

AGENDA
REGULAR CITY COUNCIL MEETING
AUGUST 13, 2018 - 6:00 PM

1. 6:00 P.M. City Council Meeting Agenda

Documents:

[CITY COUNCIL MEETING AGENDA 2018-08-13 600 PM.PDF](#)

2. 6:00 P.M. City Council Meeting Agenda And Packet

Documents:

[CITY COUNCIL MEETING AGENDA AND PACKET 2018-08-13 600 PM.PDF](#)

Currently, municipal candidates for public office are required to file just two campaign finance reports in the ten months prior to a November election: one in mid July, and one eleven days before the election. At the state level, candidates for public office are required to file these two reports as well as a 42-day pre-election campaign finance report.

While state law exempts municipal candidates from the 42-day pre-election campaign finance reporting requirement, municipalities are free to enact additional requirements beyond what is mandated in state law. In the interest of ensuring transparency and openness in government at all levels, it makes sense for candidates for municipal office to meet the same reporting requirements as candidates for state office.

To add this reporting requirement for Portland municipal candidates, an amendment to the City Charter is required. The proposed amendment would add the following language (underlined below) to the City Charter:

Article IV
Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as otherwise provided herein.

In addition to the reports required for municipal candidates by Title 21-A of the Maine Revised Statutes, 42-day pre-election reports must be filed by municipal candidates no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law. (Referenda 11/4/08).

Because this amendment does not make a change to the City's governance structure as outlined in the City Charter, it can be made at the Council level subject to voter approval. This amendment does not require the formation of a Charter Commission or the opening of the Charter.

This amendment does not contain any provisions that are prohibited by the federal or state constitution or the general laws of the State of Maine (see 30-A M.R.S. section 2103(5)(D) and 2104(5)(B)).

If approved by the Council, this amendment will be put to voters for approval at the November 2018 election.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

**Order 29-18/19
(Tab 36)**

Order Placing Charter Amendment on November 6, 2018, Municipal Ballot Re: Immigrant Voting – Sponsored by Councilor Pious Ali and Mayor Ethan K. Strimling.

Currently, legal immigrants, refugees and asylees in Portland, who are also legal residents of the city, are not allowed to vote in municipal elections. This, despite the fact that many have children in our schools, almost all pay income, sales and/or property taxes, and many have lived in our city for years as they await the federal bureaucracy to grant citizenship.

In the interest of enhancing residential participation in municipal affairs and ultimately making Portland a more welcoming city to our newest immigrants, refugees, and asylees, it makes sense to expand voting rights to all legal residents.

To add this allowance an amendment to the City Charter is required. The proposed amendment would add the following language to the City Charter:

Article IV

Section 12. Qualification to vote

Any other provision in this charter notwithstanding, legal immigrants who are residents of Portland and 18 years old or older on the date of any municipal election shall be allowed to register to vote and vote in municipal elections. In order to register, a legal immigrant shall provide proof of identity, age and residency, pursuant to title 21-A and legal status according to standards established by the city clerk. Such persons shall not have the right to run for and hold an elected municipal office.

Because this amendment does not make a change to the City's governance structure as outlined in the City Charter, it can be made at the Council level subject to voter approval. This amendment does not require the formation of a Charter Commission or the opening of the Charter (see legal opinion from Corporation Counsel, Gary Wood, August 18, 2010, which is included the agenda backup).

If approved by the Council, this amendment will be put to voters for approval at the November 2018 election.

This amendment does not contain any provisions that are prohibited by the federal or state constitution (see legal opinion from Corporation Counsel, Gary Wood, August 18, 2010, which is included in the agenda backup).

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

**Order 49-17/18
(Tab 37)**

Order Appropriating \$2.11 Million of 0 Hancock Street Sale Proceeds - Sponsored by the Finance Committee. Councilor Nicholas M. Mavodones, Chair.

The Finance Committee met on August 2, 2018 and voted XXXX to forward this item to the City Council with a recommendation for passage.

On August 21, 2017, the City Council approved a \$3.3 million purchase and sale agreement with 0 Hancock Street, LLC for the sale of 48,000 square feet of the City-owned Thames Street property along the Eastern Waterfront. In October 2017, groundbreaking occurred on the 100,000 square foot, 4-story mixed-use development that will serve as the world headquarters of WEX with additional retail space.

The full \$3.3M of property sale proceeds were collected in fiscal year 2018. The City does not typically budget for significant amounts of property sale revenue, so this inflow of funding is above and beyond the FY18 budgeted revenues and will result in an increase in fund balance above the recommended level. Upon initial discussion of the Finance Committee the Finance Director is formally requesting that the Finance Committee and City Council vote to appropriate \$2.11M of these funds the following purposes:

- \$1,000,000 to support the rehabilitation of the Allen Avenue Fire Station
- \$1,000,000 to support the Housing Trust Fund
- \$110,000 to support the Climate Action Plan - the joint venture with South Portland

This item must be read on two separate days. It was given a first reading at today's 4:00 p.m. Council meeting. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 50-18/19
(Tab 38)**

Order Approving Collective the Bargaining Agreement with the Firefighters Local 740, International Association of Firefighters – Sponsored by Jon P. Jennings, City Manager.

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor one (1) year contract. The prior contract expired on December 31, 2017.

Local 740 have ratified the tentative agreement and the administration is seeking your support for the agreement. The tentative agreement is within guidance received from the Council. This order will require a second reading.

The substantive changes to the expired collective bargaining agreement and the cost summary are included in the agenda backup.

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

**Order 51-18/19
(Tab 39)**

Order Approving a Three-Party Partnership Agreement between the City of Portland, Maine Department of Transportation, and Portland Area Comprehensive Transportation System Re: Brighton Avenue (Route 25) Multi-Modal Project – Sponsored by Jon P. Jennings, City Manager.

This project has been developed through the Portland Area Comprehensive Transportation System Complex Projects process. The scope of work is planned to include replacement of signal equipment at six intersections, including ramp and American Disabilities Act (ADA) modifications, bicycle detection and transit priority as needed, sidewalk rehabilitation to bring sidewalks into good condition and ADA compliance, and mill and fill paving, and provision of enhanced bicycle facilities along Route 25. Modifications in the Rosemont area as needed to support the proposed METRO Husky Lane. The project includes elements of Preservation (roadway and sidewalks) and Modernization (traffic/pedestrian/transit priority signals, roadway/bikeway striping-pavement markings, transit stop upgrades, and achieving ADA compliance along Brighton Avenue).

Approving and signing this agreement would confirm the City's intent to undertake this project and pay 25% of the total project cost. The total estimated cost for preliminary engineering and Right-of-Way is \$195,000. The City's share would be \$48,750.

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

**Order 52-18/19
(Tab 40)**

Order Approving the Allocation and Appropriation of \$300,000 from the Housing Trust Fund Re: Avesta Housing Development Corporation 977 Brighton Avenue Apartments – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on July 31, 2018 and voted 2-0 (Cook absent) to forward this item to the City Council with a recommendation for passage.

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action." The 2018 Annual Plan, which was adopted by the City Council on June 18, 2018 (Order 263 17/18), established the priorities in which the current balance of the Housing Trust Fund will be allocated.

The Housing Trust Fund balance is \$1,223,320.80 as of July 27, 2018.

A Notice of Funding Availability was published on June 29 and applications for Housing Trust Funds were accepted as of July 1. Three applications have been received as of Friday, July 27.

- (1) Portland Housing Authority Front Street, Request: \$1,435,174, less any HOME funding

Justification:

- a) The PHA Front Street project is a priority under the 2018 Annual Plan
- b) Eligible Activity: new construction of affordable rental housing
- c) Utilizing multiple federal, state and local resources to fund the project
- d) Per unit contribution does not exceed \$15,000/unit
- e) 77% of units affordable to households at or below 50% of the area median income

- (2) Avesta 977 Brighton Avenue, Request \$300,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 60% of units affordable to households at or below 50% of the area median income
- e) The proposed use of City funds and the timing of the investment of City funds make this project better suited for Housing Trust Fund financing.

- (3) 178 Kennebec Street, Request \$370,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 35% of units affordable to households at or below 50% of the area median income

Funding scenarios recommended by the Housing Committee are:

- (1) **If the funding available is the current balance in the Housing Trust (\$1,223,320), the Housing Committee's recommendation is as follows:**

CURRENT BALANCE IN HOUSING TRUST FUND (\$1,223,320)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$723,320	\$201,680
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$0	\$300,000
Total	\$2,105,174	\$880,174	\$723,320	\$501,680

*Maintains \$500,000 minimum balance

- (2) **If a portion of the proceeds of the sale of the 0 Hancock Street lot are appropriated to the Housing Trust Fund, the Housing Committee's recommendation is as follows:**

HOUSING TRUST FUND \$2,223,320 (including portion of 0 Hancock St. Proceeds)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$925,000	\$0
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$300,000	\$0
Total	\$2,105,174	\$880,174	\$1,225,000	\$0

***Maintains \$500,000 minimum balance; \$498,320 of HTF unallocated**

In addition, staff requests the ability to make adjustments to the allocation amounts as long as it is within 10% of the Committee approved allocation.

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

**Order 53-18/19
(Tab 41)**

Order Approving the Allocation and Appropriation of \$925,000 from the Housing Trust Fund Re: Portland Housing Development Corporation Front Street – Sponsored by the Housing Committee, Councilor Jill Duson, Chair.

The Housing Committee met on July 31, 2018 and voted 2-0 (Cook absent) to forward this item to the City Council with a recommendation for passage.

This item is a companion order to Order 52-18/19 above.

The order authorizes financial assistance in an amount up to \$925,000 in Housing Trust Funds to the Portland Housing Development Corporation Project called Front Street.

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

AMENDMENTS:

**Order 54-18/19
(Tab 42)**

Amendment to Portland City Code Re: Housekeeping Amendments in Chapters 2 and 30 – Sponsored by Danielle West-Chuhta, Corporation.

This amendment corrects inconsistencies or changed terms in the City Code. While reviewing the City Code business licensing fees this year, a transfer fee for taxi licenses was found that should be increased to the same amount as the issuance and administrative fee charged for renewal business license applications, which is \$35.00.

In addition, the term Deputy City Manager has been changed to Assistant City Manager, and another amendment updates the City Code to reflect that.

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

Currently, municipal candidates for public office are required to file just two campaign finance reports in the ten months prior to a November election: one in mid July, and one eleven days before the election.

At the state level, candidates for public office are required to file these two reports as well as a 42-day pre-election campaign finance report.

While state law exempts municipal candidates from the 42-day pre-election campaign finance reporting requirement, municipalities are free to enact additional requirements beyond what is mandated in state law. In the interest of ensuring transparency and openness in government at all levels, it makes sense for candidates for municipal office to meet the same reporting requirements as candidates for state office.

To add this reporting requirement for Portland municipal candidates, an amendment to the City Charter is required. The proposed amendment would add the following language (underlined below) to the City Charter:

Article IV

Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as otherwise provided herein.

In addition to the reports required for municipal candidates by Title 21-A of the Maine Revised Statutes, 42-day pre-election reports must be filed by municipal candidates no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law. (Referenda 11/4/08).

Because this amendment does not make a change to the City's governance structure as outlined in the City Charter, it can be made at the Council level subject to voter approval. This amendment does not require the formation of a Charter Commission or the opening of the Charter.

This amendment does not contain any provisions that are prohibited by the federal or state constitution or the general laws of the State of Maine (see 30-A M.R.S. section 2103(5)(D) and 2104(5)(B)).

If approved by the Council, this amendment will be put to voters for approval at the November 2018 election.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

**Order 29-18/19
(Tab 36)**

Order Placing Charter Amendment on November 6, 2018, Municipal Ballot Re: Immigrant Voting – Sponsored by Councilor Pious Ali and Mayor Ethan K. Strimling.

Currently, legal immigrants, refugees and asylees in Portland, who are also legal residents of the city, are not allowed to vote in municipal elections. This, despite the fact that many have children in our schools, almost all pay income, sales and/or property taxes, and many have lived in our city for years as they await the federal bureaucracy to grant citizenship.

In the interest of enhancing residential participation in municipal affairs and ultimately making Portland a more welcoming city to our newest immigrants, refugees, and asylees, it makes sense to expand voting rights to all legal residents.

To add this allowance an amendment to the City Charter is required. The proposed amendment would add the following language to the City Charter:

Article IV

Section 12. Qualification to vote

Any other provision in this charter notwithstanding, legal immigrants who are residents of Portland and 18 years old or older on the date of any municipal election shall be allowed to register to vote and vote in municipal elections. In order to register, a legal immigrant shall provide proof of identity, age and residency, pursuant to title 21-A and legal status according to standards established by the city clerk. Such persons shall not have the right to run for and hold an elected municipal office.

Because this amendment does not make a change to the City's governance structure as outlined in the City Charter, it can be made at the Council level subject to voter approval. This amendment does not require the formation of a Charter Commission or the opening of the Charter (see legal opinion from Corporation Counsel, Gary Wood, August 18, 2010, which is included the agenda backup).

If approved by the Council, this amendment will be put to voters for approval at the November 2018 election.

This amendment does not contain any provisions that are prohibited by the federal or state constitution (see legal opinion from Corporation Counsel, Gary Wood, August 18, 2010, which is included in the agenda backup).

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

**Order 49-17/18
(Tab 37)**

Order Appropriating \$2.11 Million of 0 Hancock Street Sale Proceeds - Sponsored by the Finance Committee. Councilor Nicholas M. Mavodones, Chair.

The Finance Committee met on August 2, 2018 and voted XXXX to forward this item to the City Council with a recommendation for passage.

On August 21, 2017, the City Council approved a \$3.3 million purchase and sale agreement with 0 Hancock Street, LLC for the sale of 48,000 square feet of the City-owned Thames Street property along the Eastern Waterfront. In October 2017, groundbreaking occurred on the 100,000 square foot, 4-story mixed-use development that will serve as the world headquarters of WEX with additional retail space.

The full \$3.3M of property sale proceeds were collected in fiscal year 2018. The City does not typically budget for significant amounts of property sale revenue, so this inflow of funding is above and beyond the FY18 budgeted revenues and will result in an increase in fund balance above the recommended level. Upon initial discussion of the Finance Committee the Finance Director is formally requesting that the Finance Committee and City Council vote to appropriate \$2.11M of these funds the following purposes:

- \$1,000,000 to support the rehabilitation of the Allen Avenue Fire Station
- \$1,000,000 to support the Housing Trust Fund
- \$110,000 to support the Climate Action Plan - the joint venture with South Portland

This item must be read on two separate days. It was given a first reading at today's 4:00 p.m. Council meeting. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 50-18/19
(Tab 38)**

Order Approving Collective the Bargaining Agreement with the Firefighters Local 740, International Association of Firefighters – Sponsored by Jon P. Jennings, City Manager.

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor one (1) year contract. The prior contract expired on December 31, 2017.

Local 740 have ratified the tentative agreement and the administration is seeking your support for the agreement. The tentative agreement is within guidance received from the Council. This order will require a second reading.

The substantive changes to the expired collective bargaining agreement and the cost summary are included in the agenda backup.

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

**Order 51-18/19
(Tab 39)**

Order Approving a Three-Party Partnership Agreement between the City of Portland, Maine Department of Transportation, and Portland Area Comprehensive Transportation System Re: Brighton Avenue (Route 25) Multi-Modal Project – Sponsored by Jon P. Jennings, City Manager.

This project has been developed through the Portland Area Comprehensive Transportation System Complex Projects process. The scope of work is planned to include replacement of signal equipment at six intersections, including ramp and American Disabilities Act (ADA) modifications, bicycle detection and transit priority as needed, sidewalk rehabilitation to bring sidewalks into good condition and ADA compliance, and mill and fill paving, and provision of enhanced bicycle facilities along Route 25. Modifications in the Rosemont area as needed to support the proposed METRO Husky Lane. The project includes elements of Preservation (roadway and sidewalks) and Modernization (traffic/pedestrian/transit priority signals, roadway/bikeway striping-pavement markings, transit stop upgrades, and achieving ADA compliance along Brighton Avenue).

Approving and signing this agreement would confirm the City's intent to undertake this project and pay 25% of the total project cost. The total estimated cost for preliminary engineering and Right-of-Way is \$195,000. The City's share would be \$48,750.

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

**Order 52-18/19
(Tab 40)**

Order Approving the Allocation and Appropriation of \$300,000 from the Housing Trust Fund Re: Avesta Housing Development Corporation 977 Brighton Avenue Apartments – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on July 31, 2018 and voted 2-0 (Cook absent) to forward this item to the City Council with a recommendation for passage.

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action." The 2018 Annual Plan, which was adopted by the City Council on June 18, 2018 (Order 263 17/18), established the priorities in which the current balance of the Housing Trust Fund will be allocated.

The Housing Trust Fund balance is \$1,223,320.80 as of July 27, 2018.

A Notice of Funding Availability was published on June 29 and applications for Housing Trust Funds were accepted as of July 1. Three applications have been received as of Friday, July 27.

- (1) Portland Housing Authority Front Street, Request: \$1,435,174, less any HOME funding

Justification:

- a) The PHA Front Street project is a priority under the 2018 Annual Plan
- b) Eligible Activity: new construction of affordable rental housing
- c) Utilizing multiple federal, state and local resources to fund the project
- d) Per unit contribution does not exceed \$15,000/unit
- e) 77% of units affordable to households at or below 50% of the area median income

- (2) Avesta 977 Brighton Avenue, Request \$300,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 60% of units affordable to households at or below 50% of the area median income
- e) The proposed use of City funds and the timing of the investment of City funds make this project better suited for Housing Trust Fund financing.

- (3) 178 Kennebec Street, Request \$370,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 35% of units affordable to households at or below 50% of the area median income

Funding scenarios recommended by the Housing Committee are:

- (1) **If the funding available is the current balance in the Housing Trust (\$1,223,320), the Housing Committee's recommendation is as follows:**

CURRENT BALANCE IN HOUSING TRUST FUND (\$1,223,320)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$723,320	\$201,680
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$0	\$300,000
Total	\$2,105,174	\$880,174	\$723,320	\$501,680

*Maintains \$500,000 minimum balance

- (2) **If a portion of the proceeds of the sale of the 0 Hancock Street lot are appropriated to the Housing Trust Fund, the Housing Committee’s recommendation is as follows:**

HOUSING TRUST FUND \$2,223,320 (including portion of 0 Hancock St. Proceeds)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$925,000	\$0
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$300,000	\$0
Total	\$2,105,174	\$880,174	\$1,225,000	\$0

***Maintains \$500,000 minimum balance; \$498,320 of HTF unallocated**

In addition, staff requests the ability to make adjustments to the allocation amounts as long as it is within 10% of the Committee approved allocation.

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

**Order 53-18/19
(Tab 41)**

Order Approving the Allocation and Appropriation of \$925,000 from the Housing Trust Fund Re: Portland Housing Development Corporation Front Street – Sponsored by the Housing Committee, Councilor Jill Duson, Chair.

The Housing Committee met on July 31, 2018 and voted 2-0 (Cook absent) to forward this item to the City Council with a recommendation for passage.

This item is a companion order to Order 52-18/19 above.

The order authorizes financial assistance in an amount up to \$925,000 in Housing Trust Funds to the Portland Housing Development Corporation Project called Front Street.

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

AMENDMENTS:

**Order 54-18/19
(Tab 42)**

Amendment to Portland City Code Re: Housekeeping Amendments in Chapters 2 and 30 – Sponsored by Danielle West-Chuhta, Corporation.

This amendment corrects inconsistencies or changed terms in the City Code. While reviewing the City Code business licensing fees this year, a transfer fee for taxi licenses was found that should be increased to the same amount as the issuance and administrative fee charged for renewal business license applications, which is \$35.00.

In addition, the term Deputy City Manager has been changed to Assistant City Manager, and another amendment updates the City Code to reflect that.

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

Tab 33 - 18/19
8-13-18

IN COUNCIL SPECIAL MEETING JULY 16, 2018 VOL.134 PAGE 1

ROLL CALL: Mayor Strimling called the meeting to order at 4:00 P.M. (Councilor Duson absent, Councilor Cook arrived during Order 5, Councilor Thibodeau arrived during Order 9.)

ANNOUNCEMENTS: Councilor Ray announced that there will be no public comment taken at the next Health and Human Service meeting.

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

PROCLAMATIONS:

Proc 1-18/19 Proclamation Honoring Officer Anthony Stewart as Police Officer of the Month for May 2018 – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

CONSENT ITEMS:

Order 1-18/19 Order Declaring September 8, 2018 the Greater Portland Sustainability Council's Portland GreenFest Festival – Sponsored by Jon P. Jennings City Manager.

Order 2-18/19 Order Declaring September 18, 2018 the Trail to Ale 10K Race/Walk Festival – Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Ray and seconded by Councilor Costa to approve the consent items. Passage 6-0.

LICENSES:

Order 3-18/19 Order Granting Municipal Officers' Approval of The Francis LLC dba Bolster Snow & Company. Application for Outdoor Dining on Private Property at 747 Congress Street - Sponsored by Michael Russell, Director of Permitting and Inspections.

Motion was made by Councilor Ray and seconded by Councilor Costa for Passage. Passage 6-0.

Order 4-18/19 Order Granting Municipal Officers' Approval of Giri Portland Inc dba Hilton Garden Inn. Application for a Class 1A Hotel at 145 Jetport Boulevard – Sponsored by Michael Russell, Director of Permitting and Inspections.

IN COUNCIL SPECIAL MEETING JULY 16, 2018 VOL.134 PAGE 2

Motion was made by Councilor Baston and seconded by Councilor Costa for passage. Passage 6-0.

Order 5-18/19 **Order Granting Municipal Officers' Approval of Sablage LLC dba Gross Confection Bar. Application for a Class I FSE at 57 Exchange Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 7-0.

Order 6-18/19 **Order Granting Municipal Officers' Approval Sophia IK, LLC d/b/a Blue Spoon. Application for a Class I FSE with Outdoor Dining on Public Property at 89 Congress Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 7-0.

Order 7-18/19
(Tab 8) **Order Granting Municipal Officers' Approval of TSNR Inc. dba Bonobo Wood Fire Pizza. Application for a Class III & IV with Outdoor Dining on Public Property at 46 Pine Street – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 7-0.

Order 8-18/19 **Order Granting Municipal Officers' Approval of Fish Shack LLC dba Boones Fish House & Oyster Room. Application for a Class I FSE and Entertainment with Dance with Outdoor Dining on Private Property at 6 Custom House Wharf – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 7-0.

Order 9-18/19 **Order Granting Municipal Officers' Approval of MOC Raw Bar LLC dba Maine Oyster Company. Application for a Class III & IV FSE with Outdoor Dining on Private Property at 38 Portland Street.**

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

IN COUNCIL SPECIAL MEETING JULY 16, 2018 VOL.134 PAGE 3

Order 10-18/19 Order Granting Municipal Officers' Approval of Whole Hog LLC dba Whole Hog LLC. Application for a Class I FSE and Entertainment without Dance with Outdoor Dining on Public Property at 480 Congress Street.

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

BUDGET ITEMS:

COMMUNICATIONS:

Com 1-18/19 The Rules and Regulations for Use of the Sewer System are being revised to effectuate a transfer of responsibility for the administration and management of the Industrial Pretreatment Program from the City to the Portland Water District (PWD). This transfer of responsibility is in line with the arrangement that PWD has with Westbrook and Gorham. The program and regulatory authority is being transferred to reduce the amount of redundant efforts and to allow the PWD to manage and directly collect the information required from Industrial Users in order to meet requirements of the Maine Pollutant Discharge Elimination Permit (MEPDES) for the East End Wastewater Treatment Facility. The Industrial Pretreatment Program Owner's Manual has been updated to reflect shift of responsibilities.

Additionally, discharge limits for Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) are being revised as required by the Maine Department of Environmental Protection MEPDES permit. A mass limit will be implemented rather than a concentration limit to better regulate the amount of BOD and TSS being sent to the East End Wastewater Treatment Facility. The discharge limit for arsenic is also being redistributed to allow for industrial users to have more flexibility.

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 248-18/19 Amendment to Portland City Code Chapter 14 Re: Street Access - Sponsored by the Planning Board, Sean Dundon, Chair.

It was given a first reading on June 4, 2018. At the June 18 City Council meeting this item was postponed to this meeting.

IN COUNCIL SPECIAL MEETING JULY 16, 2018 VOL.134 PAGE 4

Motion was made by Councilor Ray and seconded by Councilor Batson to suspend the rules and allow for public comment. Passage 8-0.

Motion was made by Councilor Cook and seconded by Councilor Mavodones to postpone Order 248 Indefinitely. Passage 8-0.

Order 265-18/19 Order Appropriating \$1,850,000 for Improvements to the Portland International Jetport Passenger Terminal – Sponsored by Jon P. Jennings, City Manager.

It was given a first reading on June 18, 2018.

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

Order 271-18/19 Amendment to Portland City Code Chapter 6 Re: Disorderly Houses – Sponsored by the Housing Committee, Council Jill C. Duson, Chair.

It was given a first reading on June 18, 2018.

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

ORDERS:

Order 11-18/19 Order Approving Memorandum of Understanding between the City of Portland, Maine and the Portland Parks Conservancy – Sponsored by Jon Jennings, City Manager.

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

Order 12-18/19 Order Approving the Third Amendment to 178 Kennebec Street Purchase and Sale Agreement – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

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

Order 13-18/19 Order of Discontinuance of Public Easement on Lancaster Street – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

IN COUNCIL SPECIAL MEETING JULY 16, 2018 VOL.134 PAGE 5

Councilor Thiobdeau disclosed that his employer has worked with the contractor for this development and there are no technical conflicts.

Motion was made by Mayor Strimling and seconded by Councilor Ray to amend Order 13 by deleting "vehicle" in the second sentence after the word public, and by adding , after the first ,be it furthered ordered, "The City expressly reserves public pedestrian rights along the public eastment as described above. Motion failed 1-7(Mavodones, Cook, Ali, Costa, Ray, Thibodeau, Batson.)

Motion was made by Councilor Ray and seconded by councilor Costa for passage. 7-1(Strimling).

Order 14-18/19 Order the Approving First Amendment to the 44 Hanover Street Purchase and Sale Agreement – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Costa and seconded by Councilor Ray for passage as an emergency. Passage 7-1 (Strimling).

Order 15-18/19 Order Approving the Fourth Amendment to the 82 Hanover Street Purchase and Sale Agreement - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Costa and seconded by Councilor Ray for passage as an emergency. Passge 7-1(Strimling).

Order 16-18/19 Order Proposing the Discontinuance of a Public Way along a Portion of Portland Pier - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

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

Order 17-18/19 Order Setting a Public Hearing on Proposed Amendment to Portland City Charter, Article IV Elections Re: 42-Day Finance Reports Required for Municipal Candidates– Sponsored by Councilor Belinda Ray.

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

Order 18-18/19 Order Setting a Public Hearing on Proposed Amendment to Portland City Charter, Article IV Elections Re: Immigrant Voting –

IN COUNCIL SPECIAL MEETING JULY 16, 2018 VOL.134 PAGE 6

Sponsored by Councilor Pious Ali and Mayor Mayor Ethan Strimling.

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

AMENDMENTS:

5:00 P.M.PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

DINNER BREAK:

Motion was made by Councilor Costa and seconded by Councilor Batson to adjourn. Passage 8-0, at 5:40 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

IN COUNCIL REGULAR MEETING JULY 16, 2018 VOL.134 PAGE 7

ROLL CALL: Mayor Strimling called the meeting to order at 6:00 P.M. (Councilor Duson absent).

ANNOUNCEMENTS:

RECOGNITIONS:

**Arts in the Chamber, Creative Portland Presents a “Sizzle” Reel
Highlighting the Cultural Life of Portland**

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Ali and seconded by Councilor Thibodeau to approve the minutes of June 18, 2018 City Council Meeting. Passage 8-0.

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

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 1-18/19 Resolution Approving Public Finance Authority Revenue Bond
Financing for Cedars Nursing Care Center, Inc. and JHA Assisted
Living, Inc. – Sponsored by Danielle West-Chuhta, Corporation
Council.**

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

UNFINISHED BUSINESS:

- Order 266-18/19 Order Amending the Bayside Tax Increment Financing District to Support the Establishment of an Affordable Housing District for the 178 Kennebec Street Elderly Affordable Housing Project – Sponsored by the Economic Development, Councilor Justin Costa, Chair.**

It was given a first reading on June 18, 2018.
Motion was made by Councilor Costa and seconded by Councilor Thibodeau for passage. Passage 8-0.

- Order 267-18/19 Order Designating 178 Kennebec Street Affordable Housing Development District and Tax Increment Financing District and Adopting the Municipal Development Program for the District – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.**

It was given a first reading on June 18, 2018.
Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 8-0.

- Order 268-18/19 Order Approving and Authorizing the City Manager to Enter into The Credit Enhancement agreement with 100 Parris Street, LP – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.**

It was given a first reading on June 18, 2018.
Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 8-0.

- Order 269-18/19 Order Designating 977 Brighton Avenue Apartments Affordable Housing Development District and Tax Increment Financing District and Adopting the Municipal Development Program for the District – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.**

It was given a first reading on June 18, 2018.
Motion was made by Councilor Costa and seconded by Councilor Mavodones. Passage 7-0 (Batson out).

Order 270-18/19 **Order Approving and Authorizing the City Manager to Enter into the Credit Enhancement Agreement with Avesta 977 Brighton LP – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair, and the Economic Development Committee, Councilor Justin Costa, Chair.**

It was given a first reading on June 18, 2018.

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 7-0 (Batson out).

ORDERS:

Order 19-18/19 **Order Placing a Referendum Question on November 6, 2018, Municipal Ballot Re: Formation of the Greater Sebago Education Alliance – Sponsored by Katherine L. Jones, City Clerk.**

The Portland Board of Education respectfully requests the City Council to place the following question before the voters on the November ballot, as required by 20-A M.R.S. § 3805(3):

Do you favor the formation of a regional service center pursuant to an Interlocal Agreement for the Greater Sebago Education Alliance, as approved by the governing bodies of the parties thereto and the Commissioner of the Department of Education?

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 7-0 (Batson out).

Order 20-18/19 **Order Appropriating \$130,000 for Middle School Math Curriculum Expansion and Materials for the Portland Public Schools – Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

Order 21-18/19 **Order Approving Three-Party Agreement between Portland, Portland Area Comprehensive Transportation System and Maine Department of Transportation Re: Allen Avenue between Pennell Avenue and Yale Street - Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

IN COUNCIL REGULAR MEETING JULY 16, 2018 VOL.134 PAGE 10

Order 22-18/19 **Order Approving the Acceptance and Appropriation of Brownfields Cleanup Fund Grant – Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

Order 23-18/19 **Traffic Schedule Amendment Re: Unrestricted to Metered Parking on India and Fore Streets – Sponsored by Jon P. Jennings City Manager.**

This is its first reading.

Order 24-18/19 **Traffic Schedule Amendment Re: Unrestricted Parking to No Parking Portions of Washington and Allen Avenues – Sponsored by Jon P. Jennings, City Manager.**

This is its first reading.

Order 25-18/19 **Order Appropriating Home Investment Partnerships Program Funds in the Amount of \$200,000 to the Avesta Housing Development Corporation Re: Deering Place – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.**

This is its first reading.

Order 26-18/19 **Order Appropriating Home Investment Partnerships Program Funds in the Amount of \$300,000 to the Avesta Housing Development Corporation Re: 977 Brighton Avenue Apartments - Sponsored by the Housing Committee, Jill C. Duson, Chair.**

This is its first reading.

Order 27-18/19 **Order Appropriating Home Investment Partnership Program Funds in the Amount of \$580,174 to the Portland Housing Development Corporation Re: Front Street – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.**

This is its first reading.

Order 28-18/19 **Order Placing Charter Amendment on November 6, 2018, Municipal Ballot Re: 42-Day Finance Reports Required for Municipal Candidates – Sponsored by Councilor Belinda Ray.**

This is its first reading.

IN COUNCIL REGULAR MEETING JULY 16, 2018 VOL.134 PAGE 11

Order 29-18/19 **Order Placing Charter Amendment on November 6, 2018, Municipal Ballot Re: Immigrant Voting – Sponsored by Councilor Pious Ali and Mayor Ethan K. Strimling.**

This is its first reading.

AMENDMENTS:

Order 30-18/19 **Amendment Zoning Map Re: 1000, 1002/1004, and 1020 Congress Street – Sponsored by the Planning Board, Sean Dundon, Chair.**

This is its first reading.

Order 31-18/19 **Amendment to Chapter 24 Sewers Re: Industrial Pretreatment Program Transfer to Portland Water District – Sponsored by Danielle West-Chuhta, Corporation Counsel.**

This is its first reading.

Order 32-18/19 **Amendment to Portland City Code Chapter 6 Re: Rental Housing Advisory Committee – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.**

This is its first reading.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau to adjourn. Passage 7-0 (Batson out), at 6:55 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Proc 5-18119
Tab 34 8-13-18*

PROCLAMATION

2018 Shinagawa – Ku & Portland Sister City Sports Exchange

WHEREAS; The sister city relationship between Shinagawa-Ku, Japan and Portland, Maine has thrived since its inception in 1984, and;

WHEREAS; More than two thousand people have participated and benefited from the sister city relationship between Shinagawa-Ku and Portland, and;

WHEREAS; the participation between Shinagawa-Ku and Portland have included home stays, sports exchanges, teacher exchanges, cultural exchanges, and economic development exchanges, and;

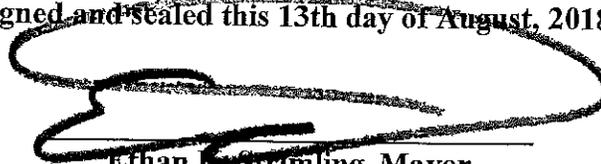
WHEREAS; the 2018 Sports Exchange has allowed athletes from both cities the opportunity to experience each other's culture, develop friendships, and;

WHEREAS; the City of Portland wishes to continue to nurture and strengthen the bonds of the sister city relationship between Portland and Shinagawa-Ku, and;

WHEREAS; both Portland and Shinagawa-Ku believe this sister city relationship serves by example that this friendship, leads to better cooperation and understanding between peoples, which is the foundation of world peace.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland and members of the City Council do hereby proclaim honor and recognition to the 2018 Sister City Sports Exchange between Shinagawa-Ku and Portland.

