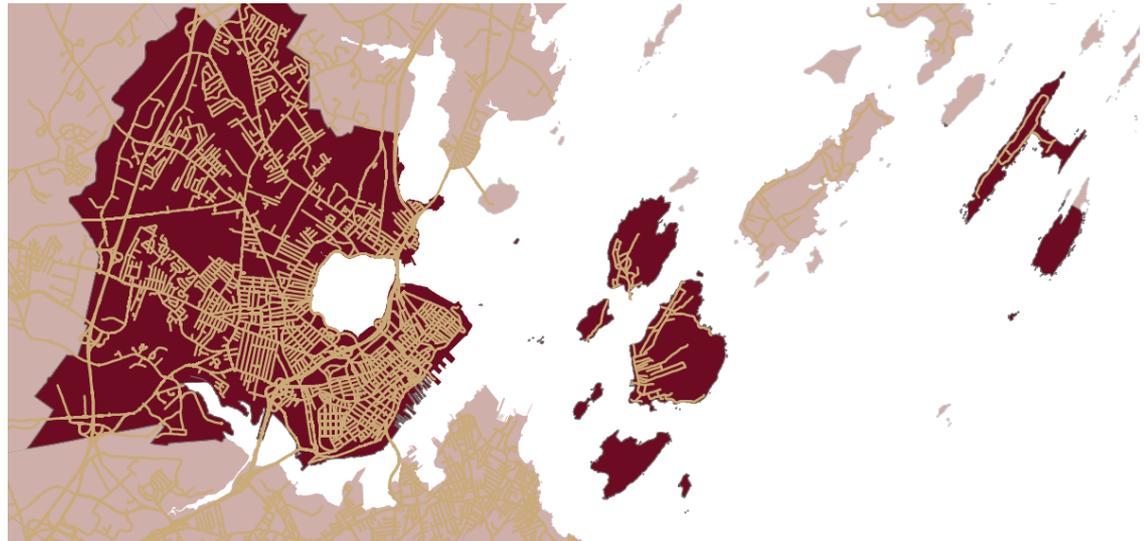
# City of Portland Parking Study for Downtown, The Old Port, and The Eastern Waterfront

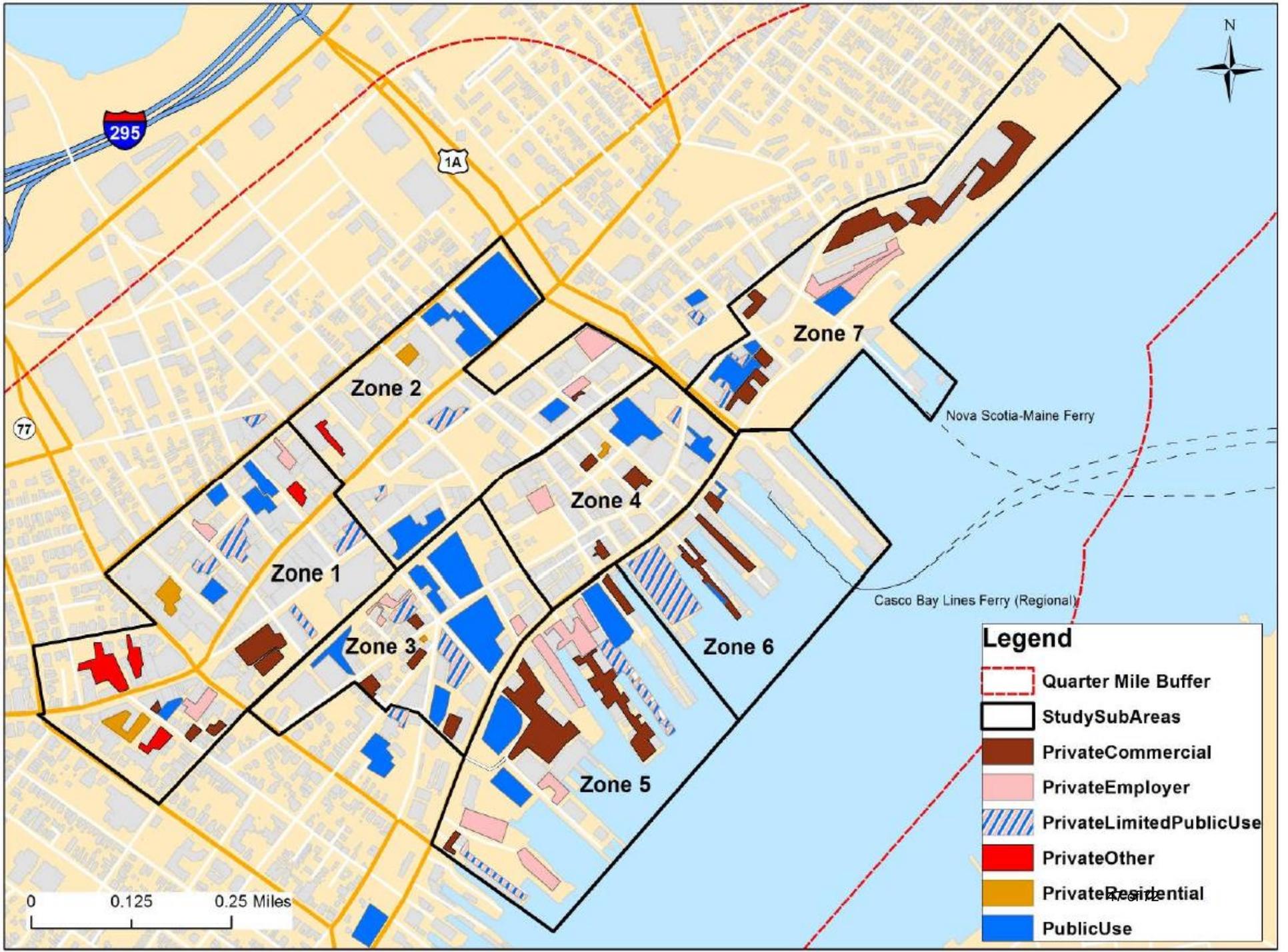
Final Report

September 2017



**FORT HILL**  
*infrastructure*





**Legend**

- Quarter Mile Buffer
- StudySubAreas
- PrivateCommercial
- PrivateEmployer
- PrivateLimitedPublicUse
- PrivateOther
- PrivateResidential
- PublicUse