Signed and sealed this 13th day of August, 2018



Ethan K. Strimling, Mayor
City of Portland, Maine



Order 28-18/19
Tab 40 7-16-18
Tab 35 8-13-18

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER PLACING CHARTER AMENDMENT
ON NOVEMBER 6, 2018, MUNICIPAL BALLOT
RE: 42-DAY FINANCE REPORTS REQUIRED FOR MUNICIPAL CANDIDATES**

ORDERED, that the following question is hereby placed on the
November 6, 2018, Regular Municipal Election ballot:

[Language to be added is underlined.]

**Shall the City approve the Charter Amendment to Article IV, §11,
printed below:**

Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as provided below regarding 42-day pre-election reports and as otherwise provided herein.

In addition to the reports required for municipal candidates by Title 21-A of the Maine Revised Statutes, 42-day pre-election reports must be filed by municipal candidates no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law.

BE IT FURTHER ORDERED, that, if approved, said amendment shall take effect on December 6, 2018.

MEMORANDUM
City Council Agenda Item

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

FROM: Councilor Belinda Ray

DATE: June 30, 2018

SUBJECT: Adding a 42-day Pre-Election Campaign Finance Report to Reporting Requirements for Municipal Candidates

SPONSOR: Councilor Belinda Ray

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading July 16, 2018 Final Action August 13, 2018

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

This change requires an amendment to the Charter. Any proposed amendment to the Charter must be approved by voters. In order to meet the requirements and deadlines for public noticing, a public hearing, a Council vote, and the printing of ballots for the November 2018 election, the Council must take action during its August 13, 2018 meeting. Should the Council agree to send this proposed amendment to voters, adhering to this timeline would allow voters to consider the amendment at the November 2018 regular election rather than having to call a special election.

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

I. ONE SENTENCE SUMMARY

This amendment to the charter would add a 42-day pre-election campaign finance report to the financial reporting requirements for municipal candidates, bringing the reporting requirements for municipal candidates into alignment with the reporting requirements for state candidates.

II. AGENDA DESCRIPTION

Currently, municipal candidates for public office are required to file just two campaign finance reports in the ten months prior to a November election: one in mid July, and one eleven days before the election. At the state level, candidates for public office are required to file these two reports as well as a 42-day pre-election campaign finance report.

While state law exempts municipal candidates from the 42-day pre-election campaign finance reporting requirement, municipalities are free to enact additional requirements beyond what is mandated in state law. In the interest of ensuring transparency and

openness in government at all levels, it makes sense for candidates for municipal office to meet the same reporting requirements as candidates for state office.

To add this reporting requirement for Portland municipal candidates, an amendment to the City Charter is required. The proposed amendment would add the following language (underlined below) to the City Charter:

Article IV

Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as otherwise provided herein.

In addition to the reports required for municipal candidates by Title 21-A of the Maine Revised Statutes, 42-day pre-election reports must be filed by municipal candidates no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law.
(Referenda 11/4/08)

Because this amendment does not make a change to the City's governance structure as outlined in the City Charter, it can be made at the Council level subject to voter approval. This amendment does not require the formation of a Charter Commission or the opening of the Charter.

This amendment does not contain any provisions that are prohibited by the federal or state constitution or the general laws of the State of Maine (see 30-A M.R.S. section 2103(5)(D) and 2104(5)(B)).

If approved by the Council, this amendment will be put to voters for approval at the November 2018 election.

Five votes are required for passage.

III. BACKGROUND

See Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is to ensure greater transparency with regard to the funding of municipal campaigns for elected office.

V. FINANCIAL IMPACT

The financial impact of this amendment would be minimal. The City Clerk would need to update the informational packets for candidates for public office with the additional financial reporting requirements, but that packet is available online and current candidates for public office can be notified via email, so there would be no new printing costs.

There may be extra costs involved in terms of the staff time required to notify 2018 candidates of the new requirement. There may also be additional staff time required to collect and post an additional finance report during municipal elections. Neither of these additional duties should require the hiring of additional staff.

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

VII. RECOMMENDATION

Corporation Counsel approves the amendment as to form and confirms that based on the information presented it does not contain any provisions that are prohibited by the United States or Maine constitutions.

VIII. LIST ATTACHMENTS

In this document:

- a. MRS Title 21-A, §1017, the state statute that governs our municipal elections as stated in the City Charter, also here: <http://www.mainelegislature.org/legis/statutes/21-A/title21-Ach0sec0.html>
- b. Proposed charter amendment

Separately:

Order Setting a Public Hearing on Proposed Amendment to Portland City Charter, Article IV Elections Re: 42-Day Finance Reports Required For Municipal Candidates

Order Placing Charter Amendment on November 6, 2018, Municipal Ballot Re: 42-Day Finance Reports Required for Municipal Candidates

Prepared by: Belinda S. Ray
Date: June 30, 2018

ATTACHMENT A

Maine Revised Statutes

Title 21-A: ELECTIONS

Chapter 13: CAMPAIGN REPORTS AND FINANCES

Subchapter 2: REPORTS ON CAMPAIGNS FOR OFFICE

§1017. Reports by candidates

...

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the end date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report. [2007, c. 443, Pt. A, §16 (AMD).]

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election. [2007, c. 443, Pt. A, §16 (AMD).]

C. Any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours that contribution or expenditure. The candidate or treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses. [2013, c. 334, §11 (AMD).]

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date. [2007, c. 443, Pt. A, §16 (AMD).]

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, **except that this report is not required for candidates for municipal office.** [2009, c. 190, Pt. A, §5 (AMD).]

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section. [2007, c. 443, Pt. A, §16 (AMD).]

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election. [1991, c. 839, §15 (AMD); 1991, c. 839, §34 (AFF).]

[2013, c. 334, §11 (AMD) .]

ATTACHMENT B: PROPOSED AMENDMENT

The proposed amendment would add the underlined language to the City Charter in Article IV, Section 11.

Article IV

Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as otherwise provided herein.

In addition to the reports required for municipal candidates by Title 21-A of the Maine Revised Statutes, 42-day pre-election reports must be filed by municipal candidates no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law. (Referenda 11/4/08)

Order 39-18/19
~~Tab 41~~ 7-16-18
~~Tab 36~~ 8-13-18

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER PLACING CHARTER AMENDMENT
ON NOVEMBER 6, 2018, MUNICIPAL BALLOT
RE: IMMIGRANT VOTING**

ORDERED, that the following question is hereby placed on the
November 6, 2018, Regular Municipal Election ballot:

[Language to be added is underlined.]

**Shall the City approve the Charter Amendment to Article IV, by
adding Section 12, printed below:**

Section 12. Qualification to vote

Any other provision in this charter notwithstanding, legal immigrants who are residents of Portland and 18 years old or older on the date of any municipal election shall be allowed to register to vote and vote in municipal elections. In order to register, a legal immigrant shall provide proof of identity, age and residency, pursuant to title 21-A and legal status according to standards established by the city clerk. Such persons shall not have the right to run for and hold an elected municipal office.

**AMENDMENT TO ORDER 29-18/19
PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR ALI AND MAYOR STRIMLING
RE: IMMIGRANT VOTING**

ORDERED, that the following question is hereby placed on the
November 6, 2018, Regular Municipal Election ballot:

[Language to be added is underlined.]

**Shall the City approve the Charter Amendment to Article IV, by
adding Section 12, printed below:**

Section 12. Qualification to vote

Any other provision in this charter notwithstanding, ~~legal~~
~~immigrants who are every residents of Portland and who is 18~~
years old or older on the date of any municipal election shall
be allowed to register to vote and vote in municipal elections.
In order to register, a ~~legal immigrant~~ resident shall provide
proof of identity, age and residency, pursuant to title 21-A,
~~and legal status~~ according to standards established by the city
clerk. ~~Such persons~~ A voter registered under this section who is
not a United States citizen shall not have the right to run for
and hold an elected municipal office.

MEMORANDUM
City Council Agenda Item

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

FROM: Councilor Pious Ali and Mayor Ethan Strimling

DATE: July 5, 2018

SUBJECT: Expanding voting rights to legal immigrants who are residents of Portland

SPONSOR: Councilor Pious Ali and Mayor Ethan Strimling

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading July 16, 2018 Final Action August 13, 2018

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

This change requires an amendment to the Charter. Any proposed amendment to the Charter must be approved by voters. In order to meet the requirements and deadlines for public noticing, a public hearing, a Council vote, and the printing of ballots for the November 2018 election, the Council must take action during its August 13, 2018 meeting. Should the Council agree to send this proposed amendment to voters, adhering to this timeline would allow voters to consider the amendment at the November 2018 regular election rather than having to call a special election.

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

I. ONE SENTENCE SUMMARY

This amendment to the charter would add legal immigrants who are residents of Portland to the list of those allowed to vote in Portland Municipal elections.

II. AGENDA DESCRIPTION

Currently, legal immigrants, refugees and asylees in Portland, who are also legal residents of the city, are not allowed to vote in municipal elections. This, despite the fact that many have children in our schools, almost all pay income, sales and/or property taxes, and many have lived in our city for years as they await the federal bureaucracy to grant citizenship.

In the interest of enhancing residential participation in municipal affairs and ultimately making Portland a more welcoming city to our newest immigrants, refugees, and asylees, it makes sense to expand voting rights to all legal residents.

To add this allowance an amendment to the City Charter is required. The proposed amendment would add the following language (underlined below) to the City Charter:

Article IV

Section 12. Qualification to vote

Any other provision in this charter notwithstanding, legal immigrants who are residents of Portland and 18 years old or older on the date of any municipal election shall be allowed to register to vote and vote in municipal elections. In order to register, a legal immigrant shall provide proof of identity, age and residency, pursuant to title 21-A and legal status according to standards established by the city clerk. Such persons shall not have the right to run for and hold an elected municipal office.

Because this amendment does not make a change to the City's governance structure as outlined in the City Charter, it can be made at the Council level subject to voter approval. This amendment does not require the formation of a Charter Commission or the opening of the Charter (see attached legal opinion from Corporation Counsel, Gary Wood, August 18, 2010).

If approved by the Council, this amendment will be put to voters for approval at the November 2018 election.

This amendment does not contain any provisions that are prohibited by the federal or state constitution (see attached legal opinion from Corporation Counsel, Gary Wood, August 18, 2010).

Five votes are required for passage to send this to the voters.

III. BACKGROUND

During the 19th century, immigrants had been allowed to vote in 40 states. At the turn of the century, anti-immigrant sentiment swept the country and many of these voting rights were taken away.

Currently there are a number of jurisdictions in the United States that allow legal residents that are not yet citizens to vote including ten cities and townships in Maryland: Hyattsville; Mount Ranier; Takoma Park; Riverdale Park; Barnesville; Garrett Park; Glen Echo; Martin's Additions; Chevy Chase (section 3); Somerset; and College Park. Additionally, San Francisco allows those

who are not yet citizens to vote in local school council elections, as does Chicago (if the voter has a child in the school).

In 2010 the residents of Portland gathered the signatures necessary to put this amendment to the voters. The question lost in a very close vote, 48%-52% (approximately 1,200 votes out of approximately 20,000 cast).

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is to allow legal immigrants, refugees and asylees who are residents of Portland to more fully participate in municipal government.

V. FINANCIAL IMPACT

Unknown at this time.

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

VII. RECOMMENDATION

Corporation Counsel approves the amendment as to form and confirms that based on the information presented it does not contain any provisions that are prohibited by the United States or Maine constitutions. (attached memo from Gary Wood, August 18, 2010)

VIII. LIST ATTACHMENTS

In this document:

- a. Memos from Corporation Council

Separately:

Order Setting a Public Hearing on Proposed Amendment to Portland City Charter, Article IV Elections Re: Allowing legal immigrants who are legal residents of Portland to vote in municipal elections

Order Placing Charter Amendment on November 6, 2018, Municipal Ballot
Re: Allowing legal immigrants who are legal residents of Portland to vote in municipal elections

Prepared by: Pious Ali and Ethan Strimling

Date: July 6, 2018

MEMORANDUM
CITY OF PORTLAND

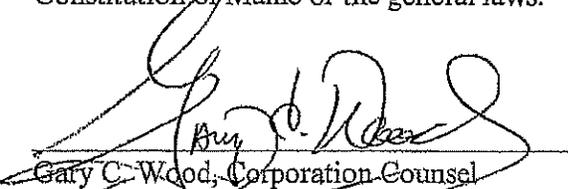
To: Mayor Mavodones and Members of the City Council

From: Gary C. Wood, Corporation Counsel

Date: August 18, 2010

Re: Opinion of Attorney re: Legality of Proposed Citizen Initiated Amendment to the Portland Charter regarding Non-U.S. Citizen Voting in Municipal Elections

Pursuant to 30-A M.R.S.A. § 2104(5)(B), this is to certify that I have reviewed the proposed Citizen Initiated Amendment to the Portland City Charter regarding non-U.S. citizen voting in municipal elections. Based on that review, I have concluded that the proposed charter amendment does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.



Gary C. Wood, Corporation Counsel
City of Portland
Maine Bar No.: 1121

MEMORANDUM
CITY OF PORTLAND

To: Mayor Mavodones and Members of the City Council

From: Gary C. Wood, Corporation Counsel

Date: August 18, 2010

RE: **Citizen Initiated Amendment to the Portland Charter Re: Non U.S. Citizen Voting in Municipal Elections/Effective Date if Approved by the Voters**

At the Council meeting on August 16th a question was raised as to why the proposed citizen initiated charter amendment that would allow residents of Portland who are non-U.S. citizens to vote in municipal elections was classified as an amendment rather than a revision, the latter classification requiring a Charter Commission in order to review and put the issue to the voters.

This issue was carefully considered by myself, Elizabeth Boynton and attorneys from Maine Municipal Association before advising the petitioners that in fact this proposal constitutes an amendment not a revision. The basic criteria for determining whether a proposed change to a municipal charter is an amendment or a revision is whether it alters the fundamental structure of municipal government established by the existing charter or whether it alters the power conveyed by the Charter to the elected municipal officials, in this case the Mayor and Councilors.

Under those well established criteria this proposal is an amendment and not a revision to the City Charter. Changing the qualifications of the electorate in a municipal election has no effect on the basic structure of city government established by the Charter or the power conveyed by it to the Mayor and the Councilors nor does it alter the power structure among the Mayor and Councilors.

In relation to the effective date of the proposed amendment, if it is approved by the voters, 30-A M.R.S.A. § 2105(4)(B) states as follows:

Charter amendments adopted by the voters take effect on the date determined by the municipal officers, but not later than the first day of the next municipal year.

By definition, the City's municipal year is its fiscal (July 1 -- June 30th) which means that the latest date upon which the amendment could be put into effect by Council order would be July 1, 2011. If the amendment is approved by the voters, the Council may choose to put it into effect before July 1, 2011 as the City will have to conduct a municipal election next May or June on the school budget.

GCW:tlb

B. Extending Municipal Voting Rights To Legal Residents of Portland Who Are Non-Citizens of the United States

When the Charter Commission convened in the summer of 2009, Commissioners, at the public's urging, agreed to explore the issue of extending voting rights in municipal elections to legal residents of Portland who are not yet citizens of the United States. During meetings in February and March 2010, the Commission heard testimony from national and local experts and public comment from Portland residents, before engaging in a thoughtful discussion centered around two issues: whether the Commission was allowed by Maine law to extend the right to vote beyond the populations enfranchised by state and federal law; and whether the extension of suffrage strengthened Portland's democratic governance by including legal residents who live, work and raise their families in Portland but have not become United States citizens. On March 11, 2010, the Commission voted on a motion "that non-citizen, legal residents of Portland be allowed to vote in municipal elections." This motion failed by a narrow margin of 7 to 5.

Expert testimony provided to the Commission addressed the historical relationship between voting rights and citizenship, recent efforts in other communities to extend voting rights, the process of becoming a citizen, the number of legal residents of Portland who would be enfranchised by an extension of voting rights, and the technical issues involved in extending voting rights to this population of Portland residents.

Dr. Ron Hayduk, Ph.D., author of *Democracy for All: Restoring Voting Rights in the United States*, testified that voting is not inextricably tied to citizenship, noting that from 1776 to 1926, non-citizens voted in 40 states and territories of the United States. Requiring citizenship in order to vote was introduced in reaction to the growth of immigrant populations viewed as "different" and "not real Americans" in order to exclude them from the political decision making process and limit their political power. He stated that historically and today, the issues of race, class and power have been central to voting rights struggles and noted that in the past the right to vote was reserved exclusively for white, male property owners and excluded women and African Americans. Hayduk cited Chicago and municipalities in Maryland and Michigan where municipal voting rights have successfully been extended.

Beth Stickney, Esq., Executive Director of the Immigrant Legal Advocacy Project, described the numerous types of immigrant statuses and the expensive and lengthy process of becoming a naturalized citizen. Hayduk noted that the average time to become a citizen is eight to ten years and Stickney stated that some legal immigrants may never have a way to become a citizen because of their immigration status.

Corporation Counsel Gary Wood concluded that under Maine's Home Rule provision a city charter could allow residents who are non-citizens to vote on municipal issues.² While allowing that a degree of "legal uncertainty" surrounded this issue, he advised the Commission

² Gary Wood, "City of Portland Memorandum, Re: Legality of Allowing Non-Citizens to Vote in Municipal Elections and on Municipal Referendum Questions," http://portlandmaine.gov/charter/backgroundinfo.asp#Non-citizen_voting, (07/29/2009).

to discuss and decide the issue on its merits without trying to guess if or how any legal uncertainties might be resolved in the future.

City Clerk Linda Cohen described the practical implications of providing for noncitizen voting, noting that maintaining a separate voter list for non-citizens and distributing the appropriate ballots would not require translators, be simple to implement, and not incur significant additional costs.

Portland is home to a significant and growing constituency of non-citizen, legal residents. According U.S. Census data in 2000³ foreign-born residents represented 7.6 % of the overall population of Portland, and Stickney cited an estimated 21 % growth in immigration to Maine from 2000 to 2007, and believes this percentage is underestimated.⁴ Immigration to Portland has a long history and today's immigrant residents join the descendants of earlier immigrants from Ireland, Poland, Armenia, and Italy (among many other nations) to create a vibrant, multicultural Portland reflected in a school system where 23 % of the children come from immigrant families and speak over fifty different languages.

In the Commission's deliberations, Commissioners voting with the minority argued that it was the Commission's responsibility to recommend this extension of voting rights in the belief that it would strengthen Portland's democratic governance, not to attempt to predict the outcome of a possible future legal challenge. Commissioner James Gooch, a lawyer, stated that legal arguments could be made on both sides of this issue and "there is enough ambiguity in the statutes to warrant making a case for this change" and leaving to the court to resolve any legal uncertainties.⁵

Commissioners voting with the minority argued that effective democratic governance in Portland was best served by separating municipal voting rights from the process of U. S. citizenship in order to build a representative, inclusive and engaged electorate able to fully participate in Portland's governance. We assert that Portland has the power of home rule to determine to whom Portland will grant the right to vote in municipal elections.

This issue resulted in significant public attendance at Commission meetings and comments by residents who currently able to vote and by residents who would have benefited from the extension of voting rights. During the final vote of the Commission, the Council Chambers were filled with members of the public who cared deeply about this issue.

The undersigned commissioners believe extending voting rights in municipal elections would foster a more comprehensive and inclusive democracy within the City of Portland and among its residents, strengthen the civic fabric of our city, and confer upon the City the benefits of wider public engagement. The ability to vote and participate fully in the democratic

³ Stephen Spring, "Taxation With Representation: Voting Rights for Immigrants," *The Muskie School of Public Service, Public Policy Implications of Hate Crimes and Immigration* (May 20, 2004) 3.

⁴ Beth Stickney, quoted in *Portland Charter Commission Minutes of February 11, 2010* (Council Chambers, City Hall, Portland, ME, 02/11/2010), 9.

⁵ James Gooch, "Memorandum Regarding: Legal issues surrounding non-citizen, legal resident voting and strawman proposal," *submitted to the Commission*, (02/25/2010).

governance of our community represents an opportunity to include all legal residents on an equal footing, without regard to whether they have immigrated from another country, moved here from another state or were simply fortunate enough to be born here. The Portland City Charter is the principle document by which our shared government is structured and therefore we believe it is the appropriate document to define voter eligibility to participate in city governance.

Benjamin Chipman
Laurie Davis
James Gooch
Robert O'Brien
Anna Trevorrow

**CITY OF PORTLAND
MEMORANDUM**

TO: Charter Commission

FROM: Gary C. Wood, Corporation Counsel

DATE: March 2, 2010

RE: **Legality of Voting By Legal Immigrants in Municipal Elections**

The Charter Commission is divided over the issue of whether it should put to the voters of the City a charter change that would authorize voting in municipal elections by legal immigrants who reside in the City.

I have been asked to do a risk assessment on whether I think that issue would survive a legal challenge if it were put to the voters and the voters approved it.

In part this question has been put to me because in stating to the Committee both in writing and verbally that I would endorse the legality of that proposal for the purpose of submitting it to the voters, I used the term "coin toss" in describing its legality.

I used the phrase "coin toss" not to suggest that in my opinion the chances are 50/50 that it would survive a legal challenge. I used the phrase as a way of saying that the result is uncertain in my mind as to how a court would come out. My own personal risk assessment is that the chances are 60/40 against that right surviving a legal challenge. In other words, I think the stronger legal arguments favor a court decision that would declare the right illegal in light of existing state law.

That being said, however, as I have also stated, until this issue is actually briefed and decided by a Maine court there is absolutely no way to be certain about the legal outcome.

GCW:tlb

**CITY OF PORTLAND
MEMORANDUM**

TO: Members of the Portland Charter Commission

FROM: Gary Wood, Corporation Counsel 

DATE: July 29, 2009

RE: **Legality of Allowing Non-Citizens to Vote in Municipal Elections and on Municipal Referendum Questions.**

This issue has been identified by several members of the Commission as an important one for the Commission to consider. Commissioner Treverrow asked MMA for an opinion about the legality of providing such authority in a City Charter.

Bill Livengood, the Director of MMA's Legal Department, issued an informal opinion by e-mail on Wednesday, July 28th. A copy of that opinion is attached. His conclusion is that the legality of a Charter provision allowing non-citizens to vote on municipal issues and for municipal officers (Councilors and School Committee members) is questionable at best.

I have known and worked extensively with Bill on municipal legal issues since 1981. He is in my opinion the most well-versed attorney in the State on municipal law and in particular on home rule, having been MMA's lead person at the State Legislature in 1987 during the recodification of Title 30-A the principle state law addressing municipal legal authority.

On December 24, 2008 I issued a brief memorandum to the members of the City's Legislative Committee (attached) in which I concluded that under Maine's Home Rule provision a city could by charter allow residents who are non-citizens to vote on municipal issues, notably the election of councilors and school committee members and on municipal referenda questions. A copy of this memorandum is attached.

Bill's opinion rests on his analysis of 30-A M.R.S.A. § 2501 (attached) which states in pertinent part:

2. Qualifications for voting.

The qualifications for voting in a municipal election conducted under this Title are governed solely by Title 21-A section 111¹.
(emphasis added)

In addition to this specific language the first paragraph of §2501 explicitly provides Charter authority that supercedes state law on the issues of the method of voting and conduct of a municipal election but doesn't extend that authority to the qualifications for voting in par. 2.

¹ Title 21-A §111 requires a person to be a citizen as one of the eligibility requirements for voting.

In issuing my opinion on December 24th I did not consider the impact of 30-A M.R.S.A. 2501(2) on a municipality's home rule charter powers. Those powers flow from Article VIII part second, Section 1 of the Maine Constitution which states as follows:

Section 1. Power of municipalities to amend their charters. The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, (emphasis added) which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act.

The current legal question upon which Bill and I agree and to which there is no easy answer, is what do the words "conducted under this Title" mean in 30-A M.R.S.A. § 2501(2) cited above.

The inclusion of those words suggest that there are elections held at the local level that are not conducted under Title 30-A and the answer to that question may be that those elections conducted under a home rule charter are not conducted under Title 30-A, and for that reason the qualifications for voting on municipal issues and positions can be determined by the charter as opposed to state law.

A countervailing argument that adds to the confusion is that Title 30-A in Chapter 121 Subpart III still has laws (see 30-A M.R.S.A. § 2551-2556) which preceded the home rule amendment to the Maine Constitution in 1969. Many of these laws contain conflicting messages when it comes to statutory interpretation regarding the legal ability of a City charter to create different or contradictory requirements. For example, §2551 that requires a City election to be called by a warrant, references a section (§2523) that is applicable to town meetings and is in itself a law that has existed since at least 1954. It is totally silent on the authority of a charter to provide a different way to call an election. On the other hand, §2553, Nomination to City Office by Petition, creates legal authority for a person to be nominated to any City office by following a state statutory procedure in Title 21-A Chapter 5, Subchapter 2 that is inconsistent with the procedure that has been long-standing and practiced under the current City charter. Furthermore, that same section goes on to recognize the power of a city charter by stating that a person seeking nomination under the section may use a political designation only if permitted by a city charter.

One another issue of importance to some members of the Commission, runoff voting, 30-A M.R.S.A. §2555 clearly recognizes the authority of a municipal charter to provide by election by other than a plurality, stating: "In a city election, unless otherwise provided by municipal charter, (emphasis added) the person who receives a plurality of the votes cast for election to any office is elected to that office."

The Immigrant Voting Project, an effort organized to support voting by immigrants concludes that Maine State law would have to be changed to allow non-citizens to vote on municipal issues. (See attached)

At this point my recommendation to the Commission, because of the legal uncertainty surrounding this issue, is that the Commission should take up the issue on its merits and decide if a majority of the Commission wish to submit it to the voters. If a majority of the Commission decides to submit the question and the necessary Charter language to the voters for approval, it should be submitted as a stand-alone question so that, if approved by the voters, a legal decision from a court in the form of declaratory judgment can be obtained to resolve the issue clearly and finally, as it is not one that can be resolved by an opinion of legal counsel. In such circumstances, it would be imperative to seek and obtain a legal decision on the issue before any election was held at which non-citizens were allowed to vote.

The legal Rubicon that has to be crossed on this issue is imposed by 30-A M.R.S.A. §2103(5)(D) which requires the final report of the Charter Commission to include a written opinion by an attorney admitted to the bar of this state that the proposed charter or charter revision does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.

Based on the Home Rule argument articulated above that the words "under this Title" are designed to recognize the ability of a charter to create different qualifications for voting on municipal issues and for municipal positions, I will certify that such a provision is not prohibited by state law and go to court to get a definitive answer if the provision is submitted to and approved by the voters.

Cc: Elizabeth Boynton, Esq.
Linda Cohen, City Clerk

GCW:mep

O:\OFFICE\Charter Commission\Memoes\Legal Memo re non-citizen voting.doc

MEMORANDUM
CITY OF PORTLAND

To: Mayor Mavodones and Members of the City Council

From: Gary C. Wood, Corporation Counsel

Date: August 18, 2010

RE: **Citizen Initiated Amendment to the Portland Charter Re: Non U.S. Citizen Voting in Municipal Elections/Effective Date if Approved by the Voters**

At the Council meeting on August 16th a question was raised as to why the proposed citizen initiated charter amendment that would allow residents of Portland who are non-U.S. citizens to vote in municipal elections was classified as an amendment rather than a revision, the latter classification requiring a Charter Commission in order to review and put the issue to the voters.

This issue was carefully considered by myself, Elizabeth Boynton and attorneys from Maine Municipal Association before advising the petitioners that in fact this proposal constitutes an amendment not a revision. The basic criteria for determining whether a proposed change to a municipal charter is an amendment or a revision is whether it alters the fundamental structure of municipal government established by the existing charter or whether it alters the power conveyed by the Charter to the elected municipal officials, in this case the Mayor and Councilors.

Under those well established criteria this proposal is an amendment and not a revision to the City Charter. Changing the qualifications of the electorate in a municipal election has no effect on the basic structure of city government established by the Charter or the power conveyed by it to the Mayor and the Councilors nor does it alter the power structure among the Mayor and Councilors.

In relation to the effective date of the proposed amendment, if it is approved by the voters, 30-A M.R.S.A. § 2105(4)(B) states as follows:

Charter amendments adopted by the voters take effect on the date determined by the municipal officers, but not later than the first day of the next municipal year.

By definition, the City's municipal year is its fiscal (July 1 – June 30th) which means that the latest date upon which the amendment could be put into effect by Council order would be July 1, 2011. If the amendment is approved by the voters, the Council may choose to put it into effect before July 1, 2011 as the City will have to conduct a municipal election next May or June on the school budget.

GCW:tlb



CITY OF TAKOMA PARK, MARYLAND VOTER REGISTRATION APPLICATION

YOU MAY USE THIS FORM TO:

Register to vote in a City of Takoma Park election or to file a change of name or address if you are already registered with the City. The City of Takoma Park does not register voters by political party. *(This is **NOT** a voter registration application to vote in school board, county, state or national elections.)*

TO REGISTER USING THIS FORM, YOU MUST:

- ✓ Be a resident of the City of Takoma Park, Maryland;
- ✓ Not claim the right to vote elsewhere in the United States;
- ✓ Not have been convicted of buying or selling votes;
- ✓ Not be under guardianship for mental disability or If you are, you have not been found by a court to be unable to communicate a desire to vote.

DEADLINE INFORMATION:

- You may register to vote in the City of Takoma Park at any time, up to and including the day of a City election.
- To be eligible to vote, you must have resided in the City of Takoma Park for at least 21 days prior to a City election.

INSTRUCTIONS:

Complete items 1-8 and, if applicable, complete items 9-10. All applicants must sign and date item 11. Please see required identification and proof of residence on the back of this application.

Check the box that applies:

- New Takoma Park voter registration
- Name Change
- Address Change

PLEASE PRINT INFORMATION

1	Are you registered to vote or eligible to register to vote in the State of Maryland <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please file a Maryland voter registration application and do not use this form.			
2	Last Name:	First Name:	Middle:	Suffix:
3	Date of Birth:(mm/dd/yyyy)	Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male	Email:	Phone:
4	Takoma Park Residence Address: Street		Apt. #	
5	City:		State:	Zip Code:
6	Mailing Address (if different): Street (or P.O Box)		Apt. #	
7	City:		State:	Zip Code:
8	Check here to explain why you are registering to vote in Takoma Park elections only: <input type="checkbox"/> I am not a United States citizen (please read important message on the back of this application)			

PREVIOUS TAKOMA PARK VOTER REGISTRATION INFORMATION (IF APPLICABLE)

9	Name on Last Registration: Last	First	Middle	Suffix
10	Address on Last Registration: Street		City	State
				Zip

Under penalty of perjury, I swear or affirm that (a) I am a resident of the City of Takoma Park, Maryland; (b) I do not claim the right to vote elsewhere in the United States; (c) I am at least 14 years old; (d) I have not been convicted of buying or selling votes; (e) if I have been convicted of a felony, I have completed serving any court-ordered sentence of imprisonment; and, (f) all information on this application is true and correct.

11	Applicant Signature:	Date:
-----------	----------------------	-------

Internal Use Only: Received by: _____	Date Received: _____
---	----------------------



City of Takoma Park, Maryland

Voter Registration Notification

Congratulations! You are now registered to vote in City of Takoma Park elections for Mayor and City Council. The next City Election is on November 7, 2017.

NAME:

ADDRESS:

WARD:

Ward

VOTER ID NUMBER:

REGISTRATION

NOTIFICATION

DATE:

DATE:

Please verify that your name and address are correct.

Jessie Carpenter City Clerk	Date
--------------------------------	------

IMPORTANT INFORMATION FOR RESIDENTS WHO ARE NOT U.S. CITIZENS:

If you apply for naturalization, you will be asked whether you have ever registered or voted in a federal, state, or local election in the United States. Upon request, the City Clerk can provide a letter explaining that residents of the City of Takoma Park who are not U.S. citizens may register and vote in City of Takoma Park municipal elections.

Please be aware that registering to vote or voting in jurisdictions other than Takoma Park may result in adverse immigration consequences for a non-citizen.

OBLIGATION TO NOTIFY THE CITY OF ADDRESS OR STATUS CHANGE

If you become eligible to register to vote with the State of Maryland you should do so. In that event, notify the City Clerk by phone, email, or using the form on the back of this notice. You must also notify the City Clerk if you change your address or move out of Takoma Park.

City Clerk | City of Takoma Park | 7500 Maple Avenue | Takoma Park, Maryland 20912
Clerk@takomaparkmd.gov | 301-891-7267

For up to date election information: www.takomaparkmd.gov

City of Takoma Park, Maryland - Voter Turnout for Non-Citizen Voters 1993-2017

Year	No. of Registered NC Voters	Number Voting	% Turnout	% Turnout All Voters Combined
1993	162	57	35%	30.40%
1995	195	20	10%	31.80%
1997	287	71	25%	26.80%
1999	334	41	12%	17.90%
2001	475	41	9%	23.50%
2003	494	14	3%	15.40%
2005	519	23	4%	24.70%
Special Election 2007	66	0	0%	16.30%
2007	461	10	2%	10.80%
2009	436	32	7%	15.80%
2011	443	25	6%	18.20%
Special Election 2012	56	0	0%	15.80%
2013	476	34	7%	10.10%
Special Election 2014	27	13	48%	27.80%
2015	523	71	14%	21.00%
2017	347	72	20.7%	22.1%

Prepared 2018-05-31

CONTEMPORARY IMMIGRANT VOTING LAWS AND CAMPAIGNS IN THE UNITED STATES

Ron Hayduk, Associate Professor of Political Science, San Francisco State University
Author, *Democracy for All: Restoring Immigrant Voting in the U.S.* (Routledge)

Twelve jurisdictions allow noncitizen residents to vote in local elections in the U.S., regardless of citizenship or immigration status:

1. Ten towns in Maryland: Takoma Park, Barnesville, Martin's Additions, Somerset, Garrett Park, Chevy Chase Section Three and Five, Hyattsville, Glen Echo and Mount Rainer. Most of these towns, in Montgomery and Prince Georges Counties, have allowed the foreign born to vote in local elections since the 1980s.
2. Chicago in local school council elections (since 1989);
3. San Francisco in School Board Elections (2018).

New York City allowed noncitizen immigrants to vote in the 32 Community School Board Elections from 1969 to 2002.