**Total Parking Capacity:** 15,669

**Effective Capacity (85% of Total):** 13,990

**Est. Peak Season Weekday Demand:** 14,280

**Percent Land Area of Parking:** ~ 21.8%

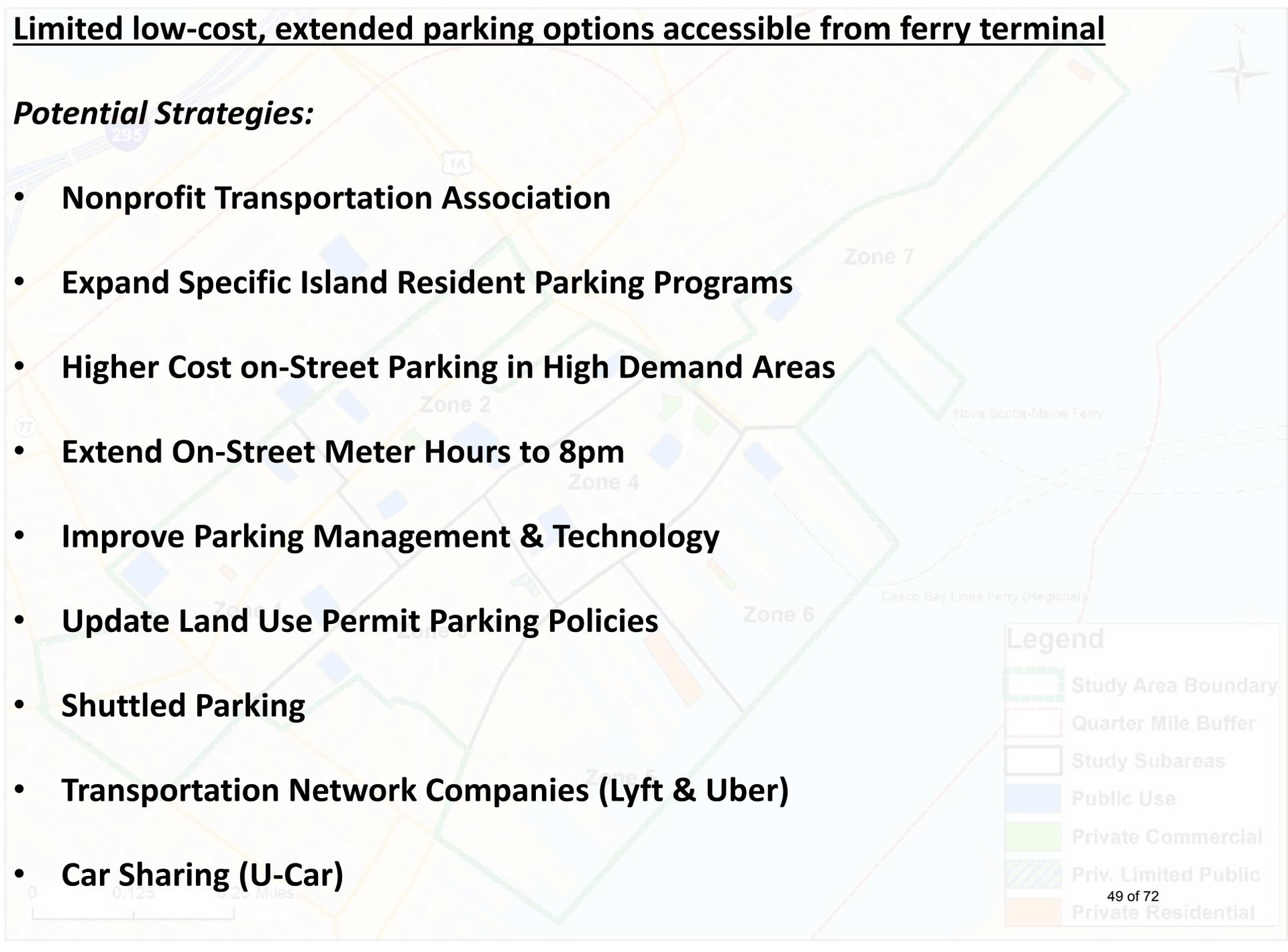
*Large difference in demand during off-peak vs. peak times*



# Limited low-cost, extended parking options accessible from ferry terminal

## *Potential Strategies:*

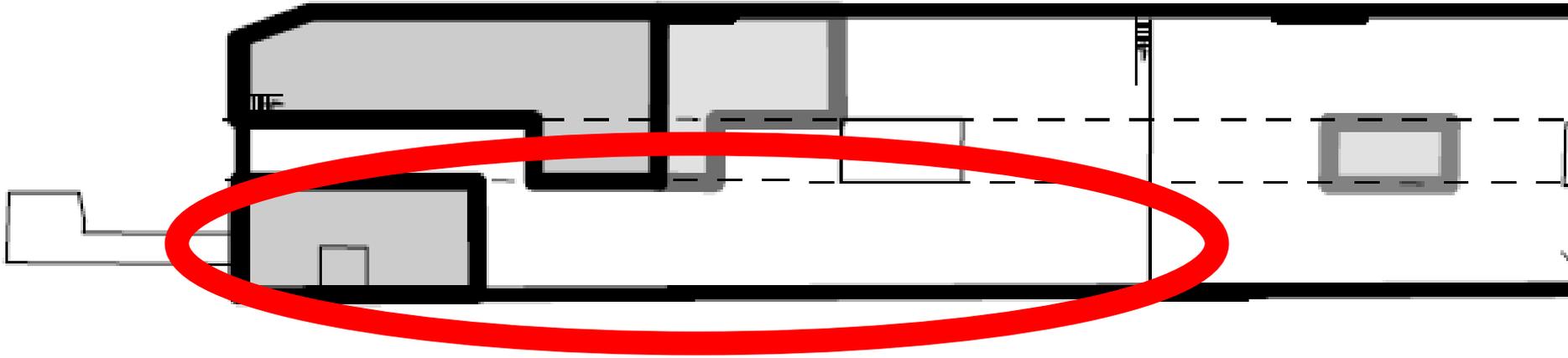
- **Nonprofit Transportation Association**
- **Expand Specific Island Resident Parking Programs**
- **Higher Cost on-Street Parking in High Demand Areas**
- **Extend On-Street Meter Hours to 8pm**
- **Improve Parking Management & Technology**
- **Update Land Use Permit Parking Policies**
- **Shuttled Parking**
- **Transportation Network Companies (Lyft & Uber)**
- **Car Sharing (U-Car)**



**Legend**

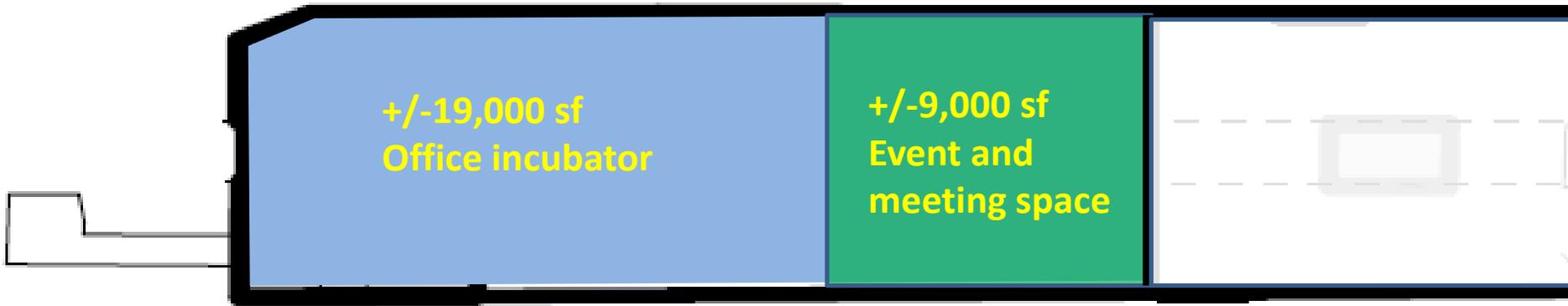
- Study Area Boundary
- Quarter Mile Buffer
- Study Subareas
- Public Use
- Private Commercial
- Priv. Limited Public
- Private Residential

## Concepts for higher utilization of the Upper floor and Northerly End of the POT



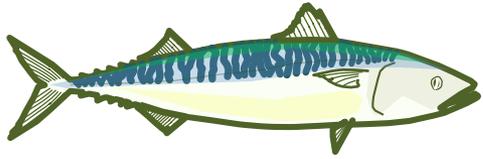
**Introduce Market Style Retail  
Oriented to the interior of the pier**