More than a dozen additional jurisdictions have considered restoring immigrant-voting rights. Some campaigns seek to restore immigrant voting to all residents -- both documented and undocumented immigrants (NYC, MD, SF) -- while other campaigns seek to enfranchise only legal permanent residents (MA, Washington D.C., Portland, ME, Burlington, VT). Some campaigns have been waged via ballot proposals (SF, Portland, Burlington) while others seek to enact local laws via legislative processes (NYC, D.C. MA, MD). Some campaigns have not yet led to the introduction legislation (Pasadena, San Bernardino and Pomona, CA, Albuquerque NM, New Haven and Bridgeport, CT, Carrboro, NC, Madison, WI, NJ, Miami, FL, Seattle, WA Portland, OR, Denver, CO). In nearly every case, campaigns are contentious and the outcomes quite close.

The following Table provides a summary:

Contemporary Immigrant Voting Campaigns in the U.S.

Jurisdiction	Type of Law	Year	Coverage	Outcome(s)
NYC a) schools; b) city elections; c) state elections	Statue	a) 1969-2002 b) 2005; 2013; c) 2014	a) School Elections b) Lawful residents c) All residents	a) implemented b) not enacted c) not enacted
Chicago	Local Statue	1989 to date	public school elections	implemented
Maryland	10 Local Statues	1980s to 2017	All residents	10 towns implemented
SF	Ballot proposal	2004 2010 2016	School Board Elections	51-49% failed 2004 54-46% failed 2010 53-47% passed 2016
Massachusetts	4 Local Statues	1990s, 2000s, 2016	LPRs	Passed; need state approval
Texas	State Statue	1995	LPRs	Not enacted
Connecticut	State Statue	2003	LPRs with property	Not enacted
Minnesota	State Statue	2007	LPRs	Not enacted
Washington D.C.	Local Statue	1991; 2004; 2010; 2014	LPRs	Not enacted
Portland ME	Ballot proposal	2010	LPRs	failed
Burlington, VT	Ballot proposal	2015	LPRs	failed

Whether campaigns for immigrant voting rights were initiated by elected officials or immigrants, several characteristics stand out in each case: (1) demographic shifts propelled immigrant mobilization; (2) proponents of noncitizen voting engaged in grassroots organizing, coalition building, lobbied elected officials, and engaged local media; and (3) supportive politicians, mostly liberal Democrats, some Green Party members and representatives of immigrant and minority background, enacted or supported legislation. Opponents, pro-immigration control and restrictionist groups as well as conservative or incumbent Democrats and Republicans, have raised a series of objections to -- or blocked -- immigrant voting rights campaigns.

Campaigns have often appeared in clusters. For example, several campaigns occurred in the early 1990s, including the successful campaigns in Takoma Park Maryland and Amherst Massachusetts. In 2004, three campaigns were launched-- in New York City, Washington D.C. and San Francisco (all three unsuccessfully). In 2010, campaigns were conducted in Portland Maine, Brookline Massachusetts, New York City and San Francisco (Brookline was successful). In 2015-16, San Francisco,

Burlington VT, New York City, Cambridge MA, and Pasadena CA entertained immigrant voting proposals (SF successfully).

California: After a near win of Proposition F in 2004 (which lost by 51% to 49%), San Francisco advocates re-grouped and got close again. In 2010, voters in San Francisco narrowly defeated a ballot proposal (Proposition D) by a margin of 54.91% to 45.09 % that would have granted all parents and guardians of children in the public school system voting rights in school board elections, regardless of their immigrant status. On November 8, 2016, the voters of San Francisco passed Prop N by a margin of 54.39% to 45.61%. Press, Press, Press, Press.

Several other jurisdictions in California have also considered campaigns but have yet to launch them, including in Pasadena (press).

New York City: Advocates formed the Coalition to Expand Voting Rights in 2004 and have successfully pressed for the introduction of legislation in 2005, 2009, and 2010. The legislation gained support of a majority of City Council members in 2013 but was not voted on. The legislation is expected to be reintroduced in 2017. The legislation, if passed, would allow all residents legally residing in the U.S. to vote in municipal elections. Additional information at the Coalition to Expand Voting Rights website, and the New York City Council website.

Maryland: In December 2016, Hyattsville granted immigrant voting rights and soon after Mount Rainer followed suit in January 2017.

Washington D.C.: In 2015, legislation was re-introduced into the D.C. City Council by David Grasso, which would grant voting rights to legal permanent residents (LPRs) in local elections. This legislation is similar to legislation first introduced in 2004. Public Hearing and Press.

Massachusetts: Beginning in the 1990s, Amherst, Cambridge, Newton, and Brookline Massachusetts (2010) have passed home rule petitions that would allow resident immigrants who are not citizens to vote in their local elections, but these towns need state enabling legislation to implement their local laws. In 2014, Amherst again passed its home rule petition for immigrant voting rights. Boston considered a similar bill in 2008 but it lost in the Council by a vote of 8-7. In August, 2015, Cambridge introduced and passed legislation to allow LPRs. Bill and Press. Somerville also considered similar legislation. More recently, Boston may again entertain a bill to restore NCV. Press.

Burlington Vermont: In 2014, the City Council of Burlington approved a measure that put a ballot measure for voters to consider, which would give Legal Permanent Residents (“green card holders”) the right to vote in local elections. The measure will need state enabling legislation to implement the law. The measure was defeated in March 2015 by 56% to 44%. For more information, see <http://ivotevermont.org>

Maine: In 2010, Voters in Portland Maine considered a ballot proposal that narrowly lost by a margin of 53% to 47% which would have granted voting rights in all

municipal elections to legal permanent residents. More recently, in 2017, the mayor proposed reviving the campaign for immigrant voting in Portland.

Puerto Rico: The Governor of Puerto Rico has proposed allowing immigrants—all immigrants—to vote in elections. <http://latinousa.org/2015/01/30/puerto-rico-all-can-vote/>

Other cities and states that have previously considered restoring immigrant voting rights, including New Haven Connecticut, Madison, Wisconsin, Carboro, North Carolina, Minnesota, Texas, and Denver Colorado.

Globally, at least 45 countries allow immigrant voting, at the local, regional and even national levels.

For more information, see the Immigrant Voting Project, now at www.ronhayduk.com (in development) and the NYC Coalition to Expand Voting Rights at www.ivoteny.org



Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US

Ron Hayduk & Kathleen Coll

To cite this article: Ron Hayduk & Kathleen Coll (2018): Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US, New Political Science, DOI: [10.1080/07393148.2018.1449408](https://doi.org/10.1080/07393148.2018.1449408)

To link to this article: <https://doi.org/10.1080/07393148.2018.1449408>



Published online: 23 Mar 2018.



Submit your article to this journal [↗](#)



Article views: 6



View related articles [↗](#)



View Crossmark data [↗](#)

Urban Citizenship: Campaigns to Restore Immigrant Voting Rights in the US

Ron Hayduk^a and Kathleen Coll^b

^aDepartment of Political Science, San Francisco State University, San Francisco, CA, USA; ^bDepartment of Political Science, University of San Francisco, San Francisco, CA, USA

ABSTRACT

International migration challenges traditional notions of citizenship as mobile citizens may retain or regain their right to vote in elections. This paper examines the rebirth of noncitizen voting rights in US local elections during the past decades. While some campaigns provide voting rights only to authorized immigrants, other campaigns extend voting rights to all noncitizens regardless of their status. Some efforts have been led by immigrant rights organizations and other campaigns arose at the initiative of elected officials. Some measures have been passed—or were defeated—by a majority of voters in a jurisdiction (ballot proposal) while other measures have been passed—or were defeated—by elected representatives (as local statutes). Who spearheaded these campaigns for immigrant voting rights and why? What are key ingredients to the success or failure of these campaigns? What have been their impacts? Using qualitative and quantitative data gathered from field research and public records over the past decade, this paper addresses these questions and their implications for advancing immigrant incorporation and democratic practice.

Introduction

Today, mass migration challenges dominant notions of citizenship as mobile citizens may retain or regain their right to vote in elections. While mass migration is not new, the diversity of migrants and scale is, as well as the intensity of national and local responses to it. Moving in one direction, many regimes seek to secure their borders and stem the tide of immigration. A resurgent nationalism and nativism is manifest in many regimes that seek to tighten borders and restrict immigrants, and those noncitizens within national borders are finding more limited pathways to citizenship and the curtailment of rights. The basic philosophical position embodied in such policies, what David Owen calls the “liberal nationalist” view, maintains the stable reproduction of a national state requires citizenship for membership of the political community.¹ Granting voting rights without citizenship would allow nonmembers of a

CONTACT Ron Hayduk  rhayduk@igc.org

¹David Owen, “Transnational Citizenship and the Democratic State: Modes of Membership and Voting Rights,” *Critical Review of International Social and Political Philosophy* 14:5 (2011), pp. 641–63.

political community to shape laws and policies affecting members of a state, which from this view, is improper or worse, particularly as security concerns have pushed to the forefront of national political agendas. Voting, from this logic, is properly restricted to national citizens.²

Moving in the other direction, other regimes are providing refuge and seek to integrate migrants by providing entry, rights and benefits. Undergirding such policies is a philosophic view Owen calls the “all affected interests principle,” which asserts that any person subject to the coercive power of a state should be entitled to membership therein, or at the least, voting rights in their local government. A prime example is the Maastricht Agreement in 1992 that ushered in the European Union, which provides voting rights to any EU member in local or regional elections. For example, a Polish plumber could vote in local elections in France.

Some countries go further, and provide voting rights to third-party nationals, such as in Ireland, New Zealand, and parts of the US. Such policies embody a view that sees residency as the measure of being a legitimate stakeholder (member), not citizenship. Rainer Bauböck elaborates such a “stakeholder” principle that sees each member of a self-governing political community as having a dual stake in that community’s future: a stake in preserving one’s own personal autonomy and well-being, and a stake in the collective investment in shaping the future of that community expressed through participation and holding political leaders accountable.³ The stakeholder principle asserts that members rely on that community for long-term protection of their basic rights similar, whether one is a citizen or noncitizen. Similarly, the notion of “social membership” developed in the work of Ruth Rubio-Marín and David Carens, which asserts the moral right of individuals to be “citizens” of any society in which they are residing (as members of a community).⁴ Living in a society *makes* residents members due to the connections, attachments, and relationships which interconnect an individual’s interests with other members of that society, just as living in a society subjects a person to the authority of that polity and thus provides the basis for a person’s political rights within that community.

In this essay, joining other contributors to this volume who present examples of immigrants seeking to expand conceptions of belonging and citizenship (Francisco-Menchavez et al., Colburn and Ramakrishnan), we contribute to the growing literature on “urban citizenship”⁵ that expands traditional and legal definitions of national citizenship which is evident in contemporary campaigns to restore voting rights to noncitizens in local elections in

²Stanley Renshon, *Noncitizen Voting and American Democracy* (Lanham, MD: Rowman & Littlefield, 2009); Rodolfo de la Garza, “Immigrant Voting: Counterpoint,” in Judith Gans, Elaine M. Replogle, and Daniel J. Tichenor (eds), *Debates on US Immigration* (Thousand Oaks, CA: Sage, 2012).

³Rainer Bauböck, “Stakeholder Citizenship and Transnational Political Participation: A Normative Evaluation of External Voting,” *Fordham Law Review* 75 (2006), pp. 2393–447. See also Jean-Thomas Arrighi and Rainer Bauböck, “A Multilevel Puzzle: Migrants’ Voting Rights in National and Local Elections,” *European Journal of Political Research* 56 (2017), pp. 619–39.

⁴Ruth Rubio-Marín, *Immigration as a Democratic Challenge: Citizenship and Inclusion in Germany and the United States* (Cambridge, UK: Cambridge University Press, 2000); Joseph H. Carens, *The Ethics of Immigration* (Oxford, UK: Oxford University Press, 2013).

⁵Elizabeth F. Cohen and Jenn Kinney, “Multilevel Citizenship in a Federal State: The Case of Noncitizens’ Rights in the United States,” in Willem Maas (ed.), *Multilevel Citizenship* (Philadelphia, PA: University of Pennsylvania Press, 2013), pp. 70–88; Michael Javen Fortner, “Urban Autonomy and Effective Citizenship,” in Amy Bridges and Michael Javen Fortner (eds), *Urban Citizenship and American Democracy* (Albany, NY: SUNY Press, 2016), pp. 23–65; Rogers Smith, “American Cities and American Citizenship,” in Amy Bridges and Michael Javen Fortner (eds), *Urban Citizenship and American Democracy* (Albany, NY: SUNY Press, 2016), pp. 211–22. Monica Varsanyi, “Interrogating ‘Urban Citizenship’ vis-à-vis Undocumented Immigration,” *Citizenship Studies* 10:2 (2006), pp. 229–249; Rainer Bauböck, “Reinventing Urban Citizenship,” *Citizenship Studies* 7:2 (2003), pp. 139–160; Engin F. Isin and Greg M. Nielsen *Acts of Citizenship* (Chicago, IL: University of Chicago Press, 2008).

the US. As we shall show, immigrants and their allies in these campaigns are essentially making membership claims on a local polity that they are legitimate stakeholders worthy of inclusion in political processes. Our main purpose, however, is to shed light on the accomplishments and challenges of these campaigns and their implications for scholars and practitioners interested in immigrant incorporation and democracy.

Context

The growing number of immigrants in the US is staggering: in many localities their number can reach a quarter to a half of the total population. For example, one of every four residents of the state of California is foreign-born, with more than a half being noncitizens. In seven California counties, including Santa Clara, San Francisco, and Los Angeles, one in three residents is an immigrant. In New York City, noncitizens comprise more than twenty percent of the total population in many city council districts, and more than forty percent of the population of several council districts. Similar proportions are found in “new immigrant destinations” in the US. If present trends continue, such conditions will only spread.

Even as the number of elected representatives from immigrant backgrounds has increased, their number lags far behind that of other resident groups. This is true at every level of government. While gerrymandering, racial bloc voting, at large elections, and single-member districts contribute to this “representation gap,” the lack of voting rights for noncitizens is also a factor. The cumulative lack of political power—from fewer votes to fewer representatives—translates into fewer pathways to opportunity, worse socioeconomic conditions, and government policies that slight immigrants. Although hardly homogeneous, as a group immigrants tend to score low on many social indicators of well-being, including income, poverty, housing, hunger, and education.⁶ Such outcomes in part result from immigrant political exclusion, which in many places now approximates that of women, African Americans, and youth before laws were changed to incorporate them into the electorate (in 1920, 1965, 1971, respectively).⁷ What do these conditions mean for such basic democratic principles as “one person, one vote,” “no taxation without representation,” and that a just “government rests on the consent of the governed”? Contemporary immigrant political exclusion challenges the ideals of a modern democracy, cutting to the heart of our political practice.

In response to these conditions, several jurisdictions have expanded voting rights to newcomers in local elections, including ten jurisdictions in Maryland and San Francisco. Dozens of other localities have considered or are currently considering restoring immigrant voting rights, including in New York, California, Massachusetts, Vermont, Maine, Seattle, and Washington D.C. (see Table 1). A prominent slogan of the massive 2006 immigrant rights protests was “today we March, tomorrow we vote.” Campaigns to restore immigrant voting rights⁸ can be seen as efforts that ground claims to civic belonging and rights in local

⁶David Card and Steven Raphael, *Immigration, Poverty, and Socioeconomic Inequality* (New York, NY: Russell Sage, 2013).

⁷Parallels exist for two additional disenfranchised groups: the four and a half million mostly black and Latino ex-offenders who are denied voting rights by state felony disenfranchisement laws; and the approximately five million residents in US Territories who cannot vote in US federal elections.

⁸Although different terms are used to describe immigrant voting, including “noncitizen voting,” “resident voting,” “local citizenship,” and “alien suffrage,” they all mean essentially the same thing: enfranchising or restoring voting rights to residents who are excluded from the electorate because they are not US citizens.

Table 1. Contemporary immigrant voting campaigns in the US.

Jurisdiction	Type of law	Year	Coverage	Outcome(s)
NYC (a) schools (b) city elections (c) state elections	Statute	(a) 1969–2002 (b) 2005, 2013 (c) 2014	(a) School Elections—parents of school children (b) Lawful residents (c) All residents	(a) Implemented (b) Not enacted (c) Not enacted
Chicago Maryland ^a	Local statute 10 Local Statutes	1989 to date 1990s to 2017	School site elections All residents	Implemented 10 towns implemented
SF	Ballot proposal	2004 2010 2016	School Board Elections All parents or guardians of children under 18	51–49% failed 2004 54–46% failed 2010 53–47% passed 2016 Implemented 2018
Massachusetts ^b	4 Local Statutes	1990s, 2000s, 2016	LPRs	Passed; need state approval
Texas	State Statute	1995	LPRs	Not enacted
Connecticut	State Statute	2003	LPRs with property	Not enacted
Minnesota	State Statute	2007	LPRs	Not enacted
Washington D.C.	Local Statute	1991; 2004; 2010; 2014	LPRs	Not enacted
Portland, ME	Ballot proposal	2010	LPRs	Failed
Burlington, VT	Ballot proposal	2015	LPRs	Failed

^aIn 2016, Hyattsville Maryland granted immigrant voting rights, approving an amendment to the city's charter, in December 2016, and Mount Rainier followed suit on January 3, 2017. Candace Rojo Keyes, "Mt. Rainier Extends Vote to Non-citizens," *The Sentinel*, (January 18, 2017).

^bIn 2007, The Boston City Council narrowly rejected by a vote of 7–6 a proposal to grant LPRs voting rights in local elections. Cambridge, Amherst, Newton, and Brookline passed local laws allowing noncitizens to vote in local elections, but have not gotten state enabling legislation needed to allow the localities to implement the local laws. In January 2018, the President of the Boston City Council Andrea Campbell proposed holding a hearing to explore a bill that would restore voting rights to noncitizens in local elections. Dan Atkinson, "Council Prez mulls noncitizen voters," *Boston Herald*, (January 30, 2018), available online at: http://www.bostonherald.com/news/local_coverage/2018/01/council_prez_mulls_noncitizen_voters.

residence and participation,⁹ as well as part of larger movement for immigrant rights and social justice.

Campaigns for Immigrant Voting Rights—Who, Why, How, and to What End(s)?

Our aim is to shed light on contemporary campaigns to restore noncitizen voting in local elections and to explore their implications for democratic theory and practice. While some campaigns have been led by immigrant rights organizations, others arose due to the initiative of elected officials. Some campaigns have sought to extend voting rights only to legal permanent residents (LPRs), or specific stakeholders such as parents in public school board elections, while other campaigns are more expansive and seek voting rights for all adult residents, regardless of status, in all local elections in a jurisdiction. Only a few proposed laws sought to grant voting rights in state elections. Political and policy impacts of campaigns to extend noncitizen voting rights have been mixed.

⁹Monica Varsanyi, "Interrogating 'Urban Citizenship' vis-à-vis Undocumented Immigration," *Citizenship Studies* 10:2 (2006), pp. 229–49.

This paper is a small part of a larger project to chronicle and analyze the developments in noncitizen voting rights and build upon our previous work.¹⁰ Our analysis is based on dozens of interviews, surveys, and participant observation with stakeholders, including immigrant voting rights advocates, opponents, community organizations, elected officials, government agency personnel, members of the media, and nonpartisan policy organizations. We conducted this research in cities and states across the US, including in Massachusetts, New York, California, Connecticut, Vermont, Maryland, Maine, and Illinois. In addition, we draw upon other academic studies, government reports and policy papers, census and election data, public opinion polls, public testimony, and news articles.

Contemporary Campaigns and Practices

Today, twelve jurisdictions allow all residents to vote in local elections, regardless of citizenship or immigration status, including ten towns in Maryland, in local school council elections in Chicago, and in School Board Elections in San Francisco. All of these jurisdictions grant voting rights to local residents without regard to immigration status. More than a dozen additional jurisdictions have considered restoring immigrant-voting rights. Some campaigns seek to restore immigrant voting to all residents—both documented and undocumented immigrants (NYC, MD, SF)—while other campaigns seek to enfranchise only legal permanent residents (Washington D.C.; Portland, ME; Burlington, VT; MA). Some campaigns are waged via ballot proposals (SF, Portland, Burlington) while others seek to enact local laws via legislative processes (NYC, D.C. MA, MD). Some campaigns have not led to the introduction of legislation (Pasadena, CA; Albuquerque, NM; New Haven and Bridgeport, CT; Carrboro, NC; Madison, WI; Seattle, WA; Portland, OR; and Denver, CO).¹¹ In nearly every case, campaigns are contentious and the outcomes quite close.

Whether campaigns for immigrant voting rights were initiated by elected officials or immigrants, several characteristics stand out in each case: (1) demographic shifts propelled immigrant mobilization; (2) proponents of noncitizen voting engaged in grassroots organizing, coalition building, lobbied elected officials, and engaged local media; and (3) supportive politicians, mostly liberal Democrats, some Green Party members and representatives of immigrant and minority background, enacted or supported legislation. Opponents—pro-immigration control and restrictionist groups as well as conservative or incumbent Democrats and Republicans—have raised a series of objections to immigrant voting rights campaigns.

Campaigns have often appeared in clusters. For example, several campaigns occurred in the early 1990s, including the successful campaigns in Takoma Park, Maryland and Amherst, Massachusetts. In 2004, three campaigns were launched— in New York City, Washington D.C. and San Francisco (all three unsuccessfully). In 2010, campaigns were conducted in Portland,

¹⁰Ron Hayduk, *Democracy for All: Restoring Immigrant Voting in the United States* (New York, NY: Routledge, 2006); Ron Hayduk, "Political Rights in the Age of Migration: Lessons from the United States," *Journal of International Migration and Integration* 16:1 (2015), pp. 99–118; Kathleen Coll, "Citizenship Acts and Immigrant Voting Rights in the US," *Citizenship Studies* 15:8 (2011), pp. 993–1009.

¹¹The City of Seattle, for example, issued an *Immigrant Voting Task Force* in 2015 that concluded: "In community dialogs the Task Force learned that there was significant interest in creating new mechanisms that would allow all Seattle residents the right to vote in municipal elections regardless of citizenship status. At this time we view this as an aspirational goal, but one fraught with significant legal administrative and political obstacles," available online at: <https://www.seattle.gov/Documents/Departments/OIRA/OIRA-Voting-Report.pdf>.

Maine; Brookline, Massachusetts; New York City and San Francisco (Brookline was successful). In 2015–2016, San Francisco, Burlington VT, New York City, Cambridge MA, and Pasadena CA entertained immigrant voting proposals (SF successfully).

Our research suggests campaigns have contributed to community building and more responsive local governance in some places, particularly when immigrants lead campaigns and related policy initiatives. Immigrant leadership looks different in each context—a consultative process regarding whether or not to launch a campaign, the drafting of legislation, grassroots base-building approaches to outreach and win support of elected and other key local officials, or legal research and support for administering and implementing new voting rules, or generating coverage by local media including ethnic media. Coalition building with other stakeholders and key elected officials is critical to waging viable campaigns. Essentially, immigrants are enacting urban citizenship through their engagement in such coalitions, and their work for inclusion, empowerment, and improved local self-governance. Results are shaped by several factors, including the relative strength or weakness of community-based support and organized opposition to immigrant voting rights, particularly in the case of ballot measures. Regional and national political context can affect outcomes as well.

The “success” of local immigrant voting efforts cannot be judged solely by whether or not they achieve the goal of establishing local voting rights. Success can also be measured by local stakeholders as advancing other goals, such as when immigrant advocates build coalition and solidarity with other social groups across sectors (policy, geography), which can increase community-based power. Mobilization for immigrant voting can educate community members and elected officials alike about immigrant concerns and provide support for other pro-immigrant policies and community benefits, such as language access, school and neighborhood improvement, legal services, municipal ID, or police reform. Campaigns can build immigrant leadership, increase civic skills, community capacity and alliances with other groups capable of winning greater government responsiveness, and improvements in the quality and implementation of policies (housing, education, cultural) that affect immigrant communities.¹² In other words, immigrant voting campaigns can contribute to expansive practices of active “citizenship” at the local level, particularly if immigrants lead the way.

Moreover, the effort to expand the franchise to immigrants is a global phenomenon. More than 45 countries on nearly every continent allow resident noncitizens to vote at the local, regional, or national level in the host countries’ elections, and most adopted such legislation during the past three decades.¹³ Europe provides a compelling case for noncitizen voting rights. The 1992 Maastricht Treaty granted all Europeans the right to vote in European countries other than their own, expanding what has been practiced for years in Sweden (1975), Ireland (1975), the Netherlands (1975), Denmark (1977), and Norway (1978); in the 1980s, the Netherlands, Venezuela, Ireland, Spain, and Iceland enacted legislation enfranchising resident aliens; several Swiss cantons (Neuchâtel and Jura) have long permitted noncitizen voting; Finland and Iceland allow Nordic citizens voting rights; and Estonia allows noncitizen voting at the local level. In fact, noncitizen immigrants vote on nearly every continent,

¹²Els de Graauw, *Making Immigrant Rights Real: Nonprofits and the Politics of Integration in San Francisco* (Ithaca, NY: Cornell University Press, 2016).

¹³David C. Earnest, *Old Nations, New Voters: Nationalism, Transnationalism, and Democracy in the Era of Global Migration* (Albany, NY: Suny Press, 2008).

including in Latin America, New Zealand, the Caribbean, Barbados, Belize, Canada, Chile, Iceland, Israel, New Zealand, Uruguay, and Venezuela¹⁴

The Rise and Fall—and Reemergence—of Immigrant Voting in the US

Although surprising to many, in most of colonial America and the newly independent US, any 21-year-old or older white male with property was eligible to vote, regardless of citizenship status. In fact, from 1776 to 1926, noncitizens exercised the right to vote at the local, state and even federal levels of government, and in some cases held office, in as many as 40 states.¹⁵ For most of this period, noncitizen voting was seen as a means to train newcomer white Christian men to be good neighbors and promote active participation in the life of their new adoptive homes before their eventual naturalization. In frontier states, it was also a way to lure new white male immigrants to permanently occupy Native lands, diffusing pressure from women, Native Americans, and African Americans who demanded political and property rights. Following the War of 1812 and leading up to the Civil War, some states began rescinding immigrant voting provisions. The influx of the Irish, for example, who were likely to be hostile to slavery, sparked opposition to immigrant voting. The first plank in the Confederate Constitution limited voting rights to only those born in the US.¹⁶ Following the Civil War, however, alien suffrage expanded in the South and westward, reaching its peak in the 1880s when almost 20 states allowed it. In short, immigrants as voters and candidates could and did make the difference between winners and losers throughout early American history.

However, by the 1910s, most states had rescinded immigrant voting provisions and closed the door to immigrants for decades thereafter.¹⁷ Arkansas was the last state to eliminate alien suffrage in 1926, after 150 years of the practice. The rollback of immigrant voting rights—along with the disenfranchisement of African Americans and poor whites by a host of infamous voting restrictions, such as poll taxes, literacy tests, grandfather clauses, felon disenfranchisement laws, and restrictive voter registration and residency requirements—combined to disenfranchise millions of voters. Taken together, this constriction of the franchise limited democratic possibilities of American political development for decades.¹⁸

Yet during its heyday, immigrant voting and holding office promoted civic education, participation and eventual citizenship. It was seen not as a substitute to citizenship but as a pathway to citizenship; a kind of pre-citizen voting. In today's lexicon, it facilitated immigrant political incorporation. Noncitizen voting rights are more consistent with democratic ideals than current practices of exclusion. And while it is curious that this 150-year history has been eviscerated from American national memory, it may not be accidental given its

¹⁴Ibid.; Rainer Bauböck, "Expansive Citizenship—Voting Beyond Territory and Membership," *PS: Political Science & Politics* 38:4 (2005), pp. 683–7; Cristina Escobar, *Migration and Franchise Expansion in Latin America*. Global Citizenship Observatory (GLOBALCIT) European University Institute, (2017), available online at: http://cadmus.eui.eu/bitstream/handle/1814/45709/GLOBALCIT_Comp_2017_01.pdf?sequence=1&isAllowed=y.

¹⁵Hayduk, *Democracy for All*, pp. 19–21.

¹⁶Raskin, Jamin. B. *Overruling Democracy: The Supreme Court vs The American People*. (New York, NY: Routledge, 2003), p. 238.

¹⁷Following the consolidation of the Midwest and West, the exclusion of Asian immigrants beginning with the Chinese in 1882, and the increase of immigrants from Southern and Eastern Europe between the 1880s and WWI, immigrant voting was repealed in state after state.

¹⁸Voter participation declined from seventy to eighty percent in presidential elections during the mid to late 1900s to forty-nine percent in 1924. Frances Fox Piven and Richard A. Cloward, *Why Americans Still don't Vote: and Why Politicians want it that Way* (Boston, MA: Beacon Press, 2000).

power to spark campaigns to restore immigrant voting today. Contemporary advocates draw heavily on this history to disrupt the “common sense” thinking that ties voting to national citizenship. Understanding the extension and withdrawal of noncitizen voting rights highlights important elements and challenges for contemporary voting rights struggles.

The Case for (and Against) Immigrant Voting Rights

The effort to create a truly universal suffrage is one tactic among many in the struggle to achieve economic and social justice. Toward these ends, immigrant rights advocates today invoke this history as well as to utilize moral and political claims to achieve voting rights for noncitizens. There are three basic arguments: voting rights are embodied in the social contract, where a just government rests on the consent of the governed; the vote helps guard against discrimination and bias, which is often a consequence of being politically excluded; and the vote can help win mutual benefits for all community members of a polity.

The Social Contract

One of the basic tenets of democratic theory is found in the notion of the social contract: the legitimacy of a just government rests on the consent of the governed. Citizens consent to be governed and obey governing laws in exchange for the power to select their representatives, a mechanism that can hold elected officials accountable to the people. The Founding Fathers enshrined this notion in the phrase “no taxation without representation,” which provided a rallying cry for the American Revolution.

This argument emphasizes the rights of all members of communities—including immigrants—in a democratic polity. Indeed, immigrants were signatories to the Declaration of Independence. Many of the early colonies had already allowed noncitizen residents to vote, and the practice was continued when the new states formed their constitutions. The emerging republicanism and liberalism in early America made noncitizen voting a reasonable practice tied to inhabitants and difficult to challenge. Formal procedural rights, however, do not guarantee substantive equality. Many liberal theorists did not (and do not) adequately contemplate how real world differences in group status can create second class members. Political inclusion of African Americans and women did not bring equal treatment and equal outcomes. Thus, African American men who were legally enfranchised after emancipation could be subject to segregation and oppression; women could be subordinated even after their enfranchisement; and poor and working people could be relegated to the lower social orders. Today, because not all noncitizens can become citizen members, liberal democratic theory and practice is similarly challenged by this reality.

In the case of immigrants in a democratic polity, there are two typical theoretical and policy responses to this problem. One is to draw a sharper line between immigrants and citizens. Noncitizens are not entitled to the same rights and privileges as citizens, it is argued, because certain immigrants are not eligible to become full citizen members of their host society. In the case of undocumented immigrants, their violation of US law makes them

ineligible for any such rights.¹⁹ Even for legal immigrants, Schuck for example, identifies five exceptions to the principle of equity embodied in the Fourteenth Amendment, whereby a government is justified in differential treatment of citizens and noncitizens, including: legal residents are subject to deportation; legal aliens do not have as great ability as citizens to have their relatives immigrate to the US; and legal residents cannot serve on juries, vote, nor run for office or be appointed to certain government jobs.²⁰ This general position is taken up by opponents to immigrant voting.²¹

Immigrant advocates move in the opposite direction, arguing for expansion of the equal protection principle and to adjust democratic norms to the new demographic realities. Aleinikoff and Klusmeyer argue, "Any discussion of the franchise for immigrants must consider the basic democratic premise that what concerns all should be decided by all . . . laws of democratic states apply not only to their citizens, but to all who live in the territory."²² Lisa Garcia Bedolla takes the argument a step further. She contends that liberal democratic theorists who focus "solely on the actions and responsibilities of individual immigrants . . . ignore the role of the state, and state-sanctioned economic actors, in facilitating, subsidizing and making possible, migration."²³ In fact, Bedolla argues, migrants have the "tacit consent" of powerful economic and governmental actors which benefit—even require—a cheap and pliable labor supply to fuel global capitalism, particularly guest worker schemes. Instead of viewing migrants as coming here on their own, which ignores "the web of economic interdependence that connects all of us," Bedolla views migration as the result of "structural, rather than individual, processes." Immigrants are important and permanent parts of our political community, she argues, and we have a reciprocal responsibility for noncitizens whose presence is integral to the functioning of our economy and society.

A corollary argument is that without voting rights noncitizens are at risk of bias in majoritarian electoral systems because politicians can ignore their interests. Discriminatory public policy and private practices—in employment, housing, education, healthcare, welfare, and criminal justice—are the inevitable by-products of immigrant political exclusion, not to mention xenophobic political campaigning and racial profiling. As Jamin Raskin stated, "If you can't vote, you tend to be disregarded politically. It [voting rights] has extended real visibility to a formerly invisible population."²⁴ The problem is not merely that immigrants pay taxes and do not have the vote; the problem is that the US is undergoing another nativist period that threatens rights and civil liberties of those who have no formal voice to protect themselves. Witness the violation of civil liberties evident in the arbitrary detention of many immigrants today and the host of restrictionist legislation proposed and/or enacted at the federal level and in several states, let alone the rising number of racially motivated bias attacks on immigrants.

¹⁹Peter Schuck and Rogers Smith, *Citizenship without Consent: Illegal Aliens in the American Polity* (New Haven, CT: Yale University Press, 1985).

²⁰Peter Schuck, "Membership in the Liberal Polity: The Devaluation of American Citizenship," in William Rogers Brubaker (ed.), *Immigration and the Politics of Citizenship in Europe and North America* (New York, NY: German Marshall Fund of the United States and the University Press of America, 1989).

²¹Renshon, *Noncitizen voting*; de la Garza, "Immigrant Voting."

²²T. Alexander Aleinikoff and Douglas Klusmeyer, *Citizenship Policies for an Age of Migration* (Washington, DC: Carnegie Endowment for International Peace, 2002), p. 46.

²³Lisa Garcia Bedolla, "Rethinking Citizenship: Noncitizen Voting and Immigrant Political Engagement in the United States," in S. Karthik Ramakrishnan and Ricardo Ramirez (eds), *Transforming Politics, Transforming America: The Political and Civic Incorporation of Immigrants in the United States* (Charlottesville, VA: University of Virginia Press, 2005).