# Concepts for higher utilization of the Upper floor and Northerly End of the POT

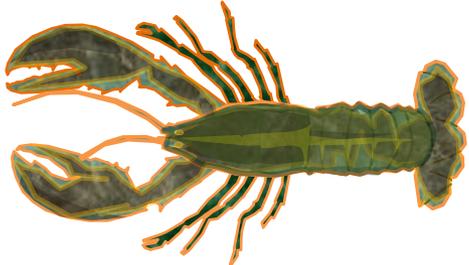


## Prepare entire second floor for reuse Potential Uses

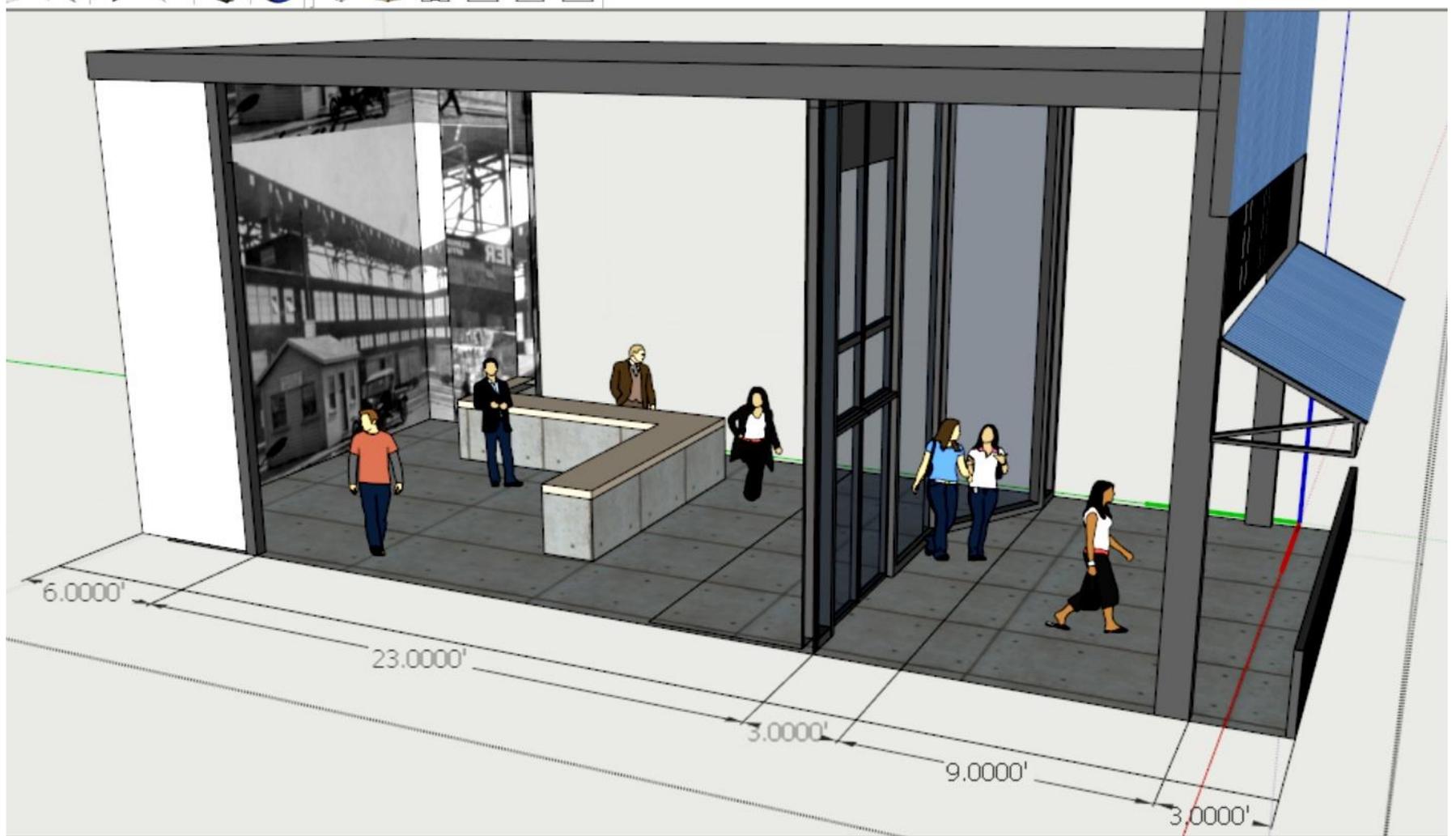
- Office incubator complex
- Event and meeting space



# THE MARKET at MAINE STATE PIER























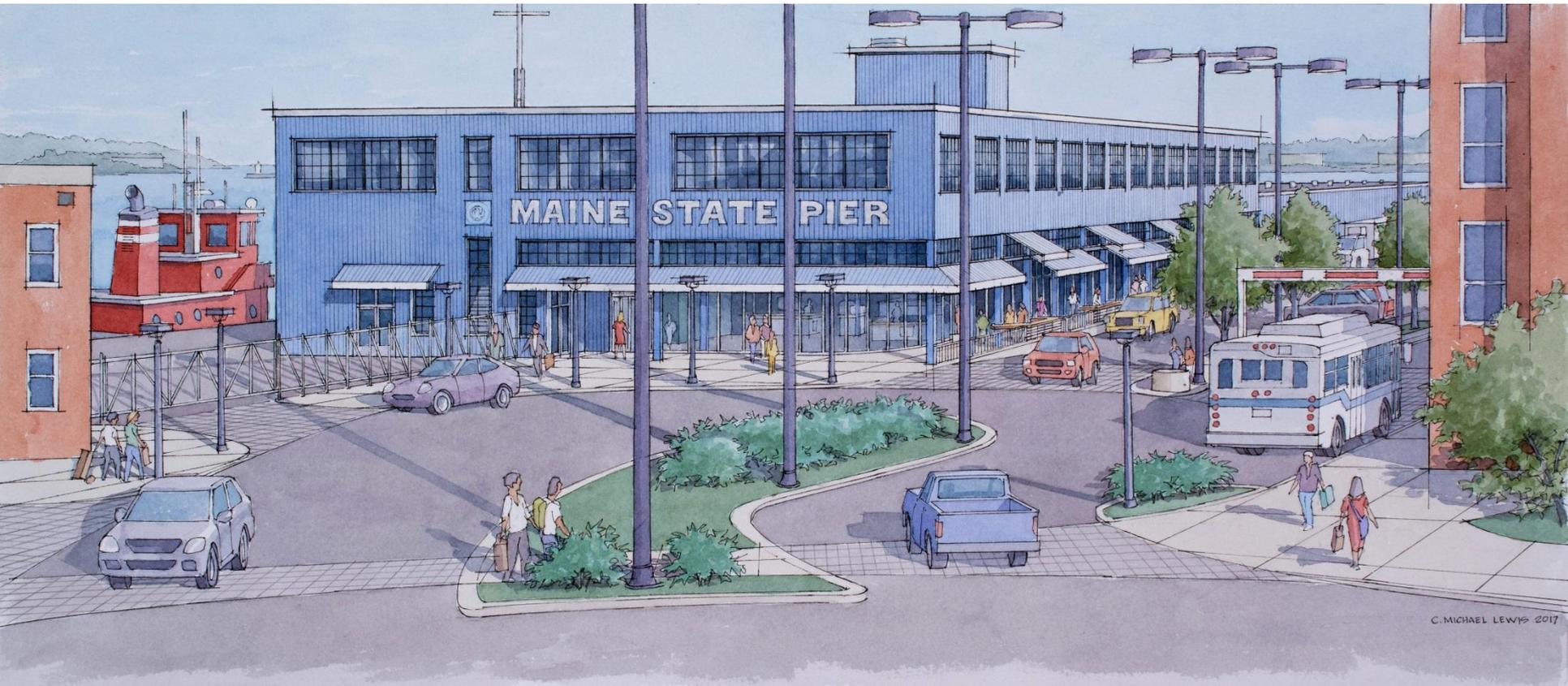
1924 Tax Photo

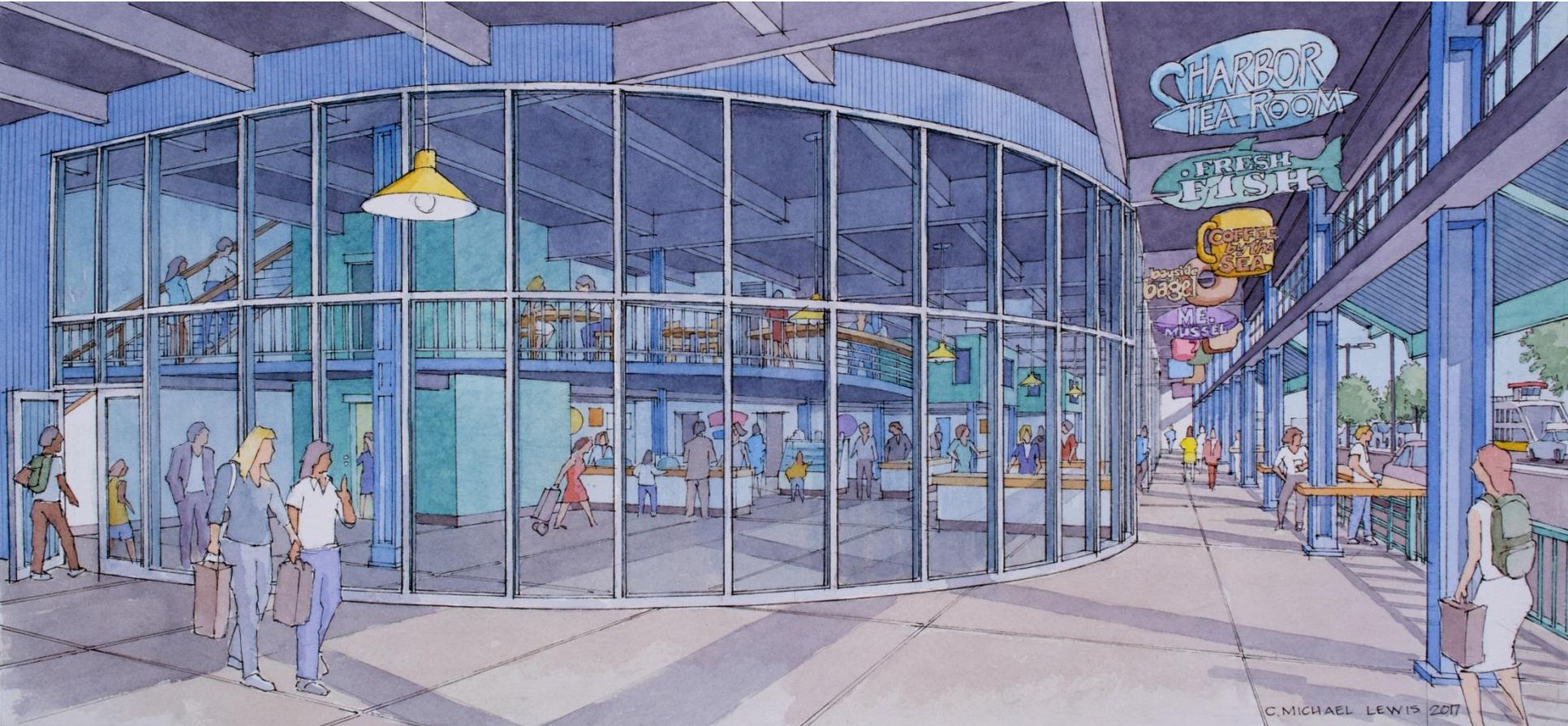


CAR FERRY ↑

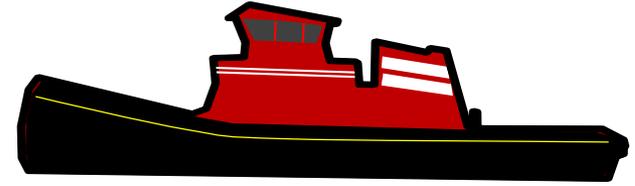
TERMINAL ↑

PARKING





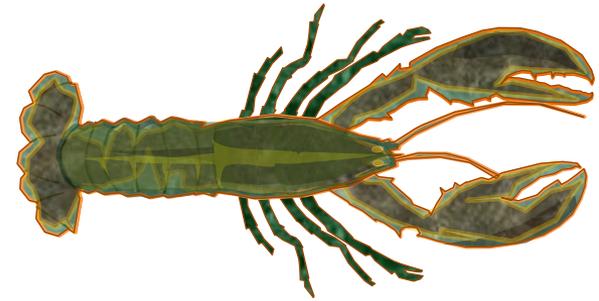
# Stakeholder Feedback:



## Areas of General Agreement:

- The POT building and Pier circulation need improvement.
- The suggested redevelopment program is well considered and attractive.
- Loading and servicing should avoid causing congestion.
- Direct and indirect parking impacts should be considered.
- Compatibility and collaboration with Pier Tenants will be critical.
- Marine uses received greater support than non-marine uses.
- Address competition with existing restaurants, raw seafood retailers, and on-island grocery through market analysis.
- Smaller scale retail, with emphasis on prepared food and limited seating, generated the most positive feedback.