²⁴Jeff Donn, "Massachusetts Town Considers Granting Vote to Noncitizens," *Associated Press*, October 21, 1998.

Contemporary immigrant voting rights advocates draw parallels between the pre-suffrage plight of women and African Americans and conditions of immigrants today. Joaquin Avila has argued for immigrant voting rights in California stating,

A society's interests are not furthered when a substantial number of its inhabitants are excluded from the body politic and have no meaningful way to petition for a redress of grievances through the electoral process... The ultimate product of such exclusion is a political apartheid.²⁵

Mutual Benefits

Another frame of immigrant voting rights focuses on the benefits that would accrue to other community members who have common interests. Advocates contend immigrants strengthen communities. Immigrants not only contribute materially but they also enhance the quality of life in communities and add richness to neighborhoods. Working-class individuals and people of color—particularly in metropolitan regions—face many of the same problems that immigrants do, including discrimination in employment, housing, education and so on. Common interests can forge common ground, reduce competition, and enhance mutual understanding and cooperation. While the struggle for scarce economic resources, cultural differences and prejudice can breed inter-group conflict, universal voting rights can provide a buffer against potential social strife or segmented assimilation. In fact, alliances among competing minority groups in struggles for fair employment practices, living wage campaigns, affordable housing, and quality education, have formed the basis of effective coalitions in electoral contests and public policy formation. Ultimately, campaigns need to make the case that immigrant enfranchisement and political equality benefits everyone.

An example from New York City provides a case in point. During the 1980s, many NYC school districts were characterized by overcrowding, out-of-date books, lack of language access or cultural competency, crumbling facilities, no after school programs—all combining to produce poor education for the students, which contributed to and further perpetuated the low socioeconomic status of their families. In Washington Heights, a section of northern Manhattan, more than eighty percent of the 25,000 students attending elementary and intermediate schools in District 6 were Dominican.²⁶

At that time their schools were the most overcrowded in the city and the students' reading scores ranked the lowest... The fight for community control and empowerment in District 6 began in 1980 when the Community Association of Progressive Dominicans confronted the school board and superintendent to demand bilingual education and programs for recently arrived immigrant families.²⁷

In 1986, a vibrant voter registration drive brought in 10,000 parent voters—most of them Dominican noncitizen immigrants—who turned out in record numbers in the Community School Board races, elections that permitted noncitizens to vote. This political mobilization led to the election of a majority of advocates for immigrants to the local community school board, including the first Dominican ever elected in the US, Guillermo Linares, who became

²⁵Joaquin Avila, "Political Apartheid in California: Consequences of Excluding a Growing Noncitizen Population," *Latino Policy and Issues Brief* 9 (2003). Chicano Studies Research Center, UCLA, available online at: <http://www.chicano.ucla.edu/publications/report-brief/political-apartheid-california>.

²⁶Guillermo Linares, "Dominicans In New York: Superando los Obstáculos y Poder: The struggle for Community Control in District 6," *Centro Bulletin* 2:5 (1989), p. 78.

²⁷Julissa Reynoso, "Dominican Immigrants and Social Capital in New York City: A Case Study," *Latino Intersections* 1:1 (2003), available online at: <http://journals.dartmouth.edu/cgi-bin/WebObjects/Journals.woa/xmlpage/2/article/104>.

the president of the school board.²⁸ As Julissa Reynoso observed, Dominicans made concrete gains:

Over the years Dominicans have gained a greater representation on the school board. Other subsequent gains have included the construction of additional public schools in the district and the appointment of a Dominican principal to head one of the community high schools.²⁹

Not only did the mobilization of Dominicans eventually contribute to improvements in the public schools, it also helped reshape community politics.

Their mobilization, replicated by other racial and ethnic minorities in other neighborhoods, led to the election of a larger number and proportion of people of color on the school boards, which in turn, fueled political support to improve the quality of schools and education in other neighborhoods. For example, an analysis by the Center for Voting and Democracy of the 1993 and 1997 NYC Community School Board Elections showed an *overrepresented* number of “black and Latino candidates compared to voting-age population.” Over time, the study shows,

representation of blacks, Latinos and eventually Asian Americans [as elected representatives on NYC Community School Boards] has generally grown steadily, closely matching and often surpassing voting-age population for those groups . . . [N]ot only have the districts been representative of racial and ethnic minorities citywide, but also within most districts.³⁰

Indeed, greater community representation and political mobilization led the city to devote more funds to schools in Washington Heights and in other neighborhoods in New York City. Similarly, community pressure supported the development of a multicultural curriculum (“Rainbow Curriculum”) and improvements to bilingual education and programs for English Language Learners (ELL). In the end, it was not only Dominicans that benefited. All community residents—including older stock Irish, Italian, Jewish, Puerto Rican, and Black families who lived there—benefited from improved education opportunities. Moreover, it was not just residents in Washington Heights who benefited: similar voter mobilization efforts yielded school budgets that grew in other districts in New York City, producing improvements in student and family outcomes. Such community political mobilization had spillover effects, such as advocacy for affordable housing that led to a city-financed program launched in the 1980s to build and rehabilitate hundreds of thousands of low and moderate-income housing units.³¹ Positive results are evident in other cities where immigrants have voted (and still do), such as in Chicago and in Maryland, and in other countries that allow it.³²

Opponents of immigrant voting raise several objections, including that granting voting rights to noncitizens would diminish the value and meaning of citizenship; limit the capacity

²⁸Linares, 1989. Linares later became the first Dominican New York City Council Member, serving two terms, after which he was appointed the head of Mayor Bloomberg’s Office of Immigrant Affairs, and was subsequently elected to the New York State Assembly where he serves today.

²⁹Reynoso “Dominican Immigrants and Social Capital in New York City.”

³⁰Rob Richie, “Improving New York City’s Community School Board Elections.” Testimony to the Citywide Community School Board Elections Committee on December 2, 1997. The Center for Voting and Democracy, available online at: http://archive.fairvote.org/library/geog/cities/ny_school_board.htm. The focus of Richie’s testimony was to highlight the role played by a type of proportional representation (ranked choice voting) in promoting diversity on the community school boards.

³¹Jonathan Soffer, *Ed Koch and the Rebuilding of New York City* (New York, NY: Columbia University Press, 2012).

³²Ron Hayduk, *Democracy for All: Restoring Immigrant Voting Rights in the US* (New York, NY: Routledge, 2006); Melissa Marschall, “Parent Involvement and Educational Outcomes for Latino Studies,” *Review of Policy Research* 23:5 (2006) pp. 1053–76; Susan Ryan, Anthony S. Bryk, Gudelia Lopez, Kimberly P. Williams, Kathleen Hall, and Stuart Luppescu, *Charting reform: LSCs—Local leadership at work* (Chicago, IL: Consortium on Chicago School Research, 1997); Kåre Verby, “Inclusion and public policy: Evidence from Sweden’s Introduction of Noncitizen suffrage,” *American Journal of Political Science* 57:1 (2013) pp. 15–29.

for citizens to regulate rights and benefits; reduce incentives for immigrants to naturalize; create divided loyalties; skew the results in close elections; increase vote fraud; and affect contentious public policy issues.³³ Even some immigrant advocates and civil libertarians worry that immigrants would be further exposed and made more vulnerable if voting rights laws were not crafted carefully, particularly the undocumented. And some African Americans and other minority groups worry that their hard won gains in voting power and increased number of representatives could be diluted, at a time they are reaching parity with whites at some levels of governance.

Lessons Learned Across Campaigns

What lessons can be gleaned from reform efforts in these diverse campaigns and locales? Why do campaigns happen where they do? Who initiates them, how are campaigns waged, do they win or lose, and to what ends?

First, immigrant voting rights campaigns have emerged most often in culturally and politically progressive small to mid-sized towns and cities, such as Takoma Park, MD; Amherst and Cambridge, MA; Burlington, VT; and San Francisco, CA. These cities include university towns with large numbers of professional class immigrants and histories of welcoming immigrants and refugees, including local “Sanctuary” ordinances.³⁴ More politically and culturally moderate and larger cities have also mounted local campaigns, including New York City, Washington D.C., and Portland, Maine. Less frequently, more conservative localities have entertained campaigns or legislation (but rarely wage full-scale campaigns), such as in Denver, CO; San Bernardino and Pomona, CA; Carrboro, NC; FL, Minnesota and Texas.

Second, campaigns usually occur in areas with a growing immigrant population that has active community-based organizations. Such campaigns are either immigrant-led or in alliance with civil rights and progressive groups. For example, in Cambridge, MA, Haitian immigrants during the 1990s spearheaded a campaign for immigrant voting seeking to protect rent control that was under threat and later allied with Latino community-based organizations and diverse individuals from Europe, Africa, Asia, and the Middle East; in Amherst, MA, Puerto Ricans and Central Americans along with progressives led the campaign, following enacting sanctuary policies; in Portland, ME, Somalis and other refugees, along with progressives, led the campaign; in Washington D.C., Central Americans in alliance with civil rights leaders led the campaign during the 1990s and 2004; in Burlington, African immigrants who organized after being rebuffed from gaining access to public recreation fields to play soccer worked on the campaign in alliance with a range of progressive organizations and individuals; in Hyattsville a Latino community-based organization (CASA) was one of main campaign proponents along with civil rights allies and progressive whites. In San Francisco’s 2010 and 2016 campaigns, Chinese American and Latino organizations seeking to organize immigrant public school parents responded to local elected officials who initiated campaigns for a charter amendment for immigrant parent voting.

Campaigns tend to gain traction when led by immigrants who develop a broader coalition among diverse groups of allies: in New York City, a coalition formed in 2004 comprised community-based organizations—faith-based, immigrant and civil rights, unions, and

³³Renshon, *Noncitizen voting*; de la Garza, “Immigrant Voting.”

³⁴Takoma Park sought to integrate Salvadorans, diplomats and other global citizens in their midst. Raskin *Legal Aliens, Local Citizens*.

progressive groups—which later expanded and built greater capacity to lobby for a City Council measure that gained broad support in 2013; in San Francisco, Latino, Asian and Black alliances have been key; in Portland Maine, alliances between young Green party activists, Somali refugees and policy organizations disrupted traditional notions of who constituted natural political allies. The outcome of the 2010 ballot initiative was close (Yes: forty-eight percent No: fifty-two percent) largely because they conducted a strong grassroots door-to-door canvass style campaign. During the 1980s and 1990s many of cities still had large and active working class and minority communities, but more recently have experienced gentrification and large-scale displacement of these populations (for example Cambridge, Washington D.C., San Francisco, Berkeley). Nonetheless, they continue to be committed politically to the empowerment of those who remain, including immigrants.

Third, gaining the support of established and influential organizations, such as labor unions or civil and voting rights organizations—and funders—has proven significant. Alliances can increase a campaign's capacity, provide broader legitimacy, and help increase media attention—all of which can help propel immigrant voting campaigns forward. Lead organizers in the 2010 campaigns in San Francisco and Portland contended they might have been able to win if they had had funding for at least one full-time organizer and modest funds for outreach, given the close vote in their respective ballot initiatives. In the era of \$100,000 initiative campaigns at the local level, even the most robust grassroots of organizing efforts need adequate resources to be successful, particularly in the face of opposition. Organizing events that create positive news, such as NYC's Mock election or "Tax Day" rallies, can boost visibility and community support. Engaging social media and ethnic media can augment the necessary "face to face" organizing strategies. But most nonprofit organizations have limited staff and budgets to carry out such activities effectively.

Fourth, in every jurisdiction the support of credible and visible elected officials who can effectively champion the cause has been critical to wage viable campaigns. Unless people in power can craft and propose legislation or submit ballot initiatives, immigrant voting campaigns do not get far. However, campaigns that are primarily led by elected officials—with little participation by community-based organizations capable of generating broad-based support—have mixed results at best. Planning and carrying out an immigrant voting rights campaigns without first obtaining the buy-in and support of immigrant rights organizations and grassroots community leaders can be detrimental. In Rockville, MD, for example, Mayor Larry Giammo pursued immigrant voting rights soon after being elected in 2001. Because he did not sufficiently consult with community stakeholders and lay the groundwork for a viable campaign, however, opposition thwarted the idea and he was left out on a limb. As is the case for campaigns in most other policy arenas, the combination of inside and outside strategies is usually what proves to be most effective, but the push and continued involvement from community groups is especially critical to wage viable immigrant voting rights campaigns.

Fifth, the level of opposition and political context matters. In some cases, opponents of noncitizen voting measures counter mobilized and proved decisive, such as in the SF 2004 ballot initiative campaign where Don Fischer (former CEO of the GAP) contributed \$50,000 for anti-immigrant voting mailings as well as activity by an anti-immigrant organization called Save our State (SOS), which has been described as a hate group by the Southern Poverty Law Center. In 2015 in Burlington, Vermont, a front-page article in the largest newspaper printed two days before the election appeared to contribute to the defeat of their

immigrant voting ballot initiative (along with a lack of effective grassroots mobilization). For the most part, however, organized opposition to immigrant voting campaigns has been fewer in number and less visible than proponents. This may be a function, in part, of the fact that many immigrant voting campaigns have been waged in politically liberal locales.

In jurisdictions using ballot initiatives, the timing of the election can also affect outcomes. Midterm elections have low voter turnout and fewer sympathetic voters, as was the case in 2010 in San Francisco, while presidential elections have higher turnout—particularly of minorities—who can help propel a ballot measure to victory, as was the case in 2016. Gaining the support of most residents—usually progressive whites, people of color, and naturalized immigrants—was necessary for success, such as in San Francisco in 2016.

Changing political contexts can expand or contract opportunities for organizing and strategic intervention. During 2010–2012, the NYC Coalition to Expand Voting Rights had struggled with relatively weak support among key City Council members, which was partly a byproduct of the opposition to immigrant voting by Mayor Bloomberg and then City Council Speaker Christine Quinn who had effectively stymied the effort for several years. Sustained lobbying by advocates and legislative leaders who championed the bill, and a set of unique election year dynamics created by term limits: nearly half of the elected officials were no longer eligible to stand for re-election, including Mayor Bloomberg and Speaker Christine Quinn, which provided more latitude for councilmembers to support immigrant voting. In this way, a change to the “political opportunity structure”³⁵ due to term limits and election year maneuvering by various Democratic Party factions in the City Council opened up new avenues for advocates to make gains. Such changes can come simply from more diverse public officials, where non-white, immigrant, and self-identified “progressive” candidates and politicians demonstrate stronger support for immigrant rights, as in the case of NYC. Although NYC has yet to pass an immigrant voting bill, progressive city council members and Mayor de Blasio have passed immigrant friendly legislation, including Municipal Identification Cards, a bill limiting ICE in New York City jails, funding to provide legal assistance to immigrants, expanding ESL opportunities, paid sick days, among other bills.

Sixth, convincing stakeholders of the merit of immigrant voting often requires a good amount of time for political education and debate, both within the immigrant rights community (leadership and rank and file) and among other stakeholders, let alone the public more generally. Grappling with complexities involved in immigrant voting campaigns are not as simple as efforts to win \$15 an hour; they do not translate as easily onto a bumper sticker. Most people who first hear about immigrant voting think it is illegal or improper. It takes time to delve into the issues, and challenge existing norms, beliefs and misunderstandings. Building knowledge of historical practices and previous patterns of integration (and resistance to) women and African American voters, and countering persistent mischaracterizations of “the proper pathway to voting” as limited to citizenship (via naturalization) is the constant job of the advocate. Shifting fundamental understandings of social norms, and political patterns requires willingness and time.

Advocates have had to grapple with how to frame campaigns. Some seek to address narrow goals, such as parents’ interests and student outcomes, or immigrant integration, while others frame campaigns as promoting more general interests such as increasing civic

³⁵David S. Meyer and Suzanne Staggenborg, “Movements, Countermovements, and the Structure of Political Opportunity,” *American Journal of Sociology* 101:6 (1996), pp. 1628–60.

education, voter participation, and government accountability. Focusing on narrower interests can appear to be more strategic, such as San Francisco's emphasis on "increasing parent involvement in public schools," rather than emphasizing immigrant empowerment. Ironically, it appears the heightened polarization around immigration during the November 2016 election effectively elevated the cause of immigrant rights, pushing up popular support in San Francisco to pass the parent immigrant voting ballot initiative (Proposition N). Looking back, even sympathetic liberals in San Francisco did not believe the earlier 2010 campaign's assertions that the proposition was strictly about "closing the achievement gap by increasing immigrant parents' participation in school policy." It is difficult to assess now if the campaign might have been more open to appeals on the basis of fairness and respect for immigrant contributions and participation in the city, and if a broader campaign vision might also have attracted more participation and support from immigrant rights advocates for whom public education was not a central part of their organizational priorities.

Immigrant Agency in Voting Rights Campaigns

The most effective advocates are immigrants themselves, and they are most powerful in coalition with allies. The importance of immigrant leadership becomes even more crucial in the implementation of these policies in the wake of the 2016 elections and increased federal enforcement. How can jurisdictions balance the need for transparency in elections with protections against voter suppression? Should proposals include all immigrants or only LPRs? These are questions localities are grappling with in the current political climate.

Our research suggests immigrants themselves must weigh in on such matters. Immigrants are the most credible spokespeople for noncitizen voting rights and their personal stories about the adverse impacts of disenfranchisement are often the most effective arguments that win over both voters and policy-makers. The experience of guiding campaigns and carrying out voter outreach is also an important leadership development opportunity for new potential voters themselves. These findings are consistent with immigrant led victories of other rights and services.³⁶ One lesson from the immigrant voting successes across the nation, as well as from the declining voter turnout overall in the US, is that without investment in and leadership of organized immigrant communities committed to voter engagement for the long haul, it is less likely that immigrants will themselves turn out to vote even after gaining the formal right to do so.

Conclusion

Imagine if the nearly 25 million immigrants who are not yet US citizens could vote? It would change political dynamics, particularly in states and locales where noncitizen immigrants are concentrated, potentially changing patterns of voter participation, representation, policy, and perhaps alter the balance of power among contending social and political groups. Demographic change provides new incentives for insurgent factions and candidates to challenge dominant political organizations and leaders. As the population of cities and states diversifies, political groups have sought to enlist and mobilize—or demobilize and neutralize—new emerging constituencies. The reason, though obvious, merits underscoring:

³⁶de Graauw, *Making Immigrant Rights Real*.

expanding or limiting the scope of the electorate can determine who are winners and losers and thereby shape politics.³⁷ The stakes and prizes of elections for political contenders are manifold, from shaping policy agendas to rewarding allies and punishing enemies. After all, constituencies that are better organized and more actively engaged in political activity tend to receive the lion's share of material benefits from government. Of course, the flip side is also true: electorally marginalized constituencies can more easily be ignored and subjected to discrimination.

Immigrant voting campaigns highlight the myriad ways noncitizens act as good citizens, employing liberal democratic discourses, dedicating time and effort to win a modest electoral reform. Despite the messiness of their engagement with the state, advocates organized, developed their capacities, leadership, built coalitions, and advanced agendas. Sometimes they changed laws and policies and advanced immigrant political incorporation. These local voting rights campaigns appropriated official discourses of legal and political rights that are often exclusive and put them in service to support popular grassroots efforts for inclusion and equality. What is clear to us after talking with people in meetings at schools, churches organizations, and in City Halls is this issue can sustain interest, whether or not individual measures or efforts prevail, which can further efforts to advance immigrant incorporation.

Such campaigns, even where they are characterized as eccentric or marginal, can be seen as efforts to democratize polities. This is one of the reasons campaigns for noncitizen voting rights continue to emerge in diverse locales across the US, and precisely in an era of tremendous hostility to newcomers and noncitizens. Campaigns for voting rights represent immigrants' efforts to write themselves into a national story that reframes them as future citizens rather than permanent aliens. These campaigns become opportunities for immigrants to speak with citizens about the history of immigrant voting, but also to make manifest their own engagement in and commitment to their local communities and institutions. In an era in which immigrants of color especially are treated with hostility and disrespect, these campaigns are affirmative, positive political interventions that organize both immigrants and citizens around principles of justice and inclusion. We can learn as much about citizenship from the resilience of community groups who try and fail to pass such measures as we do from those that succeed in gaining formal rights.

The lessons here may seem obvious to immigrant community organizers, but are so uncommon in practice that they need to be restated here and underscored. It is insufficient to merely have the political will at the local level to initiate a campaign for immigrant voting rights; you have to have robust independent immigrant-community capacity with public support. While these conditions are not unique to immigrant voting—the same may be true for gaining and implementing language access, municipal ID cards, and other immigrant inclusion initiatives³⁸—they are especially important ingredients to wage a viable campaign on immigrant voting rights.

Given the current state of affairs, however, the stakes are markedly higher for immigrants and their allies than prior to 2016. We can no longer discuss immigrant political empowerment at the local level without considering the harsh anti-immigrant measures being pursued at the federal level and their dire impacts in communities across the country. Just as we have learned that sanctuary cities cannot function as sanctuaries absent of state

³⁷Piven and Cloward, *Why Americans Still Don't Vote*.

³⁸de Graauw, *Making Immigrant Rights Real*.

protections, so too immigrant voting at the local level needs careful and sophisticated policies at the state and local level to advance immigrant power while limiting federal enforcement possibilities. The case of a LPR woman in Texas with US citizen children and no criminal record who voted illegally and who was sentenced to 8 years in prison to be followed by deportation illustrates this new harsh political landscape.³⁹ Prior to 2017, one could have imagined the penalty for voting illegally would have been the denial of a naturalization application, not a long prison sentence and deportation. The stark reality of this new terrain underscores the point that immigrants need be at the table in deciding whether or not to wage a campaign for immigrant voting rights, and if so, when and how to do so.

Disclosure statement

No potential conflict of interest was reported by the authors.

Notes on contributors

Ron Hayduk is an associate professor of Political Science at San Francisco State University. His research centers on political participation and immigration, including his book *Democracy for All: Restoring Immigrant Voting Rights in the United States* (Routledge) and *Immigrant Engagement in Participatory Budgeting in New York City* (with Kristen Hackett & Diana Tamashiro Folla).

Kathleen Coll is an associate professor of Politics at University of San Francisco. She is a political anthropologist whose research and teaching focuses on immigration politics and policies, cultural citizenship, and grassroots community organizing. Her books include *Remaking Citizenship: Latina Immigrants and New American Politics*, *Disputing Citizenship* (Policy Press, 2014) and *Gendered Citizenships* (Palgrave 2009).

³⁹Michael Wines, "Illegal Voting Gets Texas Woman 8 Years in Prison, and Certain Deportation," *New York Times* (February 10, 2017).

Mail

Back Archive Spam Delete Move to Labels More 84 of 29,631

COMPOSE

Inbox (1,136)

Starred

Sent Mail

Drafts (4)

Categories

2018-2019

Agenda 2018-2019

Agendas 2016-2017

02-06-17



Sonia



Jessica Grondin

so december council mee

389 Congress St. Rm. 203

Portland, ME 04101

P: 207-874-8610

F: 207-874-8612

----- Forwarded message -----

From: Tammy Genest <genest123@hotmail.com>

Date: Thu, Jul 19, 2018 at 9:34 PM

Subject: Voting

To: "cityclerk@portlandmaine.gov" <cityclerk@portlandmaine.gov>

Only LEGAL Maine residents should be allowed to vote.

Sent from my U.S.Cellular® Smartphone



Click here to [Reply](#) or [Forward](#)

Using 7.87 GB
[Manage](#)

[Program Policies](#)
Powered by

Last account activity: 15 hours ago
[Details](#)

Tasks: Sonia Bean

Fwd: Illegal Immigration voting rights

1 message

Katherine Jones <klj@portlandmaine.gov>
To: Sonia Bean <stb@portlandmaine.gov>

Thu, Jul 26, 2018 at 9:49 AM

Can you please add this email to the City Council's back up materials for Non US Citizens.

Thank you
Kathy
Katherine Jones, City Clerk, CCM, CMC, Registrar
City of Portland
389 Congress Street
Portland, ME 04101
(207) 874-8614
(207) 874-8612 Fax

----- Forwarded message -----

From: **City Clerk** <cityclerk@portlandmaine.gov>
Date: Wed, Jul 25, 2018 at 1:52 PM
Subject: Fwd: Illegal Immigration voting rights
To: Katherine Jones <klj@portlandmaine.gov>

City Clerk's Office
389 Congress St. Rm. 203
Portland, ME 04101
P: 207-874-8610
F: 207-874-8612

----- Forwarded message -----

From: **James Lewis** <jslewis1971@yahoo.com>
Date: Sun, Jul 22, 2018 at 7:37 AM
Subject: Illegal Immigration voting rights
To: "cityclerk@portlandmaine.gov" <cityclerk@portlandmaine.gov>

Just wanted to put my thoughts forward regarding your push to allow Illegal Immigrants to vote in elections. These individuals broke our US laws by entering into our country. Where do they deserve automatically giving them the rights of legal US citizens. Every Illegal Immigrant vote negates the vote of a legal citizen. You are really stating the Illegal Immigrant is more important than the legal citizens of America! ... if 1,000 illegal Russians entered the USA by your reasoning are saying they have a vote in American politics over Americans. If you didn't allow them to vote you would be bias against only specific Illegal Immigrants.

Please keep America free and lawful rather than reward lawlessness. By allowing illegal immigration we are allowing MS-13 gangs into America and are removing our ability to properly vet those who are entering. Again please reconsider the results of giving illegal immigrants American rights that will change our future...

I do not live in Portland however your decisions will affect not just Portland they will affect all of Maine and America...

James Lewis.

[Sign up to receive updates on my work](#)

On Tue, Jul 31, 2018 at 9:41 AM, Frank Thiboutot <fthiboutot@maine.rr.com> wrote:

"My long experience in Australian politics has been that whenever a government is seen to have immigration flows under control, public support for immigration increases, when the reverse occurs hostility to immigration rises." -Former Australian PM John Howard

Dear Mayor Strimling and City Council Members:

Please accept this email as testimony for the record at the public hearing on August 13th.

Citizenship used to mean something and should still be cherished. Giving non-citizens the right to vote in local Portland elections is an insult to legal immigrants who went through the process and took the Citizenship Oath. I know this first-hand since I jumped through numerous hoops to legally sponsor a Korean family to immigrate here back in the '70s.

Recently, Democrats were apoplectic about Russian interference to influence our elections. YET, by allowing aliens to vote this does the very same thing. Your argument is likely that a number of countries (65 of 193 UN members) grant some voting rights to foreigners http://www.ivoteny.org/?page_id=1189 but does that mean we need to follow suit? The UN doesn't exactly work in the best interests of the U.S. The organization, iVote, is the Far-Left pro-Democrat organization that is pushing this agenda. <http://www.discoverthenetworks.org/groupProfile.asp?grpId=7885> It certainly makes me wonder if Mayor Strimling and Councilman, Ali, got their talking points for NY directly from them: http://www.ivoteny.org/?page_id=238

Since 1996, a federal law prohibits non-citizens from voting in federal elections. As I'm sure you know, "LD 1195, 'An Act To Allow Non-citizen Residents To Vote in Municipal Elections', was submitted to the 124th Maine Legislature in 2009 and was voted down." This current localized effort also violates Portland's City Charter and would be a slippery slope toward giving aliens the right to vote, run for office, eventual open-borders and the loss of our sovereignty.

Order #49-18/19
Tab 37 8-13-18

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

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER APPROPRIATING \$2,110,000 FROM
THE SALE OF CITY-OWNED 0 HANCOCK STREET**

ORDERED, that \$1,000,000 from the sale of city-owned 0 Hancock Street is hereby appropriated for use in the renovation of the North Deering Fire Station at 386 Allen Avenue and any costs related and ancillary thereto; and

BE IT FURTHER ORDERED, that \$1,000,000 from the sale of city-owned 0 Hancock Street is hereby appropriated to the Housing Trust Fund; and

BE IT FURTHER ORDERED, that \$110,000 from the sale of city-owned 0 Hancock Street is hereby appropriated to fund the joint venture with South Portland called the Climate Action Plan; and

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

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Nancy English, Danielle West-Chuhta,
Deivy Periana,

FROM: Brendan T. O'Connell, Finance Director

DATE: August 2, 2018

SUBJECT: Order Appropriating \$2.11M of 0 Hancock Street Sale Proceeds

SPONSOR:
Nick Mavodones, Finance Committee Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading 8/13 (1st) Final Action 8/13 (2nd)

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

Action should be taken at the 8/13 meetings as the Allen Avenue Fire Station is currently closed and needs immediate repairs.

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

I. ONE SENTENCE SUMMARY

The City Council sold 0 Hancock Street in August 2017 and this order appropriates \$2.11M of the \$3.3M in sale proceeds for repairs at Allen Avenue Fire Station, funding of the Housing Trust Fund, and funding of the joint Climate Action Plan with South Portland.

II. AGENDA DESCRIPTION (This is all that will be included of the agenda.)

This appropriation was recommended unanimously (3-0) by the Finance Committee at their 8/2/18 meeting.

On August 21, 2017, the City Council approved a \$3.3 million purchase and sale agreement with 0 Hancock Street, LLC for the sale of 48,000 square feet of the City-owned Thames Street property along the Eastern Waterfront. In October 2017, groundbreaking occurred on the 100,000 square foot, 4-story mixed-use development that will serve as the world headquarters of WEX with additional retail space.

The full \$3.3M of property sale proceeds were collected in fiscal year 2018. The City does not typically budget for significant amounts of property sale revenue, so this inflow of funding is

above and beyond the FY18 budgeted revenues and will result in an increase in fund balance above the recommended level. Upon initial discussion of the Finance Committee the Finance Director is formally requesting that the Finance Committee and City Council vote to appropriate \$2.11M of these funds the following purposes:

- \$1,000,000 to support the rehabilitation of the Allen Avenue Fire Station
- \$1,000,000 to support the Housing Trust Fund
- \$110,000 to support the Climate Action Plan - the joint venture with South Portland

III. BACKGROUND

Funding for Rehabilitation of the Allen Avenue Fire Station

During September 2017 a fire broke out in the kitchen area of the Allen Avenue fire station, caused moderate damage to the kitchen and smoke damage throughout the one-story building, which houses the Ladder 4 and Medcu 4 fire companies. The station is currently closed due to the damage. The Allen Avenue ladder truck was relocated to the fire station on Forest Avenue and the ambulance crew was moved to the fire station on Ocean Avenue. The current cost estimate to repair the station (attached in Appendix A) is approximately \$1.3M. The cost is more extensive than simple damage repairs as the building is very old and needs to be brought up to current code in many areas. Although the insurance company will pay for a percentage of the repairs, the appropriation request is for \$1M of the \$1.3M to cover deductible and City share of expenses. Corporation Counsel staff is working with the insurance company to make a final determination of what is covered. Any excess insurance proceeds received will be deposited back into fund balance. Acting Fire Chief Keith Gautreau and Liability and Insurance Claims Manager Lori Smith are available to answer Committee questions about the project. 100% Construction Drawings have also been added to the August 2nd Finance Committee meeting backup materials.

Housing Trust Funds

In recent years there has been an increased focus on providing funding for the Housing Trust. The Council's Housing Committee, led by Councilor Duson, has made it a priority to increase the funding for the Housing Trust Fund. Historically the trust has been funded through fees assessed under the Housing Replacement Ordinance. More recently, the trust has been funded via contributions from developers under inclusionary zoning requirements. However these fees are paid when a project is issued a certificate of occupancy.

The Housing Trust provides a valuable source of funding for projects that have sought the other funding sources for affordable housing development, but that still have a financing gap. It also helps projects that do not meet the criteria for other funding sources (for example, workforce housing projects not eligible for HOME funds and Housing Tax Credits.) The most recent Housing Trust annual plan includes a waivable minimum balance of \$500,000 in the Trust. This minimum balance is held in reserve to cure defects in existing affordable housing developments if necessary in order to avoid losing existing units. For example, should a deed-restricted workforce condominium go into foreclosure, the minimum balance would give the City the flexibility to resolve the foreclosure and keep the unit affordable. Otherwise, the bank's

mortgage may supercede any affordability restriction. In this case, the City could potentially then resell the unit with the deed restriction and recapture the funds for the Housing Trust. This minimum balance, while waivable, is in keeping with best practices for Housing Trusts nationally.

This year, in part due to the existence of the Housing Trust, the City has active proposals for over 200 units of affordable housing. It will not be possible to fund these projects while maintaining a minimum balance, and hopefully a reserve for future years, without the allocation of funds from the 0 Hancock Street sale into the Trust. Receiving these funds before the current round of allocations from the Trust at the first September Council meeting will be important to providing full utilization of these resources in 2018.

With the development boom in Portland, it is anticipated that the Housing Trust will grow, but as the first chart below shows, many projects have been approved, but only three are currently under construction. With this additional \$1,000,000 in contribution, the fund will have nearly quadrupled in just over two years. The second chart below outlines the historical sources and uses of the Housing Trust Funds.

Inclusionary Zoning Development Projects: December 2015 - November 2017

Address	Status	# of Units	Type	Workforce Units	Off-Site	Fee-in-lieu
169 Newbury St (Luminato)	Under Construction	26	Condo	2 off site	2	\$0
62 India Street	Under Construction	29	Condo	0	0	\$290,000
443 Congress St	Under Construction	28	Apt	0	0	\$280,000
70 Anderson St	Approved (2016)	10	Town House	1	0	\$0
75 Chestnut St	Approved (2016)	54	Apt	5	0	\$0
20 Thames St	Approved (2017)	28	Condo	0	0	\$280,000
161 York St	Approved (2017)	11	Condo	0	0	\$110,000
221 Congress St	Approved (2017)	17	Condo	0	0	\$170,000
153-165 Sheridan St	Approved (2017)	19	Condo	1	0	\$0
1 Joy Place	Approved (2017)	12	Condo	1	0	\$0
218-220 Washington St	Approved (2017)	45	Condo	0	0	\$416,250
22 Hope Ave Subdivision (Brandy Ln)	Under Review	16	SF Home	1	0	\$0
383 Commercial St	Under Review	82	Condo	9	TBD	TBD
1700 Westbrook St (Stroudwater)	Under Review	123	SF/Townhouse	12		\$0

Sources and Uses of Housing Trust Fund

DEPOSITS		EXPENDITURES	
Maine Medical Center HRO 2002-2003	\$ 315,580.00	Avesta Oak Street Lofts 2011	\$ (380,585.00)
Sportsmand's Grill HRO 2002	\$ 40,000.00	Housing First Pre-Development RFP 2014	\$ (75,000.00)
Berlin City Auto HRO 2009	\$ 116,000.00	65 Hanover & 62 Alder Sts Feasibility Study 2015	\$ (9,250.00)
Stop n Shop HRO 2010	\$ 289,250.00	65 Munjoy Street 2017	\$ (175,000.00)
Rockbridge/Eastland Park HRO 2012	\$ 42,500.00		
Riverwalk/Ocean Gateway HRO 2012	\$ 250,000.00	Total Expenditures	\$ (639,835.00)
118 Congress LLC HRO 2014	\$ 3,500.00		
Sale of Tax Acquired Property 91 & 97 Belfort Street 2017	\$ 86,424.00		
Sale of Tax Acquired Property 116 Upper A Street 2017	\$ 78,527.00		
443 Congress Street IZ 2017	\$ 280,000.00		
62 India Street IZ 2018	\$ 276,500.00		
Short Term Rental Fee transfer 2018	\$ 33,318.80		
Previous INTEREST EARNED	\$ 51,556.00		
Total Deposits	\$1,863,155.80	BALANCE	\$1,223,320.80

HRO - Housing Replacement Ordinance; IZ = Inclusionary Zoning Fee-in-lieu as of 7-13-2018

Climate Action Plan

The City Council has taken a number of steps recently to emphasize its commitment climate action. In May, 2017 the Council adopted a resolution committing the City to use 100% renewable energy by 2040. In June, 2017, the Council passed a resolution to join the Mayors Climate Action Agenda (Climate Mayors) that commits the City to take actions to achieve the goals established by the 2016 Paris Climate Accords. The Sustainability and Transportation Committee, led by Councilor Thibodeau, has made developing a plan to achieve these goals a priority for 2018. City staff recently made a presentation to the committee about joining with the City of South Portland to develop complementary climate action plans for each city. This would allow the cities to share costs associated with consulting and technical analysis. The resulting plans will describe actions each city should take to mitigate the effects of climate change as well as strategies to adapt to impacts such as sea level rise. The climate action plans will cover all sectors of the community -- residential, commercial, and industrial -- as well as municipal operations. Portland's share of the cost will be \$110,000.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended goal for this action will be to bring Allen Avenue Fire station back to operational status, fund the Housing Trust to recommended levels, and to provide funding for the Climate Action Plan.

V. FINANCIAL IMPACT

\$2.11M of immediate financial appropriation. As noted in the agenda description, the full \$3.3M of property sale proceeds were collected in fiscal year 2018. These funds are above and beyond our recommended fund balance, so the \$2.11M of appropriation is of surplus funds.

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

None

VII. RECOMMENDATION

Move passage at the 8/13 second meeting with first read occurring at the first meeting of the day.

VIII. LIST ATTACHMENTS

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by:

Date:

*Order 50 - 18/19
Tab 38 8-13-18*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPROVING THE
COLLECTIVE BARGAINING AGREEMENT WITH
THE FIREFIGHTERS LOCAL 740,
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS**

ORDERED, that the attached Collective Bargaining one (1) Year Agreement with the Firefighters Local 740, International Association of Firefighters for January 1, 2018 through December 31, 2018, is hereby approved.

CITY OF PORTLAND, MAINE
Memorandum

TO: Mayor Strimling and Members of the City Council
FROM: Thomas A. Calazzo, Labor Relations Manager *TAC*
DATE: July 25, 2018
RE: Order – First Reading of Firefighters Local 740, International Association of Firefighters Contract

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor one (1) year contract. The prior contract expired on December 31, 2017. Local 740 has ratified the tentative agreement and the Administration will seek your support for the agreement on August 13, 2018. The tentative agreement is within guidance received from the Council. This order will require a second reading.

This memorandum reflects the substantive changes to the expired collective bargaining agreement. The cost summary for the tentative agreement is also included as an attachment.

Article 9 – Transfers

The parties have agreed that vacancies will be posted when they occur rather than once per year as they are now.

Article 13 – Clothing and Equipment

The clothing allowance limits were increased to \$350.00 annually and a max of \$650.00 over any two (2) year period.

Article 17 – Sick Leave

Defines when an employee needs to provide a doctor's note for sick leave absences.

Article 24 – Overtime

New language clarifies the eight (8) day work period versus the seven (7) day pay period

Article 25 - Salaries

Base Wages

3% increase, effective January 7, 2018, retroactive

Also eliminate the first two steps in the pay plan in order to be able to better recruit for vacancies. (See attached new pay plan)

Increase educational stipends by \$.10 per hour retroactively as follows:

Associates Degree	\$.24/hour increase to \$.34/hour
Bachelor's Degree	\$.36/hour increase to \$.46/hour
Master's Degree	\$.48/hour increase to \$.58/hour

Article 34 – Training

Revised the language to clarify what is considered mandatory training and how employees are paid for mandatory training during normal workhours and when off duty. Also deleted obsolete language.

Article 38 – Term

The new contract term is January 1, 2018, through December 31, 2018.

Attachment(s)

CC: Jon Jennings, City Manager,
Mona Bector, Assistant City Manager
Keith Gautreau, Interim Fire Chief
Danielle West-Chuhta, Corporation Counsel
Gina Tapp, Director of Human Resources
Brendan O'Connell, Finance Director
Anne Torregrossa, Assoc. Corp. Counsel
Carlene Kessler, Employment Services Manager
Benjamin Bettez, PFO, Fire
Jennifer Lodge, Budget Analyst
Lori Schools, Financial Specialist

2018 Firefighters Unit Estimates

Item	Description	Base	City Proposal 2018	% Incr	FF Proposal 2018	% Incr	Notes
FTEs: <u>220.0</u>							
#1	Base Wages	\$11,516,978	\$11,862,536	103.0%	\$11,977,507	104.0%	City Proposal <u>3.0%</u> COLA; FF Proposal <u>4.0%</u>
#2	Step \$ Value Based on 2017 Current Pay Plan Movement	\$38,089	\$39,253	103.1%	\$39,599	104.0%	Cost of Current Active 2018 Step Eligible Employees (2017 Pay Plan Step Mvmt)
#3	Collapse of Steps 1-3 / Elimination of Step 1 & Step 2	-	\$23,998	5.6%	\$24,191	5.5%	Cost of Current Active 2018 Eligible Employees
#4	Certified Fire Officer 1.0% \$ Value (36 Eligible EEs)	\$21,970	\$22,629	1.0%	\$22,849	1.0%	Based on increase in Proposed Base Wage
#5	Education Stipends	-	-	-	\$26,395	33.1%	FF Proposal: <u>\$0.10/</u> hr Increase
Wages:		\$11,577,037	\$11,948,416	103.2%	\$12,090,540	104.4%	
#6	Annual Clothing Allowance	\$66,000	\$77,000	116.7%	\$77,000	116.7%	Current \$300; Proposed <u>\$350</u>
Direct Costs:		\$66,000	\$77,000	116.7%	\$77,000	116.7%	
TOTAL:		\$11,643,037	\$12,025,416	103.3%	\$12,167,540	104.5%	

CURRENT				EFFECTIVE 1/1/2018		3% COLA	
FIREFIGHTER	HOURLY	WEEKLY		FIREFIGHTER	HOURLY	WEEKLY	
0 - 6 MOS	\$15.76	\$661.92					
6 MOS - 1 YR	\$16.36	\$687.12					
1 - 3 YRS	\$17.31	\$727.02		0 - 3 YRS	\$17.83	\$748.86	
3 - 5 YRS	\$20.88	\$876.96		3 - 5 YRS	\$21.51	\$903.42	
5 - 8 YRS	\$21.75	\$913.50		5 - 8 YRS	\$22.40	\$940.80	
8 - 15 YRS	\$23.33	\$979.86		8 - 15 YRS	\$24.03	\$1,009.26	
15 - 20 YRS	\$23.83	\$1,000.86		15 - 20 YRS	\$24.54	\$1,030.68	
20 + YRS	\$24.55	\$1,031.10		20 + YRS	\$25.29	\$1,062.18	
LIEUTENANT				LIEUTENANT			
0 - 1 YRS	\$25.32	\$1,063.44		0 - 1 YRS	\$26.08	\$1,095.36	
1 - 4 YRS	\$26.03	\$1,093.26		1 - 4 YRS	\$26.81	\$1,126.02	
4 + YRS	\$26.80	\$1,125.60		4 + YRS	\$27.60	\$1,159.20	
APTAIN				CAPTAIN			
0 - 1 YRS	\$27.40	\$1,150.80		0 - 1 YRS	\$28.22	\$1,185.24	
1 - 4 YRS	\$28.19	\$1,183.98		1 - 4 YRS	\$29.04	\$1,219.68	
4 + YRS	\$29.02	\$1,218.84		4 + YRS	\$29.89	\$1,255.38	
FF/EMT-B	HOURLY	WEEKLY		FF/EMT-B	HOURLY	WEEKLY	
0 - 6 MOS	\$16.37	\$687.54					
6 MOS - 1 YR	\$17.00	\$714.00					
1 - 3 YRS	\$17.95	\$753.90		0 - 3 YRS	\$18.49	\$776.58	
3 - 5 YRS	\$21.49	\$902.58		3 - 5 YRS	\$22.13	\$929.46	
5 - 8 YRS	\$22.38	\$939.96		5 - 8 YRS	\$23.05	\$968.10	
8 - 15 YRS	\$23.96	\$1,006.32		8 - 15 YRS	\$24.68	\$1,036.56	
15 - 20 YRS	\$24.46	\$1,027.32		15 - 20 YRS	\$25.19	\$1,057.98	
20 + YRS	\$25.17	\$1,057.14		20 + YRS	\$25.93	\$1,089.06	
LT/EMT-B				LT/EMT-B			
0 - 1 YRS	\$25.94	\$1,089.48		0 - 1 YRS	\$26.72	\$1,122.24	
1 - 4 YRS	\$26.65	\$1,119.30		1 - 4 YRS	\$27.45	\$1,152.90	
4 + YRS	\$27.43	\$1,152.06		4 + YRS	\$28.25	\$1,186.50	

TAC 

PT/EMT-B			CPT/EMT-B		
0 - 1 YRS	\$28.00	\$1,176.00	0 - 1 YRS	\$28.84	\$1,211.28
1 - 4 YRS	\$28.82	\$1,210.44	1 - 4 YRS	\$29.68	\$1,246.56
4 + YRS	\$29.66	\$1,245.72	4 + YRS	\$30.55	\$1,283.10
FF/EMT-I	HOURLY	WEEKLY	FF/EMT-I	HOURLY	WEEKLY
0 - 6 MOS	\$16.73	\$702.66			
6 MOS - 1 YR	\$17.36	\$729.12			
1 - 3 YRS	\$18.30	\$768.60	0 - 3 YRS	\$18.85	\$791.70
3 - 5 YRS	\$21.85	\$917.70	3 - 5 YRS	\$22.51	\$945.42
5 - 8 YRS	\$22.73	\$954.66	5 - 8 YRS	\$23.41	\$983.22
8 - 15 YRS	\$24.31	\$1,021.02	8 - 15 YRS	\$25.04	\$1,051.68
15 - 20 YRS	\$24.80	\$1,041.60	15 - 20 YRS	\$25.54	\$1,072.68
20 + YRS	\$25.53	\$1,072.26	20 + YRS	\$26.30	\$1,104.60
LT/EMT-I			LT/EMT-I		
- 1 YRS	\$26.30	\$1,104.60	0 - 1 YRS	\$27.09	\$1,137.78
1 - 4 YRS	\$27.00	\$1,134.00	1 - 4 YRS	\$27.81	\$1,168.02
4 + YRS	\$27.77	\$1,166.34	4 + YRS	\$28.60	\$1,201.20
CPT/EMT-I			CPT/EMT-I		
0 - 1 YRS	\$28.37	\$1,191.54	0 - 1 YRS	\$29.22	\$1,227.24
1 - 4 YRS	\$29.16	\$1,224.72	1 - 4 YRS	\$30.03	\$1,261.26
4 + YRS	\$30.00	\$1,260.00	4 + YRS	\$30.90	\$1,297.80
FF/EMT-P	HOURLY	WEEKLY	FF/EMT-P	HOURLY	WEEKLY
0 - 6 MOS	\$17.28	\$725.76			
6 MOS - 1 YR	\$17.90	\$751.80			
1 - 3 YRS	\$18.85	\$791.70	0 - 3 YRS	\$19.42	\$815.64
3 - 5 YRS	\$22.40	\$940.80	3 - 5 YRS	\$23.07	\$968.94
5 - 8 YRS	\$23.27	\$977.34	5 - 8 YRS	\$23.97	\$1,006.74
8 - 15 YRS	\$24.87	\$1,044.54	8 - 15 YRS	\$25.62	\$1,076.04
15 - 20 YRS	\$25.35	\$1,064.70	15 - 20 YRS	\$26.11	\$1,096.62
20 + YRS	\$26.06	\$1,094.52	20 + YRS	\$26.84	\$1,127.28

TAE 

/EMT-P				LT/EMT-P			
0 - 1 YRS		\$26.83	\$1,126.86	0 - 1 YRS		\$27.63	\$1,160.46
1 - 4 YRS		\$27.55	\$1,157.10	1 - 4 YRS		\$28.38	\$1,191.96
4 + YRS		\$28.32	\$1,189.44	4 + YRS		\$29.17	\$1,225.14
CPT/EMT-P				CPT/EMT-P			
0 - 1 YRS		\$28.90	\$1,213.80	0 - 1 YRS		\$29.77	\$1,250.34
1 - 4 YRS		\$29.71	\$1,247.82	1 - 4 YRS		\$30.60	\$1,285.20
4 + YRS		\$30.56	\$1,283.52	4 + YRS		\$31.48	\$1,322.16

TJK
CCT

*Order 51-18/19
Tab 39 8-13-18*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPROVING THREE-PARTY AGREEMENT BETWEEN PORTLAND,
PORTLAND AREA COMPREHENSIVE TRANSPORTATION SYSTEM
AND MAINE DEPARTMENT OF TRANSPORTATION
RE: BRIGHTON AVENUE ROUTE 25 MULTI-MODAL PROJECT**

ORDERED, that the three-party Partnership Agreement between the Maine Department of Transportation, Portland Area Comprehensive Transportation System and the City of Portland for improvements to the sidewalks, bicycle and transit facilities and signals and pavement on Brighton Avenue is hereby approved in substantially the form attached hereto; and

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

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Deivy Periana

FROM: Jennifer Ladd, Senior Transportation Engineer
Department of Public Works - Engineering

DATE: July 30th, 2018

SUBJECT: Brighton Avenue (Route 25) Multi-Modal Project

SPONSOR: Jon Jennings

(If sponsored by a Council committee, include the date the committee met, the results of the vote, and the meeting minutes.

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading ___ Aug. 13th, 2018 _____ **Final Action** ___ Sept. 5th, 2018 _____

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

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

I. ONE SENTENCE SUMMARY –

The City Council is being asked to approve the attached Three-Party Partnership Agreement, which would allow PACTS, MaineDOT and City staff to move ahead with plans to improve Brighton Avenue’s sidewalks, bicycle facilities, transit facilities, signals and pavement condition thru replacement or rehabilitation.

II. AGENDA DESCRIPTION -

Approving and signing this agreement would confirm the City’s intent to undertake this project and pay 25% of the total project cost. The total estimated cost for preliminary engineering and Right-of-Way is \$195,000. The City’s share would be \$48,750.

III. BACKGROUND -

This project has been developed through the PACTS Complex Projects process. The scope of work is planned to include replacement of signal equipment at six intersections,

including ramp and ADA modifications, bicycle detection and transit priority as needed. Sidewalk rehabilitation to bring sidewalks into good condition and ADA compliance. Mill and fill paving, and provision of enhanced bicycle facilities along Route 25. Modifications in the Rosemont area as needed to support the proposed METRO Husky Lane. The project includes elements of Preservation (roadway and sidewalks) and Modernization (traffic/pedestrian/transit priority signals, roadway/bikeway striping-pavement markings, transit stop upgrades, and achieving ADA compliance along Brighton Ave).

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED -

The intended result is to initiate this agreement and begin the project by holding a joint kick-off meeting. These PACTS projects provide key transportation outcomes by matching local dollars with three dollars of Federal and State money. This program provides us with maximum benefit at a minimum cost and provides significant improvements to our vital Transportation system.

V. FINANCIAL IMPACT -

By approving this Three-Party Agreement, the City Council would indicate its intent to undertake this project and pay 25% of the total project cost. Those estimated project costs are outlined below. The City's annual capital improvement program would be used to fund the local 25% match.

PACTS Share = \$146,250 (75%)

Local Share = \$48,750 (25%)

Upset Limit / Total Project Estimate = \$195,000

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

The project costs above are based on estimates prepared in 2017. The intent is to design and build the project within this budget. Construction is estimated to begin in 2021.

VII. RECOMMENDATION –

DPW recommends approval of this agreement between MaineDOT, PACTS and the City of Portland.

VIII. LIST ATTACHMENTS

1. MaineDOT Three-Party Agreement: “Three-Party Partnership Agreement – Proposed Improvements to Brighton Avenue (Route 25): WIN 023715.00”

Prepared by: Jennifer Ladd
Date: July 30, 2018

Bean/agendarequestmemo/rev 7/17/18



MaineDOT use only
 TEDOCS #:
 CTM#:
 CSN#:
 PROGRAM: Bureau of Planning

State of Maine
DEPARTMENT OF TRANSPORTATION
THREE-PARTY PARTNERSHIP AGREEMENT

Proposed Improvements to Brighton Avenue (Route 25)

(Non-Monetary)

<i>MaineDOT Use Only</i>	
Project Location: <u>PORTLAND</u>	Estimated Project Amount: <u>\$195,000.00</u>
State WIN: <u>023715.00</u>	Agreement Begin Date: <u>Upon MaineDOT Signature</u>
Federal Aid Project #: <u>2371500</u>	Agreement End Date: <u>5 years from date last signed below</u>
PACTS ID#: <u>PACTS</u>	Municipality ID#: <u>PORTLAND</u>

This Cooperative Agreement (the "Agreement") is entered into by and between the Maine Department of Transportation (MaineDOT), an agency of state government, the City of Portland (the "Municipality"), a municipality in the State of Maine, and the Portland Area Comprehensive Transportation System, the designated Metropolitan Planning Organization for the Portland Urbanized Area (PACTS) (MaineDOT, the Municipality and PACTS are collectively referred to as the "Parties").

RECITALS

- A. The work that is the subject of this Agreement consists of making improvements to Brighton Avenue beginning at Dartmouth Street and extending northwest 1.85 miles to Rowe Avenue, in Portland, Maine (the "Project").
- B. MaineDOT, through its partnership with Maine's Metropolitan Planning Organizations ("MPOs"), is charged with managing and dispersing MPO state and federal funds to support capital improvement projects programmed by the MPOs. PACTS is MaineDOT's MPO partner for the Portland Urbanized Area.
- C. PACTS has selected the Project for inclusion in the 2018-2019-2020 MaineDOT Work Plan, using Federal and State capital improvement funding allocated by MaineDOT.
- D. The Municipality has approved the Project and supports the decision by MaineDOT and PACTS to program the Project, and will contribute financially to the Project through its municipal share.

- E. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.
- F. This Agreement is intended to cover the roles and responsibilities of the Parties during the preliminary engineering and right-of-way phases of the Project, and to establish the financial obligations of each Party through all phases of the Project.
- G. If the Parties cooperatively agree to proceed to full Project development, this Agreement will be modified to reflect any increase in Project cost estimates. MaineDOT and the Municipality will then enter into a separate municipal-state agreement to establish responsibilities of MaineDOT and the Municipality through the remaining phases of the Project (the "Municipal-State Agreement").

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

1. **Appendices:**

The following appendices are hereby incorporated into this Agreement:

- Appendix A - Project Application
- Appendix B - Requirements for Operation and Maintenance of Traffic Signals
- Appendix C - Additional Work Requested by Municipality
- Appendix D - Enhanced Project Scoping Report
- Check if no appendices attached

2. **Scope of Project:**

The Project shall replace deficient signal structures and signal heads at six intersections, including pedestrian signal and ADA ramp modifications, bicycle detection and transit priority as needed. Sidewalk rehabilitation to bring sidewalks into good condition and ADA compliance. Mill and fill paving, and provision of enhanced bicycle facilities along Brighton Avenue (Route 25). Modifications in the Rosemont area as needed to support the proposed METRO Husky Line. The project includes elements of Preservation (roadway and sidewalks) and Modernization (traffic/pedestrian/transit priority signals, roadway/bikeway striping-pavement markings, transit stop upgrades, and achieving ADA compliance along Brighton Avenue). (the "Scope of Work").

The terms of this Agreement apply to the implementation of the preliminary engineering and right-of-way phases of the Project unless this Agreement is otherwise modified to include all phases of Project development, in which case the table set out in Section 3 below shall be adjusted accordingly.

3. **Project Cost Sharing and Payment Schedule:**

- a. **Financial Obligations:** The total estimated cost of the Project is \$195,000.00 (the "Project Estimate"). The Parties agree to share in all Project costs associated with the Project phases outlined in the table below. Each Party's share of the Project's actual

costs associated with each phase shall be allocated as follows, unless otherwise negotiated by mutual agreement of the Parties.

- i. **Federal Share** (provided by MaineDOT through PACTS Federal Allocation) - 75% of eligible Project costs, up to a maximum of \$146,250.00.
- ii. **State Share** (provided by MaineDOT through PACTS State Allocation) - 0% of eligible Project costs, up to a maximum of \$0.00.
- iii. **Municipal Share** (provided by the Municipality through the Municipality's obligation of funds) - 25% of eligible Project costs, which is estimated at \$48,750.00, plus 100% of the following:
 1. Any costs deemed ineligible for federal and state participation.
 2. Any costs associated with additional work requested by the Municipality that is outside the Project scope of work.
 3. All Project costs exceeding the Project Estimate after the above referenced Party Shares have been applied, unless otherwise agreed to in writing by the Parties through a written modification to this Agreement.

Work Phase	Estimated PACTS Federal Share		Estimated PACTS State Share		Estimated Municipal Share		Estimated Total Cost
	%	\$	%	\$	%	\$	\$
Preliminary Engineering	75.0	\$ 142,500.00	0.0	\$ -	25.0	\$ 47,500.00	\$ 190,000.00
Right of Way	75.0	\$ 3,750.00	0.0	\$ -	25.0	\$ 1,250.00	\$ 5,000.00
Construction	75.0	TBD	0.0	TBD	25.0	TBD	TBD
Construction Engineering	75.0	TBD	0.0	TBD	25.0	TBD	TBD
TOTALS:		\$ 146,250.00		\$ -		\$ 48,750.00	\$ 195,000.00

a. **Payment Schedule:** The PACTS Share will be disbursed by MaineDOT in accordance with the allocations outlined above. If the Parties elect to move forward with full development of the Project as contemplated in this Agreement, the Municipal Share will be invoiced by MaineDOT in accordance with the payment schedule outlined in the Municipal-State Agreement described herein. If the Parties choose not to proceed to full Project development and no Municipal-State Agreement is executed, the Municipal share, based on the allocations outlined above, will be invoiced as promptly as practicable upon that decision having been made. Upon receipt of such invoice, the Municipality shall submit payment to MaineDOT within thirty (30) days.

4. **Project Milestones:** MaineDOT agrees to share information about the Project with the Municipality and PACTS at the following milestones, as appropriate:

- Project kickoff/initial team meeting/formal public contact;
- Horizontal/Vertical Alignment Complete (HVAC);
- Preliminary public meeting;

- Preliminary Design Report (PDR) complete;
- Formal public meeting(s);
- Plan Impacts Complete (PIC);
- Peer reviews;
- Plans, Specifications and Estimate (PS&E) complete;
- Changes in the Project schedule or Project Estimate.

5. Project Design:

- a. The Parties shall hold a project kickoff meeting to go over the scope of work, Project cost, and schedule for the Project before work will begin.
- b. MaineDOT shall prepare, or cause to be prepared, all plans, specifications, engineer's estimates and contract documents as appropriate for the Project using MaineDOT's standard project development process to ensure adherence to federal and state regulations (the "Preliminary Project Development Materials").
- c. As a component of preparing the Preliminary Project Development Materials, MaineDOT shall, at a minimum, be responsible for the following:
 - i. Performing all right-of-way related investigations to determine whether or not there may be a need to acquire temporary and/or permanent rights to develop the Project as well as, if applicable, all title examination, appraisal, appraisal review, negotiation and acquisition/condemnation activities for any property rights that must be acquired to accommodate the Project, and all necessary mapping services reflecting such property acquisitions.
 - ii. Coordinating with affected utilities and railroads to identify existing locations and/or implementing any relocation impacts that may be created by the development of the Project.
 - iii. Performing all necessary National Environmental Policy Act (NEPA) compliance processes for the Project.
 - iv. Performing all necessary permitting activities required in connection with the Project.
- d. MaineDOT shall be the sole administrator of the Project contract(s). MaineDOT will pay up front all Project costs, subject to cost sharing by the Municipality and PACTS as specified in the **Project Cost Sharing and Payment Schedule** set out herein. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
- e. After completion of the PDR, and a decision to proceed with Project construction has been made, MaineDOT and the Municipality will then execute the Municipal-State Agreement covering their obligations regarding Project advertisement, award, construction and construction engineering. Said Municipal-State Agreement will incorporate financial obligations that are consistent with those reflected in this Agreement, unless such terms are otherwise negotiated by mutual agreement of the Parties.

- f. The Municipality shall ensure that affected, municipally-owned utilities are responsive to Project demands and are completing necessary activities in accordance with the Project schedule as established and coordinated by MaineDOT. Failure to do so may result in MaineDOT delaying implementation of the Municipality's future projects until appropriate utility responsiveness is obtained.

6. Public Involvement: MaineDOT shall be responsible for implementing and leading any and all required public involvement activities and any necessary media coordination associated with the any phases of the Project covered by this Agreement. The Parties agree to participate as partners in all such actions.

7. Changes to Project Scope:

- a. MaineDOT will consult with PACTS and the Municipality before implementing any adjustments to the Project scope, and PACTS and the Municipality will, likewise, notify MaineDOT of any proposed changes they wish to implement.
- b. The Municipality may, at its election, request that changes be made or work added to the Project during the period of design that benefit the Municipality, provided that the Municipality agrees in writing to pay any additional cost associate therewith. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share (the "Additional Work Requested by Municipality").

8. Termination:

- a. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. If MaineDOT's termination under this clause is not directed by the Municipality and PACTS, MaineDOT shall be responsible for covering all Project costs incurred up to the time of termination.
- b. MaineDOT also reserves the right to terminate all provisions pertaining to any Additional Work Requested by Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.
- c. If the Municipality withdraws its financial support for the Project leading MaineDOT to terminate the Project, the Municipality shall reimburse MaineDOT fully for any and all Project costs incurred in reliance on the Municipality's financial obligations outlined herein, including, but not limited to, reimbursement of all federal and state funds expended up to the time of such termination.
- d. This Agreement may be terminated at any time by mutual written agreement of all Parties, provided that such written agreement shall address the allocation between the Parties of any costs, expenses, penalties and/or liabilities expended, committed or imposed in connection with the Project and the Project contract as of such date of termination.
- e. In no event shall any such action taken under this subsection be deemed a breach of contract, nor shall it represent any individual Party's waiver of claims for breach of

contract or its right to any other remedy it may have pursuant to this Agreement, or at law or in equity.

- f. In the event of Project termination, all provisions of this Agreement shall become null and void except for the financial obligations set forth herein, as well as those provisions to this Agreement that by their very nature are intended to survive.

9. Miscellaneous Provisions:

- a. Amendment and Modification. This Agreement, and all attachments, may only be modified or amended in writing and signed by duly authorized representatives of the Parties.
- b. Debarment. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- c. Indemnification. To the extent permitted by law, the Municipality and PACTS shall each individually indemnify, defend and hold harmless MaineDOT, its officers, agents and employees from all claims, suits or liabilities arising from the indemnifying Party's own negligent or wrongful acts, errors or omissions or by that Party's officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense immunity or limitation of liability that may be available under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. This provision shall survive the termination or expiration of the Project.
- d. Obligation of State Funds. Anything herein to the contrary notwithstanding, the Municipality and PACTS acknowledge and agree that, although the execution of this Agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and the federal government and, therefore, this Agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- e. Municipal Authority and Obligation of Municipal Funds. The Municipality represents that it has received all necessary approvals or authorizations by its governing authorities to approve the Project and enter into this Agreement, and that it has obligated the necessary funds to satisfy its Municipal Share of the Project Costs outlined herein.
- f. State of Maine's Rights of Set-Off. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State of Maine's option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term

commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller.

- g. Assignment. No assignment of this agreement is contemplated, and in no event, shall any assignment be made without the express written permission of MaineDOT.
- h. Independent Capacity. The Municipality and PACTS, their respective employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
- i. Governing Law. This Agreement shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement shall be performed in accordance with applicable federal laws and regulations, including without limitation Title 23 in the U.S. Code (USC) for statutory law, Title 23 in the Code of Federal Regulations (CFR) for administrative law, and Title 2 CFR, Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- j. Binding Effect. The Parties shall be bound by the terms of this Agreement. This provision shall apply to the Agreement's executors, their successors, administrators and legal representatives.
- k. Notice. Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Alternatively, communication may be sent via email and shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Said communications, requests or notices shall be sent to the other party as follows:

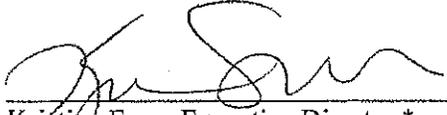
MaineDOT: Maine Department of Transportation
 16 State House Station
 Augusta, ME 04333-0016
 Attn.: Darryl Belz, P.E.
 Email: darryl.belz@maine.gov

Municipality: City of Portland
 Department of Public Works
 55 Portland Street
 Portland, ME 04101
 Attn.: Jeremiah Bartlett, P.E., PTOE
 Email: jbartlett@portlandmaine.gov

FACTS: Portland Area Comprehensive Transportation System
970 Baxter Boulevard, Suite 201
Portland, ME 04103
Attn.: Sara Zografos, Transportation Director
Email: szografos@gpcog.org

Each Party agrees to promptly notify all other Parties of any changes to the above referenced contact information.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective on the day and date last signed.


Date 7/19/18
Kristina Egan, Executive Director *
Greater Portland Council of Governments
For Portland Area Comprehensive Transportation System
Duly authorized

Date _____
Jon Jennings, City Manager *
Municipality of Portland
Duly authorized

Date _____
Herb Thomson, Director, Bureau of Planning *
Maine Department of Transportation
Duly authorized

** I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.*

*Order 52-18/19
Tab 40 8-13-18*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPROVING THE ALLOCATION AND APPROPRIATION
OF \$300,000 FROM THE HOUSING TRUST FUND
RE: AVESTA HOUSING DEVELOPMENT CORPORATION
977 BRIGHTON AVENUE APARTMENTS**

ORDERED, that any amount up to \$300,000 in funds from the Housing Trust Fund are hereby allocated and appropriated to fund the Avesta Housing Development Corporation Project at 977 Brighton Avenue Apartments; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to approve an adjustment to the total allocation of up to ten percent (10%); and

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

MEMORANDUM
City Council Agenda Item

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

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

DATE: **August 3, 2018**

SUBJECT: **Order Authorizing Financial Assistance in the amount of \$300,000 in Housing Trust Funds to the Avesta Housing Development Corporation Project entitled 977 Brighton Avenue Apartments**

SPONSOR: **Jill Duson, Chair, Housing Committee
(July 31, 2018; voted 2-0; Cook absent)**

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading **August 13, 2018** Final Action **September 5, 2018**

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

PRESENTATION: (List the presenter(s), type and length of presentation)
Mary Davis, HCD Division Director will be available to answer any questions

I. ONE SENTENCE SUMMARY

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

II. AGENDA DESCRIPTION

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action." The 2018 Annual Plan, which was adopted by the City Council on June 18, 2018 (Order 263 17/18), established the priorities in which the current balance of the Housing Trust Fund will be allocated.

The Housing Trust Fund balance is \$1,223,320.80 as of July 27, 2018.

A Notice of Funding Availability was published on June 29 and applications for Housing Trust Funds were accepted as of July 1. Three application have been received as of Friday, July 27.

(1) Portland Housing Authority Front Street, Request: \$1,435,174, less any HOME funding

Justification:

- a) The PHA Front Street project is a priority under the 2018 Annual Plan
- b) Eligible Activity: new construction of affordable rental housing
- c) Utilizing multiple federal, state and local resources to fund the project
- d) Per unit contribution does not exceed \$15,000/unit
- e) 77% of units affordable to households at or below 50% of the area median income

(2) Avesta 977 Brighton Avenue, Request \$300,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 60% of units affordable to households at or below 50% of the area median income
- e) The proposed use of City funds and the timing of the investment of City funds makes this project better suited for Housing Trust Fund financing.

(3) 178 Kennebec Street, Request \$370,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 35% of units affordable to households at or below 50% of the area median income

Funding scenarios recommended by the Housing Committee are:

(1) If the funding available is the current balance in the Housing Trust (\$1,223,320), the Housing Committee's recommendation is as follows:

CURRENT BALANCE IN HOUSING TRUST FUND (\$1,223,320)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$723,320	\$201,680
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$0	\$300,000
Total	\$2,105,174	\$880,174	\$723,320	\$501,680

*Maintains \$500,000 minimum balance

(2) If a portion of the proceeds of the sale of the 0 Hancock Street lot are appropriated to the Housing Trust Fund, the Housing Committee's recommendation is as follows:

HOUSING TRUST FUND \$2,223,320 (including portion of 0 Hancock St. Proceeds)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$925,000	\$0
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$300,000	\$0
Total	\$2,105,174	\$880,174	\$1,225,000	\$0

*Maintains \$500,000 minimum balance; \$498,320 of HTF unallocated

In addition, staff requests the ability to make adjustments to the allocation amounts as long as it is within 10% of the Committee approved allocation.