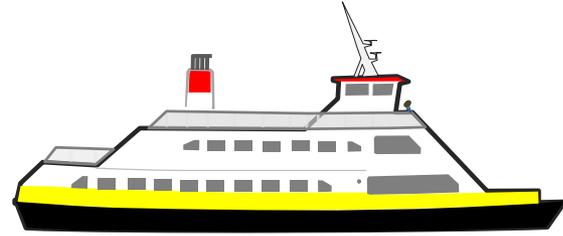
# Stakeholder Feedback:



## Differences of Opinion:

- Some participants believed that the circulation improvements (northerly roundabout and internal walkway) would greatly improve circulation on the pier, while other believed that the increased activity would exacerbate existing congestion issues.
- Many participants expressed support for small scale retail as an expansion of opportunity, while others expressed concerns over undue competition by a public entity over private enterprise. Concerns over competition were most strongly articulated by the Peaks Island participants.

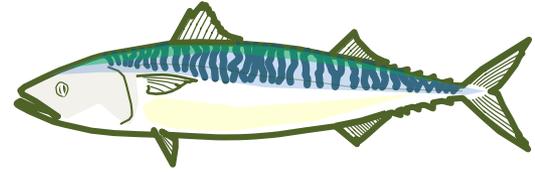
# Stakeholder Feedback:



## Peaks Island:

- +/-50 attendees
- Negative response
- Adamant and unified:

***The City should not consider more uses on Maine State Pier until longstanding parking issues are addressed.***

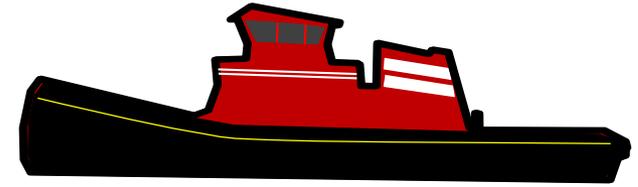


## Concluding Thoughts:

- The recent outreach process provided substantial input informing future use and development of the Portland Ocean Terminal.
- Staff has received enough feedback to assist in the drafting and issuance of a Request for Proposals (RFP) reflecting the suggested development program.

However, the significant concerns raised by Islanders (parking and pier congestion) and by members of the retail and development community (competition with private enterprise) warrant consideration both within and apart from any pending procurement process.

## **Competition:**



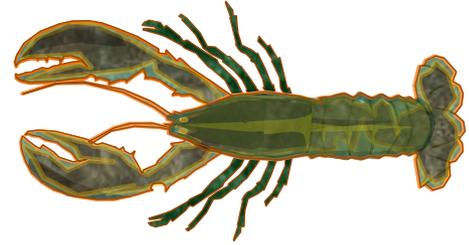
The City should **confirm healthy market conditions** post development and avoid unfair competition with the private sector.

## **Islander Parking:**

City of **Portland Parking Study** for Downtown, the Old Port, and the Eastern Waterfront, Sept 2017 **Recommendations** relevant to Islander parking concerns.

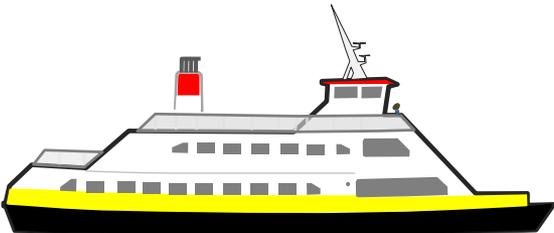
- Explore the Formation of a Non-Profit **Transportation Association**
- Explore expanding **Specific Island Resident Parking Programs**
- Improve **Parking Management and Technology**
- **Explore shuttled parking**
- Expand use of TNC (**Lyft and Uber...**) and **Chare Share**

**Engagement** with Island communities on parking and traffic issues should continue **under any outcome.**



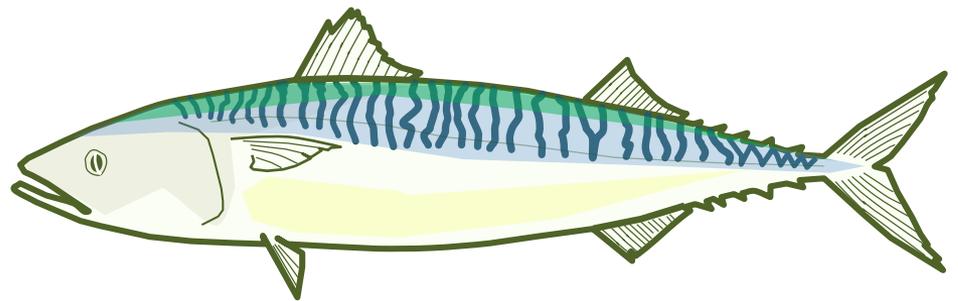
## Next Steps, Staff Suggestions:

- Public-private partnership in order to maximize leveraging private funds and non-municipal public funds.
- RFP process to attract public-private interest to support the suggested POT Redevelopment program.