III. BACKGROUND

Avesta Housing Development Corporation (AHDC) is proposing to construct 40 1-bedroom units for seniors (55+). The development will include 6 units at market rate, 24 units affordable to households at or below 50% of the area median income and 10 units affordable to households at or below 60% of the area median income. AHDC is requesting financial assistance from the City in the form of (1) a Housing Trust Fund loan in the amount of \$300,000 and (2) Affordable Housing TIF (AHTIF) which was approved at the July 16, 2018 City Council meeting.

977 Brighton Avenue		
1-Bedroom Units (40)	at or below 50% area median income	24
	at or below 60% area median income	10
	Market Rate	6
Total Units		40

Eight (8) units will have project based rental assistance. As stated in the developer's application:

"The 0.73-acre site currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction. The project consists of one 4-story building, placed at the front of the property so as to create maximum active street frontage. There will also be a parking lot of 32 cars and an external gathering area or patio for residents. Vegetative screening will be used to create a level of privacy for residents."

Avesta purchased the site in 2015. The development site contains eight contiguous lots in the Nasons Corner neighborhood and currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Increase access to rental and ownership housing that is safe and affordable for working and low-income families.

V. FINANCIAL IMPACT

The property is currently assessed at \$291,100. When completed the project's estimated tax assessed value is \$3.2 million. HTF funds: \$300,000, at zero percent interest, deferred for 30 years.

Total City HTF Investment of \$300,000/unit - \$7,500.

Total City HTF Investment of \$300,000/affordable unit = \$8,824.

An Affordable Housing Tax Increment Financing (AHTIF) District was approved at the July 16, 2018 City Council meeting. The proposed project will be taxable with an estimated annual assessment of \$3,200,000 and estimated annual taxes of \$69,280. The Affordable Housing TIF financing, provided through a Credit Enhancement Agreement, will return 75% of the increased taxable value to the developer to offset project operating costs.

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

The 2018 Annual Plan prioritizes support of the Portland Housing Authority in the implementation of their Strategic Vision Plan when other funding sources are not available.

The Annual Plan calls for projects that are focused on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 50% of the area median income, or projects designed to create housing affordable to households earning 80% to 120% of the area median income.

Between 35% and 77% of the units in each project will be affordable to households at or below 50% of the area median income. The Front Street project has the highest percentage (77%) of units at or below 50% of the area median income and Brighton Avenue has the second highest percentage (60%) of units at or below 50% of the area median income.

Front Street: 77% of the units will be affordable at or below 50% of the area median income (49% with project-based vouchers).

Kennebec St: 35% of the units will be affordable at or below 50% of the area median income.

Brighton Ave: 60% of the units will be affordable at or below 50% of the area median income (20% with project-based vouchers).

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City funding. The third party analysis is attached. The report indicates that the developer is well positioned to secure the remaining

financing needed to move forward with this project and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial funding recommendation noted below. With that being said, the third party report makes the following recommendations:

Subject to the availability of funding, a loan in the amount of no more than \$300,000, at zero percent interest, deferred for 30 years, with the following conditions prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.
2. Satisfactory review of relocation budget.
3. Satisfactory appraisal

As part of the Maine State Housing Authority's (MSHA) Qualified Allocation Plan (QAP) application due September 20, the developers will need letters of commitment of support for their projects prior to the QAP submission deadline. If the Council agrees with the Housing Committee's recommendation, this letter would include the recommendations of the third party underwriter and be conditioned on the completion of the following additional requirements:

1. The commitment will be subject to satisfactory final underwriting analysis, and compliance with the HTF guidelines.
2. Commitment of funds to be stated as "an amount up to the funding request based on maximization of LIHTC equity raise", to ensure that the City's contribution is leveraged to the maximum extent possible.
3. Commitment should be subject to the projections and assumptions noted in the project budgets and pro-forma submitted, and the City reserves the right to reconsider and adjust their commitment if any significant alterations occur in the budget. A final commitment will be subject to a final budget.
4. Any substantial changes to the composition of the project, or the financial investment required, will be brought back to the Housing Committee and the City Council for review and approval.

A recommendation for city funding by the City Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Any funding awarded will be contingent on the project's final approval by the Planning Board.

VII. RECOMMENDATION

The Housing Committee recommends funding the applications, in the order noted below (less HOME funding recommendations) utilizing the current balance in the Housing Trust Fund plus any additional funding that may be appropriated by the City Council, while maintaining the \$500,000 minimum balance noted in the Annual Plan.

- (1) Portland Housing Authority Front Street, \$1,435,174 less any HOME funding;
- (2) Avesta 977 Brighton Avenue \$300,000, less HOME funding
- (3) 178 Kennebec Street, \$370,000, less HOME funding

Staff requests the ability to make adjustments to the allocation amounts as long as it is within 10% of the Committee approved allocation.

Funding scenarios recommended by the Housing Committee are:

- (1) If the funding available is the current balance in the Housing Trust (\$1,223,320), the Housing Committee’s recommendation is as follows:**

CURRENT BALANCE IN HOUSING TRUST FUND (\$1,223,320)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$723,320	\$201,680
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$0	\$300,000
Total	\$2,105,174	\$880,174	\$723,320	\$501,680

*Maintains \$500,000 minimum balance

- (2) If a portion of the proceeds of the sale of the 0 Hancock Street lot are appropriated to the Housing Trust Fund, the Housing Committee’s recommendation is as follows:**

HOUSING TRUST FUND \$2,223,320 (including portion of 0 Hancock St. Proceeds)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$925,000	\$0
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$300,000	\$0
Total	\$2,105,174	\$880,174	\$1,225,000	\$0

*Maintains \$500,000 minimum balance; \$498,320 of HTF unallocated

VIII. LIST ATTACHMENTS: Excerpt HTF Application Information for 977 Brighton Avenue; Third Party Underwriting Analysis

Prepared by: Mary P. Davis, HCD Division Director

Date: August 3, 2018



City of Portland Housing Trust Fund Application

Project: 977 Brighton Avenue Apartments

Avesta Housing is requesting \$300,000 of Housing Trust Funds from the City of Portland for our 977 Brighton Avenue Apartments project ("977 Brighton") at 977 Brighton Avenue in Portland, Maine.

Please note that this request is being presented as an **alternative** to the City HOME funding request Avesta submitted for this project earlier this year. A total of \$300,000 in capital funding is being requested from the City for this project, from either or both sources of funding.

The development involves the new construction of 40 1-bedroom rental apartments for seniors (55+ years of age), in one 4-story building. 34 of the apartments will be affordable and 6 will be market rate. 24 units will be affordable to households at or below 50% of area median income and 10 will be affordable to households at or below 60% of area median income. Portland Housing Authority has awarded project-based rental assistance to eight of the units at the project.

977 Brighton represents an opportunity to create much-needed affordable senior housing in an accessible location within Portland. The development site contains eight contiguous lots located in a highly walkable area in the Nasons Corner section of Portland. The project is located near many amenities and services, making it a prime location for housing; retail stores, a pharmacy, trails and restaurants are all located within a half mile. The site is also located within a tenth of a mile to a bus stop on the extensive Portland public transportation bus system, connecting residents with Portland's downtown as well as adjoining communities.

See the attached maps for more information about the project's siting within the City and relative to numerous nearby amenities.

As shown in the attached pictures, the 0.73-acre site currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction. The project will consist of one 4-story building, placed at the front of the property so as to create maximum active street frontage. There will also be a parking lot for 32 cars and an external gathering area or patio for residents. Vegetative screening will be used to create a level of privacy for residents. Storm water management systems will be used to ensure that the project does not adversely impact the vicinity of the subject parcel. Avesta will work with City staff and the

Planning Board to ensure that the design of the project is consistent with neighborhood design characteristics.

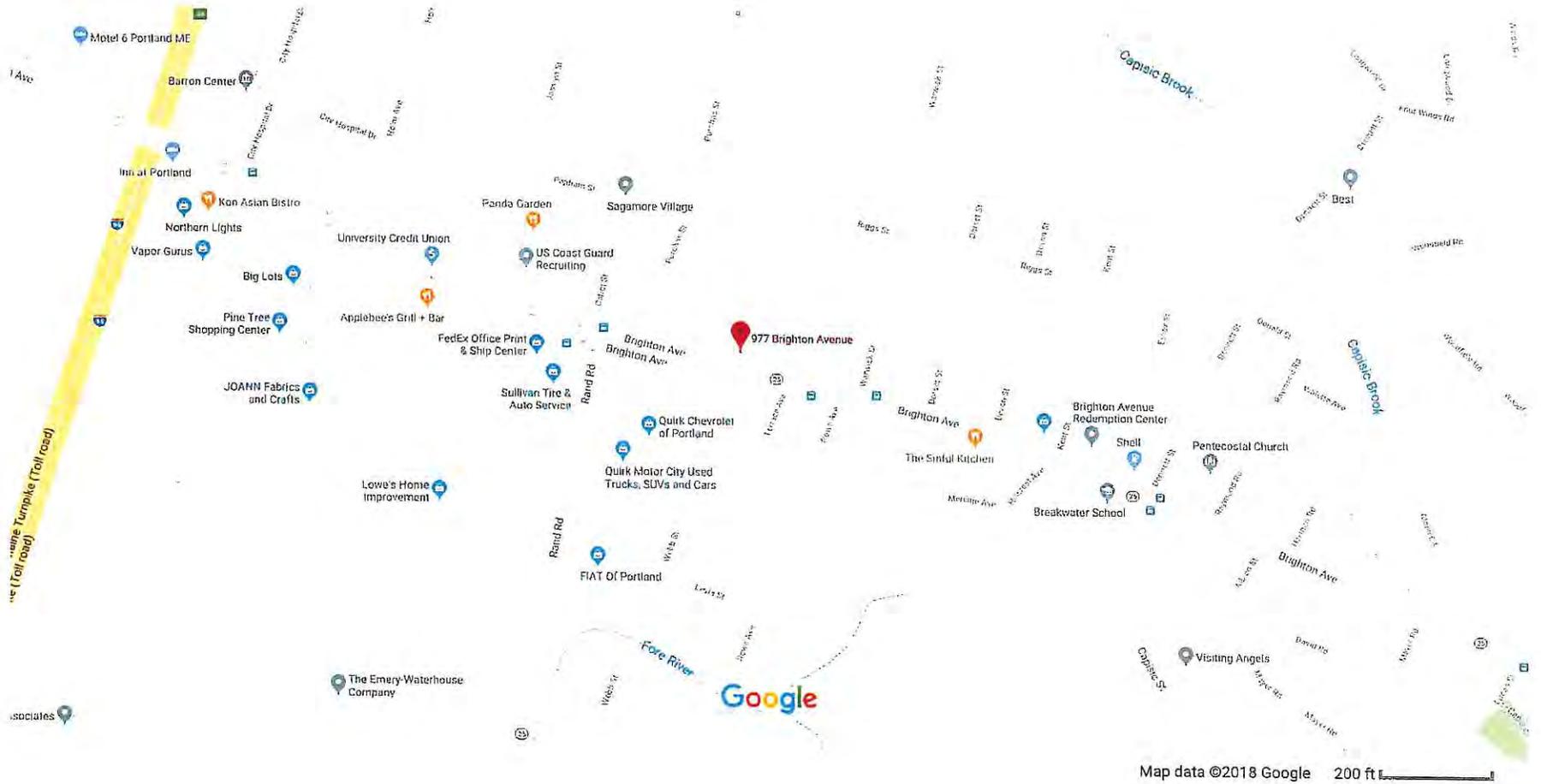
Each apartment will be approximately 600 square feet and all accessibility requirements will be met. Additional amenities will include on-site laundry, a health room, a community room and resident service coordination.

977 Brighton Avenue Apartments will continue Avesta Housing's commitment to construct and manage buildings designed to maximize energy performance, minimize adverse environmental impacts, provide healthy living spaces, conserve natural resources, and promote smart growth and sustainable development. All requirements of the City of Portland's Green Building Ordinance will be met. Additionally, as alluded to in the attached information provided by the property manager, Avesta Housing Development Corporation, smoking at the project will be prohibited and educational materials on tobacco treatment programs will be provided to tenants.

These affordable units at 977 Brighton Avenue come at a critical time for the City. Vacancies in Portland are at historic lows while rents remain too high for thousands of local renter households. In 2017, Avesta alone received requests for affordable housing from nearly 3,800 households (over 1,300 of which were senior-led households) but was only able to provide housing to 393.

977 Brighton Avenue Apartments will create much-needed senior affordable rental housing in an area of the city that is rich with transit, services, and neighborhood amenities.

Google Maps 977 Brighton Ave









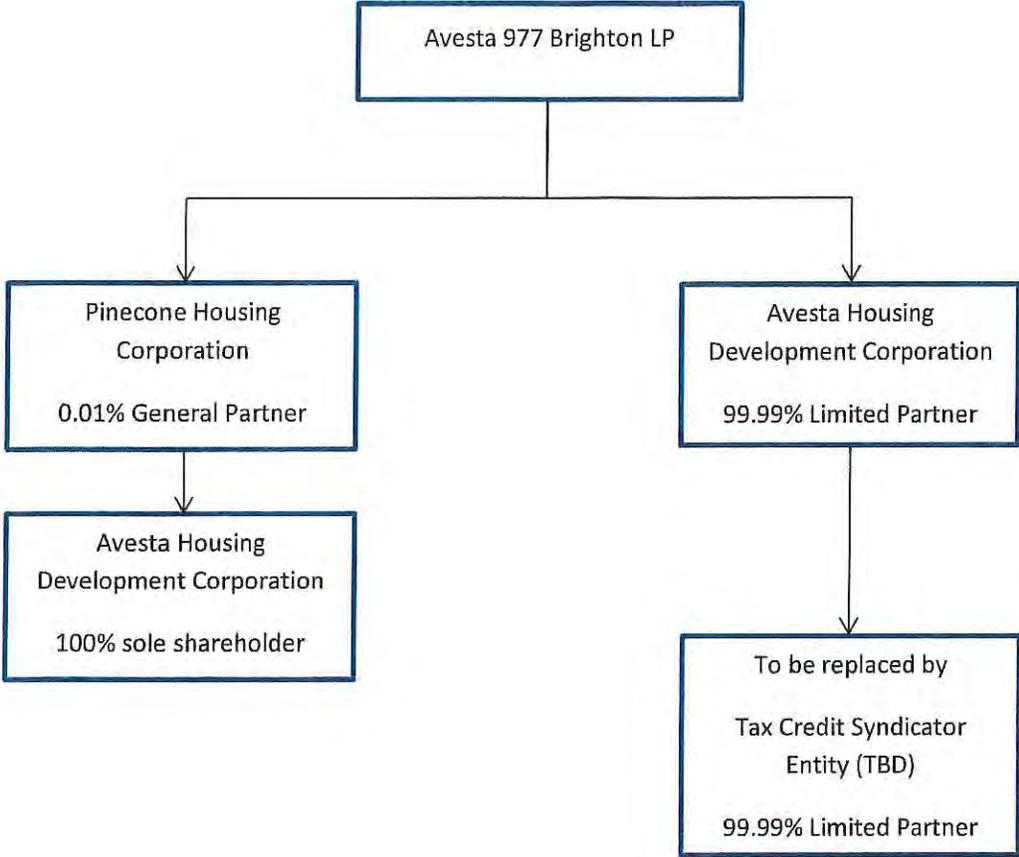
977 BRIGHTON AVENUE APARTMENTS

Project Completion Schedule

Activity	Actual/Scheduled Date Month/Year
A. SITE	
Option/Contract	07/13/15
Site Acquisition	10/06/15
Municipal Approval	07/24/18
B. FINANCING	
Construction Loan Commitment	09/01/18
Permanent Loan Commitment	09/01/18
Other Sources Committed	12/01/18
C. PLANS AND SPECIFICATIONS	
50%	02/01/19
90%	03/01/19
100%	04/01/19
D. CONSTRUCTION LOAN CLOSING	05/01/19
E. CONSTRUCTION START	05/01/19
F. SUBSTANTIAL COMPLETION	05/01/20
G. COMPLETION OF CONSTRUCTION	06/01/20
H. LEASE-UP	
Lease-up Begins	05/01/20
Sustained (95%) Occupancy	11/01/20

977 Brighton Avenue Apartments – Ownership Structure/Chart

Organization Chart: Avesta 977 Brighton LP



PROJECT NAME: 97- Brighton Avenue
 LOCATION: Portland

Date: 07/06/18

DEVELOPMENT ASSUMPTIONS						
Total Units		40	Inflation Adjustments	Yr 1-5	Yr. 6-15	Yr. 16-30
# @ 50% AMI (PBVs)	20.0%	8	Rent	2.00%	2.50%	2.00%
# @ 50% AMI (LIHTC/High HOME)	40.0%	16	Operating Expense	3.00%	3.00%	3.00%
# @ 60% AMI (LIHTC/High HOME)	0.0%	0	Other Income	2.00%	2.50%	2.00%
# @ 60% AMI (LIHTC)	25.0%	10	Debt Coverage Ratio	0.00		
# @ Market	15.0%	6	Vacancy	5%		
Appraised Market Value			Market Value/Unit			

4,590,846

LIHTC Alloc.	638,000
Equity yield	0.830
Synd. %	99.99%
Equity Raise	5,294,870

Historic Credit FED	0
Equity yield	0.99
Synd. %	99.99%
Equity Raise	0

Number of Tax-payers	1
Historic Credit STATE	0
Equity yield	0
Synd. %	99.99%
Equity Raise	0

Total Equity:	5,294,870
---------------	-----------

Gross Square Footage	0
Construction Cost/Sq ft.	\$0

#DIV/0!

PRO FORMA DEVELOPMENT BUDGET				
	Residential	Per Unit	Commercial	Total
Site Improvements	572,194	14,305		572,194
Construction	5,227,444	130,686		5,227,444
Solar	0	0		0
General Requirements	0	0		0
Builder Overhead	0	0		0
Builder Profit	0	0		0
Bond Premium	0	0		0
Construction Contingency	5% 289,982	7,250		289,982
Subtotal Construction Costs	6,089,620	152,240	0	6,089,620
Building Permits and Fees	81,936	2,048		81,936
Survey & Engineering	38,000	950		38,000
Architectural & Design	461,000	11,525		461,000
Legal	65,000	1,625		65,000
Title & Recording	5,885	147		5,885
Accounting	10,000	250		10,000
Construction Period Tax	12,000	300		12,000
Construction Period Insurance	12,000	300		12,000
Subtotal Soft Costs	685,821	17,146	0	685,821
Construction Loan Origination Fees	10,000	250		10,000
Construction Loan Interest	157,266	3,932		157,266
Letter of Credit Fee	3,630	91		3,630
Escrow Agent Fee	0	0		0
Perm Loan Commitment Fee	10,000	250		10,000
Construction Lender Legal	12,000	300		12,000
Subtotal Finance Costs	192,896	4,822	0	192,896
Market Survey	3,500	88		3,500
Appraisal	6,200	155		6,200
Environmental	12,700	318		12,700
LIHTC Fees	40,000	1,000		40,000
Soft Cost Contingency	25,000	625		25,000
3rd Party Consultants	18,000	450		18,000
FF&E	61,000	1,525		61,000
Subtotal Miscellaneous	166,400	4,160	0	166,400
Acquisition: Buildings	0	0		0
Acquisition: Land	280,000	7,000		280,000
Carrying Costs	0	0		0
Subtotal Acquisition	280,000	7,000	0	280,000
Operating Deficit Escrow	141,859	3,546		141,859
Pre-funded Replacements	52,274	1,307		52,274
Tax & Insurance Escrow	28,500	713		28,500
Developer Overhead	487,500	12,188		487,500
Developer Profit	0	0		0
Marketing & Rent-Up Reserve	40,000	1,000		40,000
Subtotal Fee and Reserves	750,133	18,753	0	750,133
Total Development Costs	8,164,870	204,122	0	8,164,870

Notes:

MAXIMUM DEVELOPER FEE AVAILABLE	650,000
ACTUAL DEVELOPER FEE	1,208,430
% OF MAXIMUM DEVELOPER FEE	185.9%
NET DEVELOPER FEE COLLECTED	1,208,430
% OF MAXIMUM DEVELOPER FEE	185.9%

7,983,011

199,575

< 175000 = 4PTS

FLOW OF FUNDS

Sources	CLC	During Construction				PLC	Mar-21	Aug-21	Total
	May-19	Jul-19	Oct-19	Jan-20	Apr-20	Jul-20			
Beginning Cash	0	0	0	0	0	0	0	0	0
Capital Contribution	1,058,974		1,058,974			2,956,922			5,294,870
Construction Loan	406,143	1,272,405	213,431	1,522,405	1,522,405		170,000	50,000	4,936,788
GP Bridge Loan									0
MSHA Subsidy									0
MSHA Amortizing Mortgage						0			0
AHP Grant	0	250,000	250,000						500,000
AHP Loan						2,070,000			2,070,000
City Housing Trust Fund	0	0				300,000			300,000
Solar Equity	0	0				0			0
Other: Sponsor Loan	0								0
Other									0
Development Fee Loan	0								0
TOTAL SOURCES	1,465,117	1,522,405	1,522,405	1,522,405	1,522,405	5,326,922	170,000	50,000	13,101,659
Uses									
Acquisition	280,000								280,000
Construction		1,522,405	1,522,405	1,522,405	1,522,405				6,089,620
Soft Costs	685,821								685,821
Financing Costs	192,896								192,896
Miscellaneous	166,400					40,000			206,400
Dev Fee	140,000					127,500	170,000	50,000	487,500
Reserves						222,633			222,633
TOTAL DEV. COSTS	1,465,117	1,522,405	1,522,405	1,522,405	1,522,405	390,133	170,000	50,000	8,164,870
Repay GP Bridge Loan						0			0
Repay Construction Loan						4,936,788			4,936,788
SUBTOTAL OTHER ITEMS	0	0	0	0	0	4,936,788	0	0	4,936,788
TOTAL USES OF FUNDS	1,465,117	1,522,405	1,522,405	1,522,405	1,522,405	5,326,922	170,000	50,000	13,101,658
Ending Cash	0	0	0	0	0	0	0	0	0

Source	PROJECT FINANCING						
	Amount	Rate	Term	Lien	Annual D/S		
					Yr. 1-5	Yr. 6-15	Yr. 16-30
Source 1: MSHA Subsidy	0	0.00%	30		0	0	0
Source 2: MSHA Interest Only Mortgage	0	6.00%	30		0	0	0
Source 3: AHP Grant	500,000	0.00%	30	Co-First	0	0	0
Source 4: AHP Loan	2,070,000	3.60%	30	First	112,934	112,934	112,934
Source 5: City Housing Trust Fund	300,000	0.00%	30	Second		Grant	
Source 6: Solar Equity	0						
Source 7: Other: Sponsor Loan							
Source 8: Development Fee Loan	0						
Source 9: Net Syndication	5,294,870	\$0.83					
Capitalization Gap (Surplus)	(0)						
Total	8,164,870						

\$0.0706

PROPOSED RENT SCHEDULE								
Type	AMI	# Units	Rents from Applicant	Program Max Rents	Gross Rent	Market Rent	Utility Allow.	Total Rent
Efficiency	50% PBVs	0		911	911	\$955	0	0
	50% LIHTC	0		718	718	\$955	0	0
	60% HOME						0	0
	60% LIHTC	0		862	862	\$955	0	0
0	Market						0	
1BR	50% PBVs	8		1028	1,028	\$1,050		98,688
	50% LIHTC	16		770	770	\$1,050	0	147,840
	60% HOME					\$1,050		0
	60% LIHTC	10		924	924	\$1,050	0	110,880
40	Market	6			\$1,050		75,600	
2BR	50% HOME						0	0
	50% LIHTC			923	923	\$1,250	0	0
	60% HOME						0	0
	60% LIHTC			1108	1,108	\$1,250	0	0
0	Market						0	
3BR	50% HOME						0	0
	50% LIHTC						0	0
	60% HOME						0	0
	60% LIHTC						0	0
0	Market						0	
4BR	50% HOME						0	0
	50% LIHTC						0	0
	60% HOME						0	0
	60% LIHTC						0	0
0	Market						0	
Other:							0	
Subtotals		40						433,008
			Other Income		Laundry			3,156
			Vacancy Rate		5%			(21,808)
			Other Income		TIF	75%		35,498
			Effective Gross Income					449,853

AFFORDABLE MORTGAGE CALCULATION	
Effective Gross Income	449,853
Annual Operating Expense	312,643
Stabilized NOI	137,210
DSC	
\$ Avail for D/S	
Other DS	112,934
Balance	
Affordable Mortgage	1.21

BREAKEVEN ANALYSIS:	RENT SENSITIVITY		OCCUPANCY	
		Total		Annual
Operating Expense	312,643		Gross Revenues	471,662
Debt Service	112,934		Breakeven Occupancy	90%
Breakeven Rent	887			

OPERATING EXPENSES			
Expense	Annual	Annual Per Unit	Monthly Per Unit
Administrative Expenses:			
Management Fees	24,672	617	51
Management Charges	24,672	617	51
Marketing Expenses	0	0	0
Legal Expenses	1,500	38	3
Auditing Expenses	5,000	125	10
Bad Debts	0	0	0
Other Administrative Expenses	6,000	150	13
Administrative Expenses	61,844	1,546	129
Operating Expenses:			
Janitorial Payroll	0	0	0
Janitorial Supplies and Equipment	0	0	0
Janitorial Contractual Services	6,600	165	14
Fuel and Gas	18,000	450	38
Electricity	34,000	850	71
Water and Sewer	16,000	400	33
Garbage and Trash Removal	4,000	100	8
Vehicle and Equipment Expenses	0	0	0
Other Operating Expenses	0	0	0
Operating Expenses	78,600	1,965	164
Maintenance Expenses:			
Grounds Maintenance Payroll	0	0	0
Grounds Tools and Supplies	0	0	0
Grounds Contractual Services	25,000	625	52
Miscellaneous Ground Maintenance	0	0	0
Tenant Damage Charges - Grounds	0	0	0
Building Maintenance Payroll	0	0	0
Building Tools and Supplies	5,000	125	10
Building Contractual Services	20,000	500	42
Building Systems Maintenance	25,000	625	52
Miscellaneous Building Maintenance	0	0	0
Tenant Damage Charges - Building	0	0	0
Maintenance Expenses	75,000	1,875	156
General Expenses:			
Property Taxes	52,000	1,300	108
Property and Liability Insurance	15,000	375	31
Tenant Computer Network Expense	0	0	0
Tenant Service Expenses	12,199	305	25
General Expenses	79,199	1,980	165
Replacement Reserve Funding	18,000	450	38
Commercial Expenses (if applicable)		0	0
Total	312,643	7,816	651

#DIV/0!
current taxes 4,870

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT												
5 Months												
	7/24/20	12/31/20	12/31/21	12/31/22	12/31/23	12/31/24	12/31/25	12/31/26	12/31/27	12/31/28	12/31/29	12/31/30
Effective Gross Income		187,439	449,853	458,850	468,027	477,388	486,936	499,109	511,587	524,376	537,486	550,923
Less Operating Expense		130,268	312,643	322,022	331,683	341,634	351,883	362,439	373,312	384,512	396,047	407,928
Net Operating Income		57,171	137,210	136,828	136,344	135,754	135,053	136,670	138,274	139,865	141,439	142,995
Less RLP Repay			0	0	0	0	0	0	0	0	0	0
Less Other Repay		47,056	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934
Cash Flow		10,115	24,276	23,894	23,410	22,820	22,119	23,736	25,341	26,931	28,505	30,061
Cash Flow per Unit		607	607	597	585	571	553	593	634	673	713	752
Debt Coverage Ratio(RLP)		1.21	1.21	1.21	1.21	1.20	1.20	1.21	1.22	1.24	1.25	1.27
Operating Reserve Balance	141,859	148,952	156,400	164,220	172,431	181,052	190,105	199,610	209,590	220,070	231,073	242,627

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT, continued												
		1/1/32	12/31/32	12/31/33	12/31/34	Yr 15			1/1/40	12/31/40	12/31/41	
						1/1/36	12/31/36	12/31/37	12/31/38			
Effective Gross Income		564,696	578,814	593,284	608,116	623,319	635,785	648,501	661,471	674,700	688,194	701,958
Less Operating Expense		420,166	432,771	445,754	459,127	472,901	487,088	501,701	516,752	532,254	548,222	564,668
Net Operating Income		144,530	146,042	147,529	148,989	150,418	148,697	146,800	144,719	142,446	139,973	137,290
Less RLP Repay		0	0	0	0	0	0	0	0	0	0	0
Less Other Repay		112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934
Cash Flow		31,596	33,108	34,596	36,055	37,484	35,763	33,866	31,785	29,512	27,039	24,356
Cash Flow per Unit		790	828	865	901	937	894	847	795	738	676	609
Debt Coverage Ratio(RLP)		1.28	1.29	1.31	1.32	1.33	1.32	1.30	1.28	1.26	1.24	1.22
Operating Reserve Balance	242,627	254,758	267,496	280,871	294,915	309,660	325,143	341,401	358,471	376,394	395,214	414,975

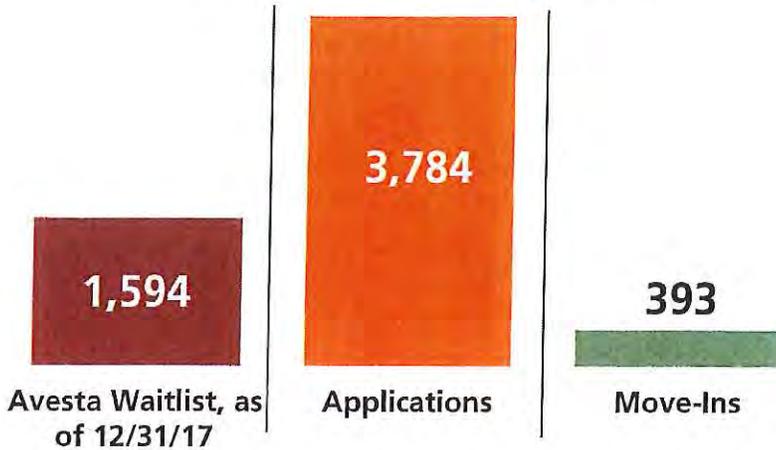
PROFORMA OPERATING INCOME AND EXPENSE STATEMENT, continued										
	12/31/42	1/1/44	12/31/44	12/31/45	12/31/46	1/1/48	12/31/48	12/31/49	7/30/50	
Effective Gross Income	715,997	730,317	744,924	759,822	775,019	790,519	806,329	822,456	489,361	
Less Operating Expense	581,608	599,057	617,028	635,539	654,605	674,244	694,471	715,305	429,779	
Net Operating Income	134,389	131,261	127,896	124,283	120,413	116,275	111,859	107,151	59,582	
Less RLP Repay	0	0	0	0	0	0	0	0	0	
Less Other Repay	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934	112,934	
Cash Flow	21,455	18,327	14,961	11,349	7,479	3,342	(1,075)	(5,783)	(53,352)	
Cash Flow per Unit	536	458	374	284	187	84	(27)	(145)	(2,287)	
Debt Coverage Ratio(RLP)	1.19	1.16	1.13	1.10	1.07	1.03	0.99	0.95	0.53	
Operating Reserve Balance	414,975	435,723	457,510	480,385	504,404	529,624	556,106	582,836	606,194	583,153



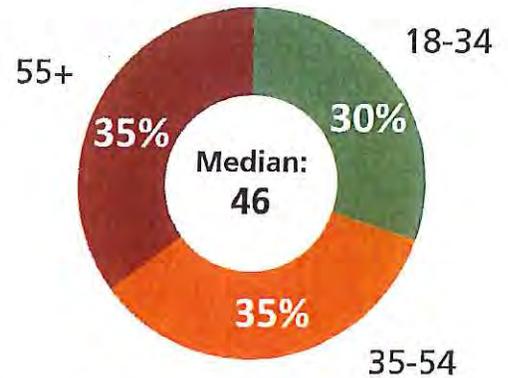
2017 Affordable Housing Activity Report

In 2017, a total of 3,784 households sought an affordable home from Avesta. However, due to scarce resources and limited turnover in our existing apartments, we were only able to assist 393 new households. 1,594 households remained on Avesta's waitlist.

Waitlist, Applications, Move-Ins



Applicants by Age of Head-of-Household



Avg. applicant household size: **1.74 people**

Of the 393 new households in 2017, 66% (259 households) required rental assistance in order to afford their housing, and their median household income was \$11,436. Accordingly, 34% (134 households) were able to afford their housing without the benefit of rental assistance, and their median income was \$26,835. The median annual income of all applicants in 2017 was \$14,400.

Median Household Income



New Residents





To: Mary Davis, City of Portland
From: Anne Boynton, Urban Ventures, Inc.
Re: 977 Brighton Ave, proposed by Avesta
Date: June 12, 2018

Executive Summary

Avesta requests \$300,000 in HOME funding and a 75% TIF to support their development of a 40 unit new construction senior apartment complex at 977 Brighton Ave. Avesta purchased the site proposed for this development in 2015. The lots currently contain a house and a garage, which will both be demolished. Though the area is suburban, the site is a short walk from the Pine Tree Shopping Center, providing access to a pharmacy and other shopping and dining options, and is less than 1/10th of a mile from a bus stop.

Sources and Uses

AHP loan	\$2,070,000	Construction (incl. site & contingency)	\$6,089,620
AHP grant	\$500,000	Soft costs (incl financing & contingency)	\$1,045,117
LIHTC Equity	\$5,294,870	Acquisition	\$280,000
City of Portland HOME	\$300,000	Pre funded Reserves	\$262,633
		Developer Fee	<u>\$487,500</u>
Total Sources:	\$8,164,870	Total Uses:	\$8,164,870

Avesta has received a commitment of funds for the AHP loan and \$500,000 grant. Bangor Savings has issued a term sheet for both construction and permanent first mortgages. Avesta plans to submit an application for 9% LIHTCs in the upcoming round opening in September. Avesta seeks the \$300,000 HOME and 75% TIF to support the application for LIHTCs.

For analysis of "Uses," see Development Budget.

Development Budget

Construction Costs:

Construction costs are based on a letter of estimate from CWS Architects. This is a very broad brush estimate, without even a break out of demolition, site improvements, and anticipated cost per square foot for improvements provided in the architect's letter. However, based on Avesta's break out of site work, the estimated \$170/sq foot for improvements should be more than sufficient for a pretty straightforward design and should accommodate some price inflation prior to construction start.

Soft Costs:

Soft costs are in the range of normal, with a few exceptions. Architectural seems high for a straightforward design, and the relatively small number of units drives the per unit architectural expense up to over \$11,000 per unit. This does include \$45,000 for owner's representative construction management, which is typically a good investment in quality construction and smooth construction



process, with minimal change orders. FF&E is also high at \$61,000, which is \$1,525 per unit. This is \$25,000 for security cameras, \$6,000 for custodial equipment, and \$30,000 for common area and exterior furnishings. Since the “common area” is a single office and one interior lobby, plus exterior space, that seems quite high.

Contingency:

Contingency is budgeted at standard 5% for construction and a minimalist \$25,000 for soft costs. These are insufficient given the stage of development. However, the construction figure seems high enough to cover a range of unanticipated price increases, and from a practical perspective, I consider much of the FF&E item to be contingency.

Acquisition:

Avesta proposes to sell the sites to the LLC for \$280,000. Their acquisition price was \$283,000. The assessed value is \$291,100. While this seems a fair price, an appraisal supporting that price is a condition of any recommendation.

Operating Budget & 20 Year Cashflow Projection

Project Income:

Avesta plans a mixed income building, with 24 units for households below 50% AMI (\$770 LIHTC, \$1,028 w Project Based Vouchers), 10 units for households below 60% AMI (\$924/mo), and 6 market rate units (\$1,050/mo). Avesta has a commitment for 8 project based vouchers from the Housing Authority to provide a deeper subsidy for 8 of the 24 households at 50% AMI. Consistent with Portland policy, 4 units must house homeless seniors.

Operating Expense

The budgeted per unit operating cost appears high at \$8,122, however, factoring out the TIF shows operating expenses of \$6,918 per unit, which is in the middle range for affordable housing. Supportive services are budgeted consistent with Maine Housings requirements at \$12,199. Utilities are generously budgeted at \$1,700 per unit per year for 600 sq foot units of new construction meeting green standards. Maintenance also seems high at \$2,140 for newly constructed, small, senior units, including \$25,000 for grounds. They will be able to operate a bit leaner than these costs suggest.

20 Year Cashflow & Debt Service Coverage Ratio (DSCR)

Cashflow starts out at a comfortable 1.22 DSCR in year one with a 5% vacancy. However, with industry standard inflators of 2% for income and 3% for expenses, the cashflow gradually erodes. By year 20, DSCR is down to 1.05. Avestas projections show positive cashflow for 20 years by using a 2.5% income inflator for years 6-15. Creating positive cashflow by using more aggressive income inflators puts project success in the hands of one variable the developer does NOT control – increases in market price of rent. If, on the other hand, Avesta can find a way to trim maintenance from \$2,140 to \$2,015 per unit per year (for instance, trim grounds expense from \$25,000 to \$20,000), the year 1 DSCR is 1.26 and is 1.13 in year 20. There are ways the developer can control both the operating expenses and the rent revenue (out performing the budgeted 5% vacancy rate) which will support positive cashflow which don't require aggressive assumptions regarding income inflation.



Developer Financials

Avesta is in good, and improving, financial condition. Avesta has provided audits for 2014, 2015, 2016, and internal financial statements for 2017. Prior year audits have been received by Avesta in late May or early June, so while not ideal to review unaudited financials for 2017, it is not out of line with the timing of audit finalization in prior years.

Current assets in 2016 of \$9.6 million (audited) rise to \$11.8 million in 2017 (unaudited), while current liabilities in 2016 of \$4.9 million (audited) rise to \$6.1 million 2017 (unaudited). The resulting Current Ratios (current assets divided by current liabilities) are healthy for their scale of operations -- 1.97 (2016 audited) and 1.93 (2017 unaudited). Net assets were \$123 million in 2016 (audited) and \$132 million in 2017 (unaudited). There has been significant sustained growth in net assets – which have more than doubled in the 5 years since 2012, when net assets were \$66 million. In 2017, revenue continued to grow and exceed budget while operating expenses were held under budget. Depreciation resulted in a paper loss of \$2,973,841, which is typical for a company with this financial structure, but this paper loss was more than outweighed by the growth in real estate equity.

This developer has the financial capacity to intervene in a development facing unexpected set backs and or cost over-runs to keep the development process moving forward. Their financial strength as an organization mitigates the risk of the thin soft cost contingency and the possibility of leaner than projected operating surpluses.

Recommendations

Subject to availability of funding, I recommend a loan in the amount of \$300,000, zero percent interest, payment deferred for 30 years, and a 75% TIF, with the following conditions prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.
2. Satisfactory review of relocation budget.
3. Satisfactory appraisal

Development Budget with Permanent Sources

Date 6/7/2018
 Project Name 977 Brighton
 Project Address 977 Brighton
 Developer/Sponsor Avesta

Total Units 40
 Total Square Feet 30,736

	<u>Total</u>	<u>Per Unit</u>	<u>Per Sq Ft</u>
Sources of Funds			
Permanent Financing - AHP Loan	\$2,070,000	\$51,750	\$67
AHP Grant	\$500,000	\$12,500	\$16
Equity (net LIHTC proceeds)	\$5,294,870	\$132,372	\$172
Deferred development fee	\$0	\$0	\$0
City of Portland HOME	\$300,000	\$7,500	\$10
Other		\$0	\$0
Total Sources of Funds	\$8,164,870	\$204,122	\$266

Uses of Funds

Hard Costs			
Site Improvements	\$572,194	\$14,305	\$19
Rehabilitation		\$0	\$0
New Construction	\$5,227,444	\$130,686	\$170
Contractor's Profit, Overhead, & Gen. Requirements	0.0%	\$0	\$0
Hazardous Materials abatement (if contracted separately)		\$0	\$0
Demolition Cost (if contracted separately)		\$0	\$0
Bond Premium		\$0	\$0
Other		\$0	\$0
Hard Cost Contingency (% of hard costs)	5.0%	\$289,982	\$7,250
Total Hard Costs	\$6,089,620	\$152,241	\$198

Soft Costs			
Building Permit & Fees	\$81,936	\$2,048	\$3
Survey & Engineering	\$38,000	\$950	\$1
Design & Permitting (% of const exp)	8.6%	\$461,000	\$11,525
Borrower Legal (all closings, excluding syndication legal)	\$65,000	\$1,625	\$2
Title & Recording	\$5,885	\$147	\$0
Accounting	\$10,000	\$250	\$0
Construction Period Taxes	\$12,000	\$300	\$0
Construction Period Insurance	\$12,000	\$300	\$0
Other: FF&E, Security	\$61,000	\$1,525	\$2
Other		\$0	\$0
Total Soft Costs	\$746,821	\$18,671	\$24

Financing Costs			
Construction Loan Origination Fees	\$10,000	\$250	\$0
Construction Period Interest	\$157,266	\$3,932	\$5
Lender Inspection Fees	\$3,630	\$91	\$0

Letter of Credit Fee		\$0	\$0
Permanent Loan Fee	\$10,000	\$250	\$0
Construction Lender Legal	\$12,000	\$300	\$0
Other	\$0	\$0	\$0
Total Financing Costs	\$192,896	\$4,822	\$6

Miscellaneous

Market Survey	\$3,500	\$88	\$0
Appraisal	\$6,200	\$155	\$0
Environmental Study	\$12,700	\$318	\$0
LIHTC Fees --- prepaid monitoring	\$40,000	\$1,000	\$1
Other: Commissioning		\$0	\$0
Relocation Costs	\$0	\$0	\$0
Other --- 3rd Party Consultants	\$18,000	\$450	\$1
Soft Cost Contingency (% of soft costs excl Dev Fee)	1.43%	\$25,000	\$625
Total Miscellaneous:	\$105,400	\$2,635	\$10

Acquisition

Acquisition: Buildings	\$0	\$0	\$0
Acquisition: Land	\$280,000	\$7,000	\$9
Acquisition: Legal	\$0	\$0	\$0
Other	\$0	\$0	\$0
Total Acquisition	\$280,000	\$7,000	\$9

Reserves and Developer Fee

Operating Deficit Escrow	\$141,859	\$3,546	\$5
Prefunded Replacement Reserve	\$52,274	\$1,307	\$2
Taxes & Insurance Escrow	\$28,500	\$713	\$1
Developer Overhead	\$487,500	\$12,188	\$16
Developer Profit		\$0	\$0
Rent Up Reserve & Marketing	\$40,000	\$1,000	\$1
Other	\$0	\$0	\$0
Total Reserves and Developer Fee	\$750,133	\$18,753	\$24

Total Uses of Funds

	\$8,164,870	\$204,122	\$272
--	--------------------	------------------	--------------

Developer Fee Analysis:

Total Fees: \$487,500

Percent of TDC: 6.54% (excluding reserves & developer fee)

Project Operating Pro Forma

Date June 12, 2018
 Project Name 977 Brighton
 Project Address 977 Brighton
 Developer/Sponsor Avesta

Rental Income

Unit Type	Number of Units	Per Unit Sq Ft	Total Sq Ft	Restriction on % Median Inc.	Per Unit Monthly Gross Rent	Utility Deductions	Rent Subsidy	Per Unit Monthly Net Rent	Per Unit Net Rent Per Sq Ft	Total Monthly Net Income	Total Annual Net Rent
1 BR	8		0	50%	\$1,028	\$0		\$1,028	#DIV/0!	\$8,224	\$98,688
1 BR	16		0	50%	\$770	\$0		\$770	#DIV/0!	\$12,320	\$147,840
1 BR	10		0	60%	\$924	\$0		\$924	#DIV/0!	\$9,240	\$110,880
1 BR	6		0	market	\$1,050	\$0		\$1,050	#DIV/0!	\$6,300	\$75,600
2 BR			0	50%				\$0	#DIV/0!	\$0	\$0
2 BR			0	60%				\$0	#DIV/0!	\$0	\$0
3 BR			0	50%				\$0	#DIV/0!	\$0	\$0
3 BR			0	60%				\$0	#DIV/0!	\$0	\$0
4 BR			0	50%				\$0	#DIV/0!	\$0	\$0
4 BR			0	60%				\$0	#DIV/0!	\$0	\$0
Other			0	50%				\$0	#DIV/0!	\$0	\$0
Other			0	60%				\$0	#DIV/0!	\$0	\$0
Total:	40		0							\$36,084	\$433,008

Operating Expenses

Rent Increase Rate	2.0%
Expenses Increase Rate	3.0%

Note: Year 1 is the first full year of stabilized operations

	Year 1	Year 1/Unit	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Income												
Sch. Gross Income - Residential	\$433,008	\$10,825	\$441,668	\$450,502	\$459,512	\$468,702	\$478,076	\$487,637	\$497,390	\$507,338	\$517,485	
Vacancy Loss	5.0%	(\$21,650)	(\$541)	(\$22,083)	(\$22,525)	(\$22,976)	(\$23,435)	(\$23,904)	(\$24,382)	(\$24,870)	(\$25,367)	(\$25,874)
Other income (laundry)	\$2,998	\$75	\$3,058	\$3,119	\$3,182	\$3,245	\$3,310	\$3,376	\$3,444	\$3,513	\$3,583	
TIF -- 75% requested	\$48,171	\$1,204	\$49,616	\$51,105	\$52,638	\$54,217	\$55,843	\$57,519	\$59,244	\$61,022	\$62,852	
Effective Gross Income	\$462,527	\$11,563	\$472,259	\$482,200	\$492,355	\$502,729	\$513,326	\$524,151	\$535,209	\$546,505	\$558,046	
Administrative												
Management Fee	\$24,672	\$617	\$25,412	\$26,175	\$26,960	\$27,769	\$28,602	\$29,460	\$30,343	\$31,254	\$32,191	
Management Charges	\$24,672	\$617	\$25,412	\$26,175	\$26,960	\$27,769	\$28,602	\$29,460	\$30,343	\$31,254	\$32,191	
Marketing Expense	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Legal	\$1,500	\$38	\$1,545	\$1,591	\$1,639	\$1,688	\$1,739	\$1,791	\$1,845	\$1,900	\$1,957	
Audit & Accounting	\$5,000	\$125	\$5,150	\$5,305	\$5,464	\$5,628	\$5,796	\$5,970	\$6,149	\$6,334	\$6,524	
Admin Other	\$6,000	\$150	\$6,180	\$6,365	\$6,556	\$6,753	\$6,956	\$7,164	\$7,379	\$7,601	\$7,829	
Total Administrative	\$61,844	\$1,546	\$63,699	\$65,610	\$67,579	\$69,606	\$71,694	\$73,845	\$76,060	\$78,342	\$80,692	
Supportive Services												
	\$12,199	\$305	\$12,565	\$12,942	\$13,330	\$13,730	\$14,142	\$14,566	\$15,003	\$15,453	\$15,917	
Utilities												
Fuel Oil	\$18,000	\$450	\$18,540	\$19,096	\$19,669	\$20,259	\$20,867	\$21,493	\$22,138	\$22,802	\$23,486	
Natural Gas		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Electric	\$34,000	\$850	\$35,020	\$36,071	\$37,153	\$38,267	\$39,415	\$40,598	\$41,816	\$43,070	\$44,362	
Water / Sewer	\$16,000	\$400	\$16,480	\$16,974	\$17,484	\$18,008	\$18,548	\$19,105	\$19,678	\$20,268	\$20,876	
Other		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Utilities	\$68,000	\$1,700	\$70,040	\$72,141	\$74,305	\$76,535	\$78,831	\$81,196	\$83,631	\$86,140	\$88,725	

Maintenance	Year 1	Year 1/Unit	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Grounds	\$25,000	\$625	\$25,750	\$26,523	\$27,318	\$28,138	\$28,982	\$29,851	\$30,747	\$31,669	\$32,619
Janitorial	\$6,600	\$165	\$6,798	\$7,002	\$7,212	\$7,428	\$7,651	\$7,881	\$8,117	\$8,361	\$8,612
Trash Removal	\$4,000	\$100	\$4,120	\$4,244	\$4,371	\$4,502	\$4,637	\$4,776	\$4,919	\$5,067	\$5,219
Security		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Equipment & Supplies	\$5,000	\$125	\$5,150	\$5,305	\$5,464	\$5,628	\$5,796	\$5,970	\$6,149	\$6,334	\$6,524
Maintenance	\$25,000	\$625	\$25,750	\$26,523	\$27,318	\$28,138	\$28,982	\$29,851	\$30,747	\$31,669	\$32,619
Maintenance contracts (HVAC, e	\$20,000	\$500	\$20,600	\$21,218	\$21,855	\$22,510	\$23,185	\$23,881	\$24,597	\$25,335	\$26,095
Other		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Maintenance	\$85,600	\$2,140	\$88,168	\$90,813	\$93,537	\$96,344	\$99,234	\$102,211	\$105,277	\$108,436	\$111,689

Taxes & Insurance											
Real Estate Taxes or PILOT	\$64,229	\$1,606	\$66,156	\$68,141	\$70,185	\$72,290	\$74,459	\$76,693	\$78,994	\$81,363	\$83,804
Payroll Taxes / Fidelity Bond / Workers Comp / Health Ins.		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Insurance (property, liability)	\$15,000	\$375	\$15,450	\$15,914	\$16,391	\$16,883	\$17,389	\$17,911	\$18,448	\$19,002	\$19,572
Other		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Taxes & Insurance	\$79,229	\$1,981	\$81,606	\$84,054	\$86,576	\$89,173	\$91,848	\$94,604	\$97,442	\$100,365	\$103,376

Replacement Reserves	\$18,000	\$450	\$18,540	\$19,096	\$19,669	\$20,259	\$20,867	\$21,493	\$22,138	\$22,802	\$23,486
Operating Reserves		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Total Expenses	\$324,872	\$8,122	\$334,618	\$344,657	\$354,996	\$365,646	\$376,616	\$387,914	\$399,552	\$411,538	\$423,884
-----------------------	------------------	----------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------

Net Operating Income	\$137,655	\$3,441	\$137,641	\$137,544	\$137,359	\$137,083	\$136,710	\$136,236	\$135,657	\$134,967	\$134,161
-----------------------------	------------------	----------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------	------------------

Debt Service											
First Lien	\$112,934	\$2,823	\$112,934	\$112,934	\$112,934	\$112,934	\$112,934	\$112,934	\$112,934	\$112,934	\$112,934
Second Lien		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Debt Service (Must Pay)	\$112,934	\$2,823	\$112,934								

Cash Flow (after Must Pay Debt)	\$24,721	\$618	\$24,707	\$24,610	\$24,425	\$24,149	\$23,776	\$23,302	\$22,723	\$22,033	\$21,227
Debt Service Coverage Ratio	1.22		1.22	1.22	1.22	1.21	1.21	1.21	1.20	1.20	1.19

Cash Flow Debt Payments											
City of Portland	0.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Developer Fee Loan	0.0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cash Flow Retained by Project		\$24,721	\$618	\$24,707	\$24,610	\$24,425	\$24,149	\$23,776	\$23,302	\$22,723	\$21,227

Retained Cash Flow % 8%

Operating Expenses

Rent Increase Rate	2.0%
Expenses Increase Rate	3.0%

	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
Income										
Sch. Gross Income - Residential	\$527,834	\$538,391	\$549,159	\$560,142	\$571,345	\$582,772	\$594,427	\$606,316	\$618,442	\$630,811
Vacancy Loss	5.0%	(\$26,392)	(\$26,920)	(\$27,458)	(\$28,007)	(\$28,567)	(\$29,139)	(\$29,721)	(\$30,316)	(\$30,922)
Other income (laundry)	\$3,655	\$3,728	\$3,802	\$3,878	\$3,956	\$4,035	\$4,116	\$4,198	\$4,282	\$4,368
TIF -- 75% requested	\$64,738	\$66,680	\$68,680	\$70,741	\$72,863	\$75,049	\$77,300	\$79,619	\$82,008	\$84,468
Effective Gross Income	\$569,835	\$581,879	\$594,184	\$606,754	\$619,597	\$632,717	\$646,122	\$659,817	\$673,810	\$688,106
Administrative										
Advertising	\$33,157	\$34,152	\$35,176	\$36,232	\$37,319	\$38,438	\$39,591	\$40,779	\$42,002	\$43,263
Office Payroll & Benefits	\$33,157	\$34,152	\$35,176	\$36,232	\$37,319	\$38,438	\$39,591	\$40,779	\$42,002	\$43,263
Office Supplies, Phone, Misc.	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Mngr or Super Rent Free Unit	\$2,016	\$2,076	\$2,139	\$2,203	\$2,269	\$2,337	\$2,407	\$2,479	\$2,554	\$2,630
Audit & Accounting	\$6,720	\$6,921	\$7,129	\$7,343	\$7,563	\$7,790	\$8,024	\$8,264	\$8,512	\$8,768
Admin Other	\$8,063	\$8,305	\$8,555	\$8,811	\$9,076	\$9,348	\$9,628	\$9,917	\$10,215	\$10,521
Total Administrative	\$83,113	\$85,607	\$88,175	\$90,820	\$93,545	\$96,351	\$99,241	\$102,219	\$105,285	\$108,444
Supportive Services										
	\$16,394	\$16,886	\$17,393	\$17,915	\$18,452	\$19,006	\$19,576	\$20,163	\$20,768	\$21,391
Utilities										
Fuel Oil	\$24,190	\$24,916	\$25,664	\$26,434	\$27,227	\$28,043	\$28,885	\$29,751	\$30,644	\$31,563
Electric	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Gas	\$45,693	\$47,064	\$48,476	\$49,930	\$51,428	\$52,971	\$54,560	\$56,197	\$57,883	\$59,619
Water / Sewer	\$21,503	\$22,148	\$22,812	\$23,497	\$24,201	\$24,927	\$25,675	\$26,446	\$27,239	\$28,056
Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Utilities	\$91,386	\$94,128	\$96,952	\$99,860	\$102,856	\$105,942	\$109,120	\$112,394	\$115,765	\$119,238

*Order 53-18/19
Tab 41 8-13-18*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**ORDER APPROVING THE ALLOCATION AND APPROPRIATION
OF \$925,000 FROM THE HOUSING TRUST FUND
RE: PORTLAND HOUSING DEVELOPMENT CORPORATION
FRONT STREET**

ORDERED, that any amount up to \$925,000 in funds from the Housing Trust Fund are hereby allocated and appropriated to fund the Portland Housing Development Corporation project on Front Street; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to approve an adjustment to the total allocation of up to ten percent (10%); and

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

MEMORANDUM
City Council Agenda Item

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

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

DATE: August 3, 2018

SUBJECT: Order Authorizing Financial Assistance in an amount up to \$925,000 in Housing Trust Funds to the Portland Housing Development Corporation Project entitled Front Street

SPONSOR: Jill Duson, Chair, Housing Committee
(July 31, 2018; voted 2-0; Cook absent)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading August 13, 2018 Final Action September 5, 2018

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

PRESENTATION: (List the presenter(s), type and length of presentation)
Mary Davis, HCD Division Director will be available to answer any questions

I. ONE SENTENCE SUMMARY

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

II. AGENDA DESCRIPTION

The Housing Trust fund is established by Section 14-489 of the City's Code of Ordinances. Section 14-489 (e) states that "the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action." The 2018 Annual Plan, which was adopted by the City Council on June 18, 2018 (Order 263 17/18), established the priorities in which the current balance of the Housing Trust Fund will be allocated.

The Housing Trust Fund balance is \$1,223,320.80 as of July 27, 2018.

A Notice of Funding Availability was published on June 29 and applications for Housing Trust Funds were accepted as of July 1. Three applications have been received as of Friday, July 27.

(1) Portland Housing Authority Front Street, Request: \$1,435,174, less any HOME funding

Justification:

- a) The PHA Front Street project is a priority under the 2018 Annual Plan
- b) Eligible Activity: new construction of affordable rental housing
- c) Utilizing multiple federal, state and local resources to fund the project
- d) Per unit contribution does not exceed \$15,000/unit
- e) 77% of units affordable to households at or below 50% of the area median income

(2) Avesta 977 Brighton Avenue, Request \$300,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 60% of units affordable to households at or below 50% of the area median income
- e) The proposed use of City funds and the timing of the investment of City funds makes this project better suited for Housing Trust Fund financing.

(3) 178 Kennebec Street, Request \$370,000, less any HOME funding

Justification:

- a) Eligible Activity: new construction of affordable rental housing
- b) Utilizing multiple federal, state and local resources to fund the project
- c) Per unit contribution does not exceed \$15,000/unit
- d) 35% of units affordable to households at or below 50% of the area median income

Funding scenarios recommended by the Housing Committee are:

(1) If the funding available is the current balance in the Housing Trust (\$1,223,320), the Housing Committee's recommendation is as follows:

CURRENT BALANCE IN HOUSING TRUST FUND (\$1,223,320)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$723,320	\$201,680
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$0	\$300,000
Total	\$2,105,174	\$880,174	\$723,320	\$501,680

*Maintains \$500,000 minimum balance

(2) If a portion of the proceeds of the sale of the 0 Hancock Street lot are appropriated to the Housing Trust Fund, the Housing Committee's recommendation is as follows:

HOUSING TRUST FUND \$2,223,320 (including portion of 0 Hancock St. Proceeds)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$925,000	\$0
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$300,000	\$0
Total	\$2,105,174	\$880,174	\$1,225,000	\$0

*Maintains \$500,000 minimum balance; \$498,320 of HTF unallocated

In addition, staff requests the ability to make adjustments to the allocation amounts as long as it is within 10% of the Committee approved allocation.

III. BACKGROUND

Portland Housing Development Corporation is requesting Housing Trust Funds (HTF) to assist in the re-development of affordable family rental housing on Front Street. The developer is proposing to demolish and re-develop the existing 50 units of housing and add an additional 61 units of mixed-income rental housing.

The development will include:

Front Street		
1-Bedroom Units (29)	at or below 50% area median income	7
	at or below 50% area median income PBV	11
	Market Rate	11
2-Bedroom Units (38)	at or below 50% area median income	19
	at or below 50% area median income PBV	7
	Market Rate	12
3-Bedroom Units (27)	at or below 50% area median income	5
	at or below 50% area median income PBV	19
	at or below 60% area median income	3
4-Bedroom Units (13)	at or below 50% area median income PBV	13
5-Bedroom Units (4)	at or below 50% area median income PBV	4
Total Units		111

This project is seeking 4% Low Income Housing Tax Credit and tax-exempt debt with Maine Housing. It will not proceed on the same timetable as the other three proposals who will be

seeking 9% Low Income Housing Tax Credits. The developer has engaged in significant public outreach in the East Deering Neighborhood. A neighborhood meeting was held on November 7, 2017 and the Planning Board held a workshop on November 14, 2017. The Planning Department has made significant commitments to the neighborhood to ensure that the design of the project is contextual to the neighborhood. To ensure these commitments are met, staff is recommending funding for this project.

As stated in the developer's application "Front Street is currently a 50-unit Public Housing community in the East Deering neighborhood of Portland, Maine. The project was built in 1971 as part of Portland's Urban Renewal effort and the creation of Franklin Arterial to connect the interstate with the Downtown tourist are of the Portland peninsula. Over 200 residential structures, considered a blighted area, were taken by eminent domain and demolished in Portland's Bayside neighborhood. A portion of those families were moved to temporary housing at Front Street....."

"47 years later, this "temporary" housing was identified in Portland Housing Authority's Strategic Vision Plan of 2015 as the top priority for re-development due to deterioration of buildings due to poor construction quality and structural issues due to poor soils."

"PHA is proposing a single phase approach to not only demolish and re-develop the existing 50 units of housing, but add an additional 61 units of mixed-income family rental housing....."

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Increase access to rental and ownership housing that is safe and affordable for working and low-income families.

V. FINANCIAL IMPACT

Housing Trust Funds: in an amount up to \$925,000 at zero percent interest, deferred for 30 years.

Total City HTF Investment of \$925,000/unit - \$8,334.

Total City HTF Investment of \$925,000/affordable unit - \$10,512.

Total City Investment of \$1,435,174/unit - \$12,930.

Total City HTF Investment of \$1,435,174/affordable unit - \$16,309.

Developer intends to seek additional city assistance through an affordable housing tax increment financing district/credit enhancement agreement. In addition the developer has applied for HOME funding; the total HOME and HTF investment requested is \$1,435,174.

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

The 2018 Annual Plan prioritizes support of the Portland Housing Authority in the implementation of their Strategic Vision Plan when other funding sources are not available.

The Annual Plan calls for projects that are focused on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 50% of the area median income, or projects designed to create housing affordable to households earning 80% to 120% of the area median income.

Between 35% and 77% of the units in each project will be affordable to households at or below 50% of the area median income. The Front Street project has the highest percentage (77%) of units at or below 50% of the area median income and Brighton Avenue has the second highest percentage (60%) of units at or below 50% of the area median income.

Front Street: 77% of the units will be affordable at or below 50% of the area median income (49% with project-based vouchers).

Kennebec St: 35% of the units will be affordable at or below 50% of the area median income.

Brighton Ave: 60% of the units will be affordable at or below 50% of the area median income (20% with project-based vouchers).

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City funding. The third party analysis is attached. The report indicates that the developer is well positioned to secure the remaining financing needed to move forward with this project and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial funding recommendation noted below. Conditions to be met prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.
2. Commitment of all sources on terms and conditions acceptable to City of Portland, including acceptable cashflow waterfall, and cashflow projection which shows retirement of developer fee loan and City of Portland loans;
3. Revised operating budget reflective of higher utility costs and cashflow projection satisfactory to City.

As part of the Maine State Housing Authority's (MSHA) 4% Tax Credit Program application, the developers will need letters of commitment of support for their projects prior to submitting the application. If the Council agrees with the Housing Committee's recommendation, this

letter would include the recommendations of the third party underwriter and be conditioned on the completion of the following additional requirements:

1. The commitment will be subject to compliance with all Housing Trust Fund requirements including, but not limited to, satisfactory underwriting analysis.
2. Commitment of funds to be stated as “an amount up to the funding request based on maximization of LIHTC equity raise”, to ensure that the City’s contribution is leveraged to the maximum extent possible.
3. Commitment should be subject to the projections and assumptions noted in the project budgets and pro-forma submitted, and the City reserves the right to reconsider and adjust their commitment if any significant alterations occur in the budget. A final commitment will be subject to a final budget.
4. Any substantial changes to the composition of the project, or the financial investment required, will be brought back to the Housing Committee and the City Council for review and approval.

A recommendation for City funding by the City Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Any funding awarded will be contingent on the project's final approval by the Planning Board.

VII. RECOMMENDATION

The Housing Committee recommends funding the applications, in the order noted below (less HOME funding recommendations) utilizing the current balance in the Housing Trust Fund plus any additional funding that may be appropriated by the City Council, while maintaining the \$500,000 minimum balance noted in the Annual Plan.

- (1) Portland Housing Authority Front Street, \$1,435,174 less any HOME funding;
- (2) Avesta 977 Brighton Avenue \$300,000, less HOME funding
- (3) 178 Kennebec Street, \$370,000, less HOME funding

Staff requests the ability to make adjustments to the allocation amounts as long as it is within 10% of the Committee approved allocation.

Funding scenarios recommended by the Housing Committee are:

(1) If the funding available is the current balance in the Housing Trust (\$1,223,320), the Housing Committee's recommendation is as follows:

CURRENT BALANCE IN HOUSING TRUST FUND (\$1,223,320)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$723,320	\$201,680
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$0	\$300,000
Total	\$2,105,174	\$880,174	\$723,320	\$501,680

*Maintains \$500,000 minimum balance

(2) If a portion of the proceeds of the sale of the 0 Hancock Street lot are appropriated to the Housing Trust Fund, the Housing Committee's recommendation is as follows:

HOUSING TRUST FUND \$2,223,320 (including portion of 0 Hancock St. Proceeds)				
	Applicant Request	HOME Recommendations	HTF Recommendations*	Balance Remaining of Applicants Request
PHA Front Street	\$1,435,174	\$510,174	\$925,000	\$0
178 Kennebec Street	\$370,000	\$370,000	\$0	\$0
977 Brighton Avenue	\$300,000	\$0	\$300,000	\$0
Total	\$2,105,174	\$880,174	\$1,225,000	\$0

*Maintains \$500,000 minimum balance; \$498,320 of HTF unallocated

VIII. LIST ATTACHMENTS

Excerpt HTF Application Information for Front Street
Third Party Underwriting Analysis

Prepared by: Mary P. Davis
Bean/agendarequestmemo/rev 1/23/2017

Date: August 3, 2018



BOARD OF DIRECTORS

Mark B. Adelson, President
Mariar Balow, Vice-President
Kristin Blum, Director
Faith McLean, Director
Christian MilNeil, Director
Shirley Peterson, Director
Thomas Valleau, Director

14 Baxter Boulevard
Portland, ME 04101

Office: 207-773-4753
Fax: 207-761-5886

Jul 27, 2018

Mary Davis
City of Portland - Housing and Community Development Division
389 Congress Street
Portland, Maine 04101

**Subject: Front Street Redevelopment
Response to RFP – Housing Trust Fund 2018-2019**

Dear Mary,

Portland Housing Authority is pleased to submit this response to the City of Portland's RFP for Housing Trust funds. Front Street Redevelopment is a multi-family development in Portland's East Deering neighborhood that transforms 50 public housing units into 111 homes for small and large families near Portland's peninsula. We are requesting \$855,000.

The City staff and Housing Committee are familiar with the Front Street redevelopment by this point. We have submitted a successful CDBG application and HOME funds application that are both critical funding sources for the redevelopment of a public housing development that has lasted longer than was originally envisioned as "temporary housing" in 1971.

As noted in our project summary, between the HOME and HTF subsidy, we are requesting \$1,435,174 of 0% loan as gap financing. We are flexible regarding the amount of each subsidy source as long as we achieve the total amount. Please note that since our HOME application submission, costs continue to go up. Our Construction Manager has since done a detailed 16-Division estimate and included an inflation factor for time we need for relocation and for national trends in building materials and labor costs. We have also shifted demolition and soil remediation costs to the project from the PHA "Seller Costs" to maximize our LIHTC equity. This has increased our total hard construction costs including demolition and soil remediation by \$2,086,620. We have increased our MSHA loan slightly, increased our 4% LIHTC equity,

increased the Portland Housing Development Corporation soft loan and expect to apply for a second Federal Home Loan Bank AHP grant.

The temporary relocation of these 50 families, demolition of the buildings, removal of hazardous materials, and soil remediation are critical first steps in preparing the site for a long-term lease for the redevelopment of this older housing and the new construction of additional units to help ease the rental housing crisis in Portland. This project is one of the first steps in Portland Housing Authority's 2015 Strategic Vision Plan that looked at the renovation and redevelopment of almost 1000 units of housing throughout Portland and the creation of new affordable housing on under-utilized parcels of land within PHA's portfolio. This East Deering neighborhood is a wonderful close-knit, mixed-income community that deserves new energy efficient, healthy, durable, beautiful housing.

Portland Housing is excited that the re-development of Front Street will be a part of the growth of this wonderful part of Portland.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jay Waterman', with a long horizontal flourish extending to the right.

Jay Waterman, Director of Development

**Portland Housing Development Corporation / Front Street Housing Redevelopment, LP
Housing Trust Fund Application
Project Summary**

Front Street Re-Development - Detailed Project Proposal

Summary - Request for Funding

Portland Housing Development Corporation (PHDC) and Front Street Housing Redevelopment, LP are requesting \$855,000 in grant funding from the City of Portland’s Housing Trust Fund (HTF) program to assist in the re-development of affordable family rental housing in Portland, Maine. PHDC is requesting these HTF funds as a critical early step in securing other funding to replace outdated housing and bring new housing to a mixed-income community. The request is based on the City’s Housing Committee recommendation of \$580,174 to the City Council. Understanding that this HOME amount has not been approved by the full Council, we are requesting a total subsidy amount of \$1,435,174. Any combination of HOME funds and Housing Trust Funds would provide the project with needed financing.

Project Summary and Description of Housing

Front Street is currently a 50-unit Public Housing community in the East Deering neighborhood of Portland, Maine. The project was built in 1971 as part of Portland’s Urban Renewal effort and the creation of Franklin Arterial to connect the interstate with the Downtown tourist area of the Portland peninsula. Over 200 residential structures, considered a blighted area, were taken by eminent domain and demolished in Portland’s Bayside neighborhood. A portion of those families were moved to temporary housing at Front Street in Portland’s East Deering neighborhood. 47 years later, this “temporary” housing was identified in Portland Housing Authority’s Strategic Vision Plan of 2015 as the top priority property for re-development due to deterioration of buildings due to poor construction quality and structural issues due to poor soils. A 2012 Physical Needs Assessment concluded that the buildings are at the end of their useful life, and an Obsolescence Study in 2016 determined that renovations would be costlier than demolition and new construction.