**Questions?**





Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**TO: Economic Development Committee**

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

**DATE: March 15, 2018**

**SUBJECT: 2018 Draft Economic Development Committee Work Plan**

As a follow-up to the February 6, 2018, EDC meeting discussion, the Draft 2018 Work Plan is now categorized with short-term (2018 timeframe) and long-term (beyond 2018) items as follows:

**SHORT-TERM**

**Tax Increment Financing**

***Employment Disparity Study and Workforce Job Training Program***

The 2017 EDC recommended that the City Manager and/or his/her designee undertake an analysis of the costs associated with the City undertaking an *Employment Disparity Study* and report back to the EDC in January 2018, and to explore the establishment of a *City workforce job training program*, utilizing funds from area-wide TIF Districts to fund the program.

Next Steps: Staff is researching the scope and cost of conducting an employment disparity study. Results of that research will be presented at the EDC March 20, 2018, meeting.

Also, staff will look at other municipal TIF programs regarding utilizing TIF revenue for adult education and workforce job training programs and report back to the Committee on its findings.

***FYE2017 Annual TIF Report to City Council:*** Annually the Economic Development Department issues a City Fiscal Year Report related to Portland TIF District activity. This report is available on the City web page at: <http://www.portlandmaine.gov/529/Tax-Increment-Financing>. The 2017 Annual Report was presented to the EDC at its February 20, 2018 meeting, at which time it voted to forward the Report to the City Council as a communication, and the City Council received it as a communication at its March 6, 2018 Council meeting.

### ***Waterfront TIF:***

***Amendment to add two development parcels:*** At the February 6, 2018 EDC meeting, it reviewed proposed amendments to the WTIF to add two development sites to the District, those being the WEX development at Thames and Hancock Streets, and Union Wharf development project. After review, the EDC voted unanimously to recommend to the City Council to approve the proposed amendments. This had a first reading at the City Council's February 21, 2018, meeting and a second reading, public hearing, and vote at its March 6, 2018 Council meeting, at which time the Council voted unanimously (7-0 – Mayor Strimling and Councilor Batson were not in attendance) to amend the WTIF as recommended.

***Possible Amendments to Waterfront TIF District:*** One recommended TIF District amendment to discuss, in 2018, is the possible geographic expansion of the Waterfront TIF District. The areas to consider including in the Waterfront TIF District are East and West Commercial Street properties due to planned private sector investment projects and supporting public infrastructure needs.

***Next Steps:*** Presenting any private TIF District requests to the EDC for direction, along with revisiting the Waterfront TIF District boundaries for possible expansion.

### **Payment In Lieu of Taxes (PILOT) New City Policy**

Staff prepared a draft policy for 2017 EDC consideration for non-profit tax exempt organizations to contribute annually to cover the cost of municipal services.

At the September 5, 2017 EDC meeting, City Finance Director Brendan O'Connell provided a general overview of a proposed policy, and at the November 28 EDC meeting, provided a draft policy for review, discussion, and feedback. City staff is targeting a June EDC meeting presentation for Committee direction.

### **Increase Utilization of Portland Ocean Terminal (POT) (2017 Mayor and City Council Goal)**

Establish direction on the future of the Portland Ocean Terminal, including waterfront concerts and Compass Park. With as much as 70,000 square feet of vacant space, the Portland Ocean Terminal on the Maine State Pier needs a plan for investment and optimized utilization. Existing uses, including City cruise ship port of call support (and storage in the winter for cruise ship activities), Portland Tugboat, and Ready Seafood, provide a solid basis for growth; however, the building's age, condition, location within a Federal security area, and lack of supporting infrastructure (parking, loading, sidewalks ...) severely limit the potential reuse of the building as currently configured.

At the September 5, 2017 EDC meeting, City Waterfront Coordinator Bill Needelman provided the Committee with an overview and process to go forward, including conducting an inventory of uses, understanding current conditions, and coordination with existing operations. In the short-term, provide basic circulation and utilities changes and moving utilities into the main building.

On October 2, 2017, the City Council held a workshop on suggested plans for the future of the POT, which was then followed by an EDC meeting on November 28, 2017, with staff providing illustrative redevelopment concepts for feedback from the Committee, including a draft updated Policy Statement for the POT. Under direction of the EDC, public outreach is underway during February

and March. At the March 20, 2018 EDC meeting, City staff will present stakeholder input and discuss policy direction.

As the process moves forward, the evaluation of supporting infrastructure to attract anticipated increased commercial and marine tenant use of the space will be undertaken.

### **Lease of City Properties**

Leasing City owned properties requires City Council approval. Policy discussion regarding the leasing of City owned properties needs to be discussed. Examples of commercial leases requiring EDC (in the form of a recommendation to the City Council) and City Council action include:

*Ocean Gateway* to support ferry operator lease. An amendment to the Bay Ferries Lease is under negotiation to extend ferry service in 2018 subject to conditions. This was reviewed by the EDC in executive session on February 20, 2018 and March 6, 2018. Next step is a public review by the EDC on March 20, 2018, and recommendation to the City Council for approval.

*Portland Ocean Terminal tenant lease* for Ready Seafood Companies. Proposed amendments for extending Lease were reviewed by the EDC in executive session on February 20, 2018 and March 6, 2018. Next step is a public review by the EDC on March 20, 2018 and recommendation to the City Council for approval.

*Spring Street Parking Garage Commercial tenant leases* including the former Pirates space, with 2,400 square feet. At the February 6, 2018 EDC meeting, it reviewed proposed Lease and Parking Revenue Sharing Agreement with Portland Hockey, LLC. The EDC voted unanimously to forward this to the City Council for approval. The City Council took action on this at its February 21, 2018 Council meeting voting to approve both the Lease and Parking Revenue Sharing Agreement.

*Casco Bay Island Transit District (CBITD) Lease:* Staff is beginning its review of the existing Lease to recommend, at the appropriate time, amendments. This current 30-year lease expires June 2018. City staff will update the EDC in executive session for direction.

### **City Properties (Sales and Acquisitions)**

#### **Sales**

*Bayside former Public Works property at 44 Hanover Street.* City staff discussed this in executive session at the February 6, 2018 EDC meeting and continued negotiations for a Purchase and Sale Agreement. At the March 6, 2018, the EDC reviewed the proposed Purchase and Sale Agreement and Lease back and voted to forward both to the City Council with a recommendation for approval. This item will be on the March 19, 2018, for a first reading, and then April 9, 2018 for a second reading and vote.

*Portland Technology Park.* Three available sites.

*Riverside Street Seven (7) Acre Industrial Property.* City staff will continue its marketing this property for sale.

This was discussed in executive session at the February 20, 2018 and March 6, 2018 EDC meetings for direction related to buyer interest.

***Thames Street Gravel Parking Lot.*** It is anticipated that during 2018, the EDC will consider options for the possible sale of the remaining portion of the Thames Street gravel parking lot.

### **Acquisitions**

The Land Bank Commission is interested in accepting donations and acquiring privately-owned vacant land in the Redlon area of Portland, as well as other areas, to be placed into the Land Bank. Because of the property acquisition, this will come before the EDC, as well as the Land Bank Commission (LBC) for recommendations to the City Council.

**Outdoor Seating for Food Service Establishments:** Review current permitting process/ordinance and any barriers, particularly for older buildings. Staff is working on this topic. Updates will be provided when appropriate.

**Open Forum for Restaurateurs:** Forum for restaurant owners to talk about what is going well, what is not, and any other issues or comments they may have.

### **LONG-TERM**

**Broadband Access (2017 Mayor and City Council Goal).** High speed infrastructure; broad band.

***IN PROCESS AND NEXT STEPS.*** At the July 26<sup>th</sup>, 2016, EDC meeting, staff provided a summary of a proposed Master Lease Agreement with Verizon to support small cell technology investment in Portland. The City Council approved this Master Lease on August 1, 2016.

Also, it is noted the City issued a News Release on July 19<sup>th</sup>, 2016, with the topic “City Seeks Citizens to Complete Internet Services Survey” and noting “Selects SiFi Networks to explore potential citywide fiber network”. Staff continues to work with SiFi Networks to move forward with a public-private partnership.

A City Council workshop was held on December 12, 2016 with Council direction to refer negotiations to the EDC to finalize partnership documents for recommendation to the City Council.

At the February 6, 2018 EDC meeting, Jon Jennings updated the Committee that a company is looking to do this on its own at no cost to the City.

Updates will be provided as they become available.

### **Eastern Waterfront Public Infrastructure Investment (2017 Mayor and City Council Goal)**

Investing in public infrastructure is an important municipal government responsibility to attract private sector investment. Locations which require public infrastructure planning include both implementation of existing policies and creating new policy direction for investment:

### **Implementing Existing Policy:**

***Private Development Integration.*** The Economic Development Department is leading a Planning, Public Works, and Parks & Recreation Department discussion to plan road, parking garage, and utility extensions in Portland’s Eastern Waterfront, facilitating planned and future development consistent with the Eastern Waterfront Master Plan (EWMP.)

***Next Steps.*** Public/private partnerships to develop public infrastructure improvements and revenues to finance the investments.

***Amethyst Lot Open Space Development.*** Implementing recommendations from the EWMP and conditions of approval from Ocean Gateway, to define program and design elements for signature waterfront open space promoting recreation and active use of the water.

The 2017 EDC was provided a concept of redevelopment at its August 22, 2017, meeting, with overall consensus of agreement with the concept, which has been informally called “Portland Landing”. The EDC will be kept updated on the continued public process.

### **Establishing New Policy Direction:**

***Ocean Gateway*** to discuss reconfiguration of the “queuing area” located behind the fence to free up property for more diversified marine activity, support for the Portland Ocean Terminal, and expanded access to the water for commercial and public uses. The City Manager met with Custom Border Protection (CBP) personnel to discuss relocating U.S. Customs pre-clearance to Yarmouth, Nova Scotia. Staff is researching options; update forthcoming.

***Possible new Pier development between Ocean Gateway and the Maine State Pier*** to support increased commercial use of the waterfront and support for the marine passenger industry. Staff is exploring Federal funding opportunities and updates will be provided when appropriate.

### **Portland Transportation Center (PTC)**

In partnership with the MDOT, NNEPRA, and private sector property owners, work to develop an expanded intermodal passenger station in the Thompson Point area.

***Next Steps.*** Staff to work with the transportation agencies and private partners to establish timeline and work plan for PTC improvements. Present briefing to the EDC when appropriate.

### **Establish Development Impact Fees**

Staff will work with the EDC to create a formula that standardizes fees - providing certainty to the development community and City resources.

At the September 5, 2017 EDC meeting, Planning and Urban Development Director Jeff Levine provided a general overview of the current City current impact fees, determined through development review. Next step is to bring a proposed overall impact fee policy to the EDC so that both the City and developers know formulas for impact fees and can insert them into pro formas.