PHA is proposing a single-phase approach to not only demolish and re-develop the existing 50 units of housing, but add an additional 61 units of mixed-income family rental housing that will be durable, beautiful and extremely energy efficient. Please note there is an adjacent 10-unit homeownership project that will be developed on the existing Front Street parcel along Illsley Street, but is not part of the rental housing project and is not part of this application.

**Existing Housing Unit
Distribution**

1-Bedroom	0
2-Bedroom	0
3-Bedroom	25
4-Bedroom	18
5-Bedroom	7
Totals	50

Front Street Utilization

	Sufficient Size	Under Utilized	Over Utilized
1-Bedroom	N/A		
2-Bedroom	N/A		
3-Bedroom	16	7	2
4-Bedroom	10	6	1
5-Bedroom	6	1	0

Population Served

Households currently living at Front Street are Extremely-Low Income, (ELI), or Very-Low Income, (VLI). There are currently 49 occupied units; 35 households, (about 71%), have extremely-low incomes. Current households range in size from one-person to ten-persons. Households are predominantly between three- and six-persons. A unique feature of Front Street is its 4- and 5-bedroom units for larger families. PHA has a public housing waiting list with 1,800 families and several of those on the waiting list are looking for 4- and 5-bedroom units.

PHA is applying to HUD under Section 18 Demolition and Disposition of the Housing Act of 1937 to re-develop Front Street public housing. Section 18 allows all residents the right to compensation for temporary relocation and PHA is pledging 100% Right of Return. Residents will be relocated with Tenant Protection Vouchers in private housing or will be able to move to some of the other 1,000 units of public housing owned by PHA in Portland. We are anticipating at least half of the current families will choose to return to the re-developed Front Street. PHA is pledging 50 Project Based Vouchers to the new project. These will ensure those returning after relocation will have a subsidized unit. 23 units (20%) will be market rate with a goal of protecting existing ELI families while

diversifying incomes in the development and neighborhood. The balance of units will be at or below 50% and 60% of Area Median Income.

Proposed Use of Funds, Market Demand and Measures of Success

Our first and foremost measure of success will be 111 new units of affordable housing. Portland has over 3,000 people on the Section 8 waiting list and there are over 13,000 people statewide who often have to wait 3-5 years for an affordable home. This project will clearly have an effect on over a hundred families. Please see the attached market study to understand the market demand.

The Front Street Redevelopment project has partnered with local social service providers to go beyond beautiful new apartments for its residents and provide critical services to help residents thrive in the community. The focus of these services is to enable empowerment and self-sufficiency. The following services are committed to the project and letters of commitment are available upon request:

- Boys and Girls Club of Southern Maine -- After School programs
- Goodwill -- Employment and job training supportive services
- LearningWorks -- English language and literacy programs and YouthBuild Program
- The Opportunity Alliance -- Early Head Start Family Visiting Program

Financial Feasibility

There is no doubt that Front Street's legacy of placing low-income housing on a former City dump with poor structural soils combined with drastic cuts to public housing over the life of the project has left this property in desperate need of redevelopment. It also means the project has costs that many other projects do not have: The size of the site is two City blocks spanning 4 acres. 50 families will be temporarily moved, re-housed and returned, all with financial support required in the Uniform Relocation Act. The project has a DEP VRAP plan for remediation of the soils. Hazardous materials will need to be removed from the buildings prior to demolition.

Some of these initial costs are considered "Seller's costs." PHA has received \$250,000 of CDBG funds from the City of Portland as well as a \$125,000 grant from the TD Charitable Foundation Housing for Everyone competition in 2017. These funds, as well as potential EPA Brownfields funds and PHA non-federal reserves will pay for all "Seller Cost" that are NOT part of this application.

The project has already secured \$3,900,000 of AHP funds from the Federal Home Loan Bank of Boston through our construction lender, Bath Savings. We are applying to MaineHousing for 4% LIHTC and Tax-Exempt Debt and will seek a second Federal Home Loan Bank grant of \$500,000. Please see the attached pro forma development budget, sources and uses, operating budget and 15-year operating pro forma.

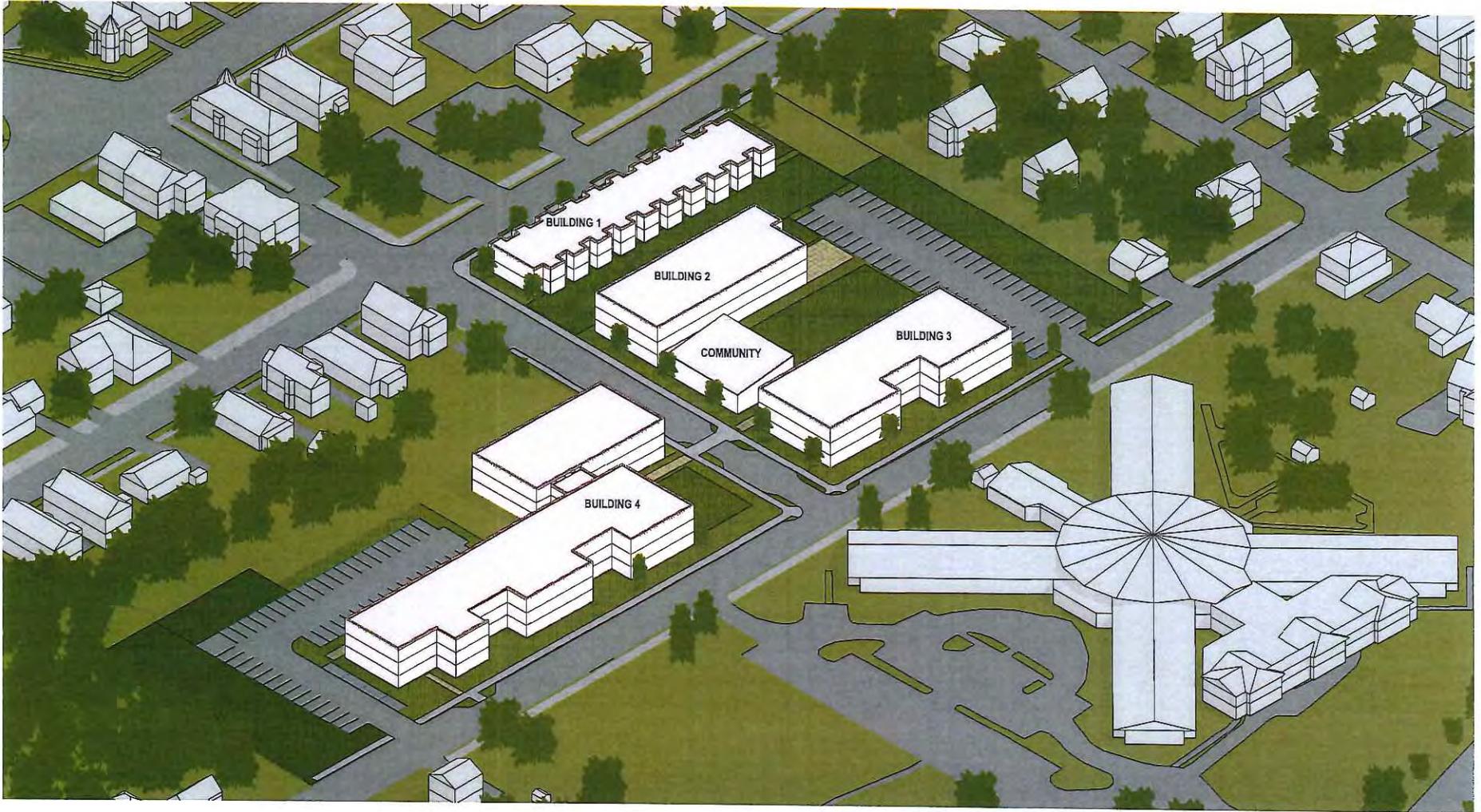
Capacity to Develop the Project

The Portland Housing Authority hired Jay Waterman as their Real Estate Development Director over three years ago. Since that time, Bayside Anchor, a 45-unit mixed-income multi-family affordable housing project has been built and occupied. Mr. Waterman is the project manager for the Front Street project. Mark Adelson, PHA's Executive Director, is also integrally involved in the project, assisting with the Relocation Plan for temporary relocation of Front Street families. Our HUD application process is being supported by Joe Schiff, a former HUD deputy undersecretary. Our relocation planning is being supported by Andrew Daniels of MAPPLAN Partners. Gary Vogel of Drummond Woodsum is our legal counsel. Our property management firm will be Avesta Housing.

PHA has assembled a top-notch design team for the project, including Utile Architecture and Planning from Boston, Carroll Associates Landscape Architects, Allied Engineering, Ransom Environmental Consulting, and Thornton Tomasetti to assist with Passive House certification.

Neighborhood and Design Compatibility

Front Street has been affordable public housing for the last 47 years. The project has been a low-density development that has the potential for significantly more density with the Division 30 changes. We feel the proposed design will have a more connective fabric with the surrounding neighborhood than the existing building. Walkability, scale, connectivity and permeability are all part of the design. We have worked with City planning and urban design staff for the last 18 months on this project and will continue to work with them as we bring this to the planning board in the Fall of 2018.



PHA FRONT STREET DEVELOPMENT
 PRESUMPCOT STREET
 PORTLAND, ME 04103

ISOMETRIC VIEW - PROPOSED MASSING
 MARCH 14, 2018

DISCLAIMER: These plans are conceptual only. They have not been subject to a comprehensive code and regulatory review, nor have they been tested against any as-built surveys. Discoveries in such an analysis may result in fundamental changes to the original concept.



Architecture
 & Planning

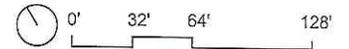
utile



PHA FRONT STREET DEVELOPMENT
 PRESUMPCOT STREET
 PORTLAND, ME 04103

SITE PLAN
 MARCH 14, 2018

DISCLAIMER: These plans are conceptual only. They have not been subject to a comprehensive code and regulatory review, nor have they been tested against any as-built surveys. Discoveries in such an analysis may result in fundamental changes to the original concept.



Architecture
 & Planning

utile

Front Street Re-Development Timeline

Submit planning board application.....	September 2018
Add'l neighborhood meetings.....	Aug.-Nov. 2018
Planning Board Approval Expected	December 2018
Submission to MSHA for LIHTC	December 2018
HUD Approval of Demolition/Disposition	March 2019
Relocation Period.....	June 2019 – Dec. 2019
Construction Closing and Start.....	December 2019
Occupancy.....	February 2021

Front Street Re-Development Location Map



DEVELOPMENT ASSUMPTIONS						
Total Units		111	Initiation Adjustments	Yr 1-5	Yr. 6-15	Yr. 16-30
# @ 40% AMI	0.0%	0	Rent	2.00%	2.00%	2.00%
# @ 50% AMI (PBV Low HOME)	45.0%	50	Operating Expense	3.00%	3.00%	3.00%
# @ 50% AMI (LIHTC)	31.5%	35	Other Income	2.00%	2.00%	2.00%
# @ 60% AMI (High HOME)	0.0%	0	Debt Coverage Ratio	1.15		
# @ 60% AMI (LIHTC)	2.7%	3	Vacancy	5%		
# @ Market	20.7%	23				
Appraised Market Value	100.0%	17,077,860	Market Value/Unit	\$153,856		

	Pro Forma Development Budget		Per Unit	Commercial		Total
	Residential					
Site Improvements	1,945,563		17,528			1,945,563
Construction	17,745,165		159,866			17,745,165
Demolition	453,002		4,081			453,002
Builder Overhead	2,920,792		26,313			2,920,792
Builder Profit	0		0			0
Bond Premium	0		0			0
Construction Contingency	5%	1,153,226	10,389			1,153,226
Subtotal Construction Costs		24,217,748	218,178	0		24,217,748
Building Permits and Fees	339,827		3,062			339,827
Survey & Engineering	103,900		936			103,900
Architectural & Design	945,000		8,514			945,000
Legal	73,000		658			73,000
Title & Recording	15,000		135			15,000
Accounting	8,000		72			8,000
Construction Period Tax	2,000		18			2,000
Construction Period Insurance	25,000		225			25,000
Soft Cost Contingency		42,000	378			42,000
Subtotal Soft Costs		1,553,727	13,988	0		1,553,727
Construction Loan Origination Fees	8,500		77			8,500
Construction Loan Interest	770,000		6,937			770,000
Constr Partic. Fee/Perm Loan Fee	287,500		2,590			287,500
Land Inspec, Const Legal, Letter of Credit	28,750		259			28,750
Subtotal Finance Costs		1,094,750	9,863	0		1,094,750
Market Survey	5,200		47			5,200
Appraisal	6,000		54			6,000
Environmental Study	13,500		122			13,500
LIHTC Fees/ prepd monitor	150,650		1,357			150,650
Commissioning	47,080		424			47,080
FF&E	89,000		802			89,000
Subtotal Miscellaneous		311,430	2,806	0		311,430
Acquisition: Buildings	0		0			0
Acquisition: Land	275,000		2,477			275,000
Acquisition: Legal	0		0			0
Subtotal Acquisition		275,000	2,477	0		275,000
Operating Deficit Escrow	930,000		8,378			930,000
Pre-funded Replacements	211,190		1,903			211,190
Tax & Insurance Escrow	126,592		1,140			126,592
Working Capital / Relocation	0		0			0
GP Contribution	0		0			0
Developer Overhead	2,000,000		18,018			2,000,000
Developer Profit	1,900,000		17,117			1,900,000
Rent-up & Marketing	50,000		450			50,000
Subtotal Fee and Reserves		5,217,781	47,007	0		5,217,781
Total Project Costs		32,670,437	294,328	0		32,670,437
Total Development Costs (MSHA)		31,098,787	280,178			
Total Development Cost (MSHA) Index			226,966			

LIHTC Alloc.	1,009,873
Equity yield	0.89
Synd. %	99.99%
Equity Raise	8,986,968

Historic Credit FED	0
Equity yield	0.89
Synd. %	99.99%
Equity Raise	0

Historic Credit STATE	0
Equity yield	0.89
Synd. %	99.99%
Equity Raise	0

Total Equity:	8,986,968
---------------	-----------

Gross Square Footage	132,000
Construction Cost/Sq ft.	\$174.73

Front Street Re-Development - Sources and Uses		
Sources		
Development Fee Loan	2,900,000	
Tax Exempt Bond Loan	14,250,000	
Bath AHP Loan	3,400,000	
FHLB Subsidy	500,000	
City Housing Trust Funds	855,000	
City HOME Funds	580,174	
Net Syndication	8,986,968	1,009,873 Credit Allocation
Seller Note	698,295	
Total	32,170,437	
Uses		
Construction	24,217,748	\$174.73 /sf Construction
Soft Costs	1,553,727	
Finance Costs	1,094,750	
Miscellaneous	311,430	
Acquisition	275,000	
Reserves	1,317,781	
Developer Fee	3,900,000	
Total	32,670,437	294,328 Gross TDC / Unit
		280,178 Adj. TDC / unit
Changes to this pro forma version		
111 units		
Trending at 2% Income / 3% expenses		
New LIHTC and PBV rents as of April 2018		
OPEX increased to \$7,700/unit		
No MSHA subsidy		
City HOME funds		
Adjusted TDC Index calculation		
Added \$275,000 to Acquisition and added a Seller note for same		
MAXIMUM DEVELOPER FEE AVAILABLE		
ACTUAL DEVELOPER FEE	4,301,815	3,900,000
% OF MAXIMUM DEVELOPER FEE		90.7%
NET DEVELOPER FEE COLLECTED		1,000,000
% OF MAXIMUM DEVELOPER FEE		23.2%

FLOW OF FUNDS										
Sources	CLC	During Construction				PLC	2016	2019	Total	
	10/15/18	1/13/19	4/13/19	7/12/19	10/10/19	12/14/19				
Beginning Cash	0	0	500,000	0	0	0	3,050,652	2,975,326	0	
Capital Contribution	898,697		898,697	2,246,742						
Construction Loan	1,868,623	5,554,437	4,655,740	3,807,695	6,104,437	4,493,484	224,674	224,674	8,986,988	Total loan \$30,000,000 incl. \$500k City
GP Bridge Loan									21,990,932	
Other AHP Subsidy		500,000							0	
Other AHP Loan	0								500,000	
Tax Exempt Bond Loan						0			0	
Conventional First Mortgage						14,250,000			14,250,000	
Bath AHP Loan						3,400,000			0	
PHDC Loan						698,295			3,400,000	
City Housing Trust Fund	427,500					427,500			698,295	
City FedHOME	290,087		0			290,087			855,000	
Bath AHP Subsidy	0	500,000							580,174	
Development Fee Loan						2,900,000			500,000	
TOTAL SOURCES	3,484,907	6,554,437	6,054,437	6,054,437	6,104,437	26,459,366	3,275,326	3,200,000	2,900,000	
Uses										
Acquisition	275,000									
Construction		6,054,437	6,054,437	6,054,437	6,054,437				275,000	
Soft Costs	1,553,727	0	0	0	0	0			24,217,748	
Financing Costs	1,094,750					0			1,553,727	
Miscellaneous	311,430					0			1,094,750	
Dev Fee	250,000					150,000			311,430	
Reserves					50,000	1,267,781			3,900,000	CLC
TOTAL DEV. COSTS	3,484,907	6,054,437	6,054,437	6,054,437	6,104,437	1,417,781	300,000	3,200,000	1,317,781	PLC
Repay GP Bridge Loan							300,000	3,200,000	32,670,437	8609
Repay Construction Loan						0			0	Stabilized
Other Syndication Costs	0					21,990,932			21,990,932	
SUBTOTAL OTHER ITEMS	0	0	0	0	0	21,990,932	0	0	0	
TOTAL USES OF FUNDS	3,484,907	6,054,437	6,054,437	6,054,437	6,104,437	23,408,714	300,000	3,200,000	54,661,369	
Ending Cash	0	500,000	0	0	0	3,050,652	2,975,326	0	0	

PROJECT FINANCING							
Source	Amount	Rate	Term	Uen	Annual D/S		
					Yr. 1-5	Yr. 6-15	Yr. 16-30
Source 1	0	0.00%	30	First	0	0	0
Source 2	14,250,000	4.50%	40	First	768,752	768,752	768,752
Source 3	3,400,000	5.00%	30	First	219,023	219,023	219,023
Source 4	698,295	0.00%	30		0	0	0
Source 5	855,000	0.00%	30		0	0	0
Source 6	500,000	0.00%	30		0	0	0
Source 7	580,174	0.00%	30	Third	0	0	0
Source 8	500,000	0.00%	30	Third	0	0	0
Source 9	2,900,000	0.00%		cash flow	0	0	0
Source 10	8,986,968	\$0.89					
Capitalization Gap	-0						
Total	32,670,437						

COLLATERAL COVERAGE		
	Total	Per Unit
Projected Mortgage	14,250,000	128,378
Appraised Market Value	17,077,680	153,856
Loan to Value Ratio	83%	
Market Rent Differential	248,892	187
Subsidy per Low Income Unit		0

PROPOSED RENT SCHEDULE								
Type	AMI	# Units	Rents from Applicant	Program Max Rents	Gross Rent	Market Rent	Utility Allow.	Total Rent
0BR	40% LHTC	0				\$1,000	0	0
	50% LHTC PBV	0	788	788	788	\$1,000	0	0
	50% LHTC	0	788	788	788	\$1,000	0	0
	60% HOME	0				\$1,000	0	0
	60% LHTC	0	946	946	946	\$1,000	0	0
0	Market	0	\$900	\$900	900	\$1,000	0	0
1BR	40% LHTC	0				\$1,100	0	0
	50% LHTC PBV	7	845	845	845	\$1,100	0	70,980
	50% LHTC	11	845	845	845	\$1,100	0	111,540
	60% HOME	0				\$1,100	0	0
	60% LHTC	0	1014	1014	1,014	\$1,100	0	0
29	Market	11	\$990	\$990	990	\$1,100	0	130,680
2BR	40% LHTC	0				\$1,300	0	0
	50% HOME	0				\$1,300	0	0
	50% LHTC PBV	7	1013	1013	1013	\$1,300	0	85,092
	50% LHTC	19	1013	1013	1,013	\$1,300	0	230,964
	60% LHTC	0	1216	1216	1216	\$1,300	0	0
38	Market	12	\$1,170	\$1,170	1,170	\$1,300	0	168,480
3BR	40% LHTC	0				\$1,600	0	0
	50% LHTC	5	1171	1171	1,171	\$1,600	0	70,260
	50% LHTC PBV	19	1171	1171	1,171	\$1,600	0	266,988
	High HOME	0				\$1,600	0	0
	60% LHTC	3	1,406	1,406	1,406	\$1,600	0	50,616
27	Market	0	\$1,440	\$1,440	1,440	\$1,600	0	0
4BR	50% LHTC	0	1307	1307	1,307	\$1,900	0	0
	50% LHTC PBV	13	1307	1307	1,307	\$1,900	0	203,882
	60% HOME	0				\$1,900	0	0
	60% LHTC	0	1569	1569	1,569	\$1,900	0	0
	Market	0	\$1,615	\$1,615	1,615	\$1,900	0	0
5BR	50% LHTC	0	\$1,442	\$1,442	\$1,442	\$2,200	0	0
	50% LHTC PBV	4	\$1,442	\$1,442	\$1,442	\$2,200	0	69,216
	60% HOME	0				\$2,200	0	0
	60% LHTC	0	\$1,731	\$1,731	\$1,731	\$2,200	0	0
	Market	0						0
Other:								0
Subtotals		111						1,458,708
#PBVs	50		Vacancy Rate	5%				-96,167
			Other Income	PBV-HAP Diff.				464,628
			Other Income	Laundry				11,100
			Other Income	75% TIF				146,138
			Effective Gross Income					1,984,407

AFFORDABLE MORTGAGE CALCULATION		
Effective Gross Income		1,984,407
Annual Operating Expense		867,060
Stabilized NOI		1,117,346
DSC	1.15	145,741
\$ Avail for D/S		971,606
Other DS		768,752
Balance		202,853
Affordable Mortgage	4.50%	3,760,192

BREAK-EVEN ANALYSIS:	RENT SENSITIVITY		OCCUPANCY	
	Total	Annual	Gross Revenues	Annual
Operating Expense	867,060			1,934,436
Debt Service	867,776			
Breakeven Rent	1,393		Breakeven Occupancy	96%

OPERATING EXPENSES		
Expense	Residential Annual	Annual Per Unit
Administrative Expenses:		
Management Fees	109,630	988
Management Charges	109,630	988
Marketing Expenses	500	5
Legal Expenses	4,000	36
Auditing Expenses	7,000	63
Other Administrative Expenses	0	0
Administrative Expenses	230,760	2,079
Operating Expenses:		
Janitorial Payroll	0	0
Janitorial Supplies and Equipment	0	0
Janitorial Contractual Services	35,000	315
Natural Gas Heat & HW	50,000	450
Electricity	55,000	495
Water and Sewer	62,000	559
Garbage and Trash Removal	19,000	171
Vehicle and Equipment Expenses	0	0
Other Operating Expenses	0	0
Operating Expenses	221,000	1,991
Maintenance Expenses:		
Grounds Maintenance Payroll	0	0
Grounds Tools and Supplies	0	0
Grounds Contractual Services	18,000	162
Miscellaneous Ground Maintenance	0	0
Tenant Damage Charges - Grounds	0	0
Building Maintenance Payroll	0	0
Building Tools and Supplies	5,500	50
Building Contractual Services	45,000	405
Building Systems Maintenance	42,000	378
Miscellaneous Building Maintenance	500	5
Tenant Damage Charges - Building	0	0
Maintenance Expenses - Building	111,000	1,000
General Expenses:		
Property Taxes	194,850	1,755
Property and Liability Insurance	25,000	225
Tenant Computer Network Expense	2,500	23
Tenant Service Expenses	32,000	288
General Expenses	254,350	2,291
Replacement Reserve Funding	49,950	450
Commercial Expenses (if applicable)	0	0
Total	867,060	7,811
Operating Cost per unit without Replacement Reserve		7,361
Social Service Multi-Use Space portion of rent	0	

0 check versus OPEX;

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT

	0 Months												
	PLC	12/14/19	0	12	24	36	48	60	72	84	96	108	120
		12/31/19	12/30/20	12/30/21	12/30/22	12/31/23	12/30/24	12/30/25	12/30/26	12/31/27	12/30/28	12/30/29	
Effective Gross Income		0	2,024,085	2,064,577	2,105,868	2,147,986	2,190,846	2,234,784	2,279,460	2,325,049	2,371,650	2,418,981	
Less Operating Expense		0	853,072	919,864	947,460	975,884	1,005,161	1,035,315	1,066,375	1,098,366	1,131,317	1,165,257	
Net Operating Income		0	1,131,023	1,144,712	1,158,408	1,172,102	1,185,785	1,199,449	1,213,085	1,226,683	1,240,233	1,253,724	
Less RLP Repay		0	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	
Less Other Repay		0	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	
Cash Flow		0	143,247	156,937	170,632	184,326	198,009	211,673	225,309	238,907	252,457	265,948	
Cash Flow per Unit		#DIV/0!	1,291	1,414	1,537	1,661	1,784	1,907	2,030	2,152	2,274	2,396	
Debt Coverage Ratio(RLP)		0.00	1.15	1.16	1.17	1.19	1.20	1.21	1.23	1.24	1.26	1.27	
Other AHP Loan	0	0	0	0	0	0	0	0	0	0	0	0	
Tax Exempt Bond Loan	14,250,000	#NUM!	14,119,835	13,963,690	13,841,290	13,692,349	13,536,585	13,373,624	13,203,198	13,024,943	12,838,499	12,643,490	
Principal Balance(RLP)	14,250,000	#NUM!	14,119,835	13,963,690	13,841,290	13,692,349	13,536,585	13,373,624	13,203,198	13,024,943	12,838,499	12,643,490	
Operating Reserve Balance	930,000	976,500	1,025,325	1,076,591	1,130,421	1,186,942	1,246,289	1,308,603	1,374,034	1,442,735	1,514,872	1,590,616	

Total Cash Flow
Projected over 12 Yrs
2,619,528

	Yr 15												
		12/30/30	12/31/31	12/30/32	12/30/33	12/30/34	12/31/35	12/30/36	12/30/37	12/30/38	12/31/39	12/30/40	
Effective Gross Income		2,487,360	2,516,708	2,567,042	2,618,382	2,670,750	2,724,165	2,778,648	2,834,221	2,890,906	2,948,724	3,007,698	
Less Operating Expense		1,200,214	1,236,221	1,273,307	1,311,507	1,350,852	1,391,377	1,433,119	1,476,112	1,520,396	1,566,007	1,612,988	
Net Operating Income		1,287,146	1,280,487	1,293,734	1,306,876	1,319,898	1,332,788	1,345,530	1,358,109	1,370,510	1,382,717	1,394,711	
Less RLP Repay	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	
Less Other Repay	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	
Cash Flow		279,370	292,711	305,959	319,100	332,123	345,012	357,754	370,334	382,735	394,941	406,935	
Cash Flow per Unit		2,517	2,637	2,756	2,875	2,992	3,108	3,223	3,336	3,448	3,558	3,666	
Debt Coverage Ratio(RLP)		1.28	1.30	1.31	1.32	1.34	1.35	1.36	1.37	1.39	1.40	1.41	
Other AHP Loan	0	0	0	0	0	0	0	0	0	0	0	0	
Tax Exempt Bond Loan	12,643,480	12,439,521	12,226,183	12,003,044	11,769,654	11,525,542	11,270,215	11,003,159	10,723,835	10,431,678	10,126,099	9,806,483	
Principal Balance(RLP)	12,643,480	12,439,521	12,226,183	12,003,044	11,769,654	11,525,542	11,270,215	11,003,159	10,723,835	10,431,678	10,126,099	9,806,483	
Operating Reserve Balance	1,590,616	1,670,146	1,753,654	1,841,336	1,933,403	2,030,073	2,131,577	2,238,156	2,350,064	2,467,567	2,590,945	2,720,492	

	12/30/41	12/30/42	12/31/43	12/30/44	12/30/45	12/30/46	12/31/47	12/30/48	12/29/49	
Effective Gross Income	3,067,852	3,129,209	3,191,794	3,255,630	3,320,742	3,387,157	3,454,900	3,523,998	3,594,478	
Less Operating Expense	1,661,377	1,711,219	1,762,555	1,815,432	1,869,895	1,925,992	1,983,771	2,043,284	2,104,583	
Net Operating Income	1,406,475	1,417,991	1,429,239	1,440,198	1,450,847	1,461,165	1,471,129	1,480,714	1,489,895	
Less RLP Repay	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	768,752	
Less Other Repay	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	219,023	
Cash Flow	418,700	430,215	441,463	452,422	463,072	473,390	483,363	492,938	502,119	
Cash Flow per Unit	3,772	3,676	3,977	4,076	4,172	4,265	4,355	4,441	4,524	
Debt Coverage Ratio(RLP)	1.42	1.44	1.45	1.46	1.47	1.48	1.49	1.50	1.51	
Other AHP Loan	0	0	0	0	0	0	0	0	0	
Tax Exempt Bond Loan	9,806,483	9,472,183	9,122,526	8,758,805	8,374,283	7,974,188	7,555,713	7,118,014	6,660,206	6,181,367
Principal Balance(RLP)	9,806,483	9,472,183	9,122,526	8,758,805	8,374,283	7,974,188	7,555,713	7,118,014	6,660,206	6,181,367
Operating Reserve Balance	2,720,492	2,856,517	2,999,343	3,149,310	3,306,776	3,472,114	3,645,720	3,828,006	4,019,406	4,220,377



To: Mary Davis, City of Portland
From: Anne Boynton, Urban Ventures, Inc.
Re: Front Street Housing Redevelopment LP
 Developed by Portland Housing Development Corporation (PHDC)
Date: June 3, 2018

Executive Summary

The Front Street Redevelopment will replace 50 units of deteriorated “temporary housing” built in 1971 which is suffering from structural problems with 111 units of new rental housing and a 10 unit homeownership development (which is not part of this request). Due a range of complications including underlying soil contamination and soil structure issues throughout the 4 acre site, size of units (includes 17 units with 4 or 5 bedrooms), zoning constraints limiting project height to 3 stories, and commitments to the neighborhood on design issues, this is quite an expensive development, with a total development cost of \$30 million (which **excludes** all demolition and much of the site work.) The per unit development cost is \$271,032. PHDC is requesting a HOME loan of \$841,540 and is anticipating a Housing Trust Fund request of \$589,728, for a total capital investment from the City of Portland of \$1,431,268.

In order to make use of the 4% LIHTCs and tax exempt bond financing, PHDC is giving up their current property tax exempt ownership structure and is requesting a 75% TIF with an estimated value of \$146,148 in year 1. The TIF will return an estimated \$48,712 to the City in year 1, raising over time, from this property which would not otherwise be on the tax rolls.

Sources and Uses

Sources:		Uses:	
1 st Mortgage	\$14,045,415	Site Improvements	\$1,326,000
AHP 2 nd lien	\$3,400,000	Hard Construction	\$19,651,902
AHP subsidy	\$500,000	Hard Cost Contingency	\$1,048,895
LIHTC Equity	\$8,307,892	Soft & Misc. Costs	\$1,839,918
Deferred Dev Fee	\$2,400,000	Interest & Financing Costs	\$1,019,750
HOME – Portland	\$841,540	Acquisition	0
Housing Trust Fund – Portland	<u>\$589,728</u>	Reserves	\$1,298,111
		Developer Fee	<u>\$3,900,000</u>
Sources of Funds	\$30,084,575	Uses of Funds	\$30,084,576

For analysis of “Uses,” see Development Budget.

Development Budget

The Total Development Cost for this project is very high, particularly considering there is no acquisition cost and the units will ultimately be modest in scale and amenities (for instance, the 5 bedroom units have only 1.5 baths and a total of 1,400 square feet). Of the six projects receiving HOME commitments in the past 2 years, this project costs 32% more per unit than the next most expensive project (Boyd



Street). Unfortunately, most of this additional cost is an outgrowth of the unique site conditions and neighborhood considerations – either directly in construction costs, architectural & engineering expense, and in construction period interest. Short of abandoning the site or reconfiguring for a narrower, taller structure, there is not a lot of room to reduce costs.

Construction Costs:

Over \$1.9 million of the site preparation costs will be borne by the PHA prior to transferring the site to the Front Street LP, including hazardous material removal, demolition of existing structures, removal of contaminated soils, and relocation of existing residents. None of these expenses are included in the project budget. Even so, there is still \$1,326,000 in ADDITIONAL site improvements to be borne by the project to address inadequate soil structures and the extensive soil remediation. Construction techniques to secure the foundation on the old landfill will be more expensive than typical.

The existing development is all larger units and the new development will include 44 units of 3 bedrooms or larger. These larger units also push construction costs up – to the largest units are only 1400 sq ft with 1.5 baths, so they are not over investing in amenities. Construction costs are based on an overall conceptual design estimate by Wright-Ryan, so there is not currently much detail to evaluate in terms of value engineering opportunities.

Soft Costs:

Soft costs are generally in line with other Portland area developments except as related to the extraordinary site conditions which drives up architectural, engineering, and the high total development cost which drives up construction loan interest. Overall high costs also push up soft costs which are calculated on a percentage basis: operating reserve, replacement reserve, and developer fee. Developer fee budgeted at \$3.9 million and is calculated at the maximum allowable by Maine Housing. This works out to 15.64% of total development cost excluding reserves and developers fee. The developer commits to lend 62% of developer fee (\$2.4 million) back to the project for a cash out developer fee of \$1.5 million.

Contingency:

Hard cost contingency is at 5% which is QUITE thin considering the very preliminary stage of development. The costs are estimated based on an October 2018 start date which is not realistic, so there will be construction inflation which needs to be factored in. Also soil conditions can be very difficult to estimate. We should expect these costs to rise over time.

Acquisition:

Acquisition price is ZERO.

Operating Budget & 20 Year Cashflow Projection

Project Income:

The PHA is providing 50 project based vouchers to insure that every returning resident has an affordable unit. There will be 23 market rate 1 and 2 bedroom units, with rents of \$990 & \$1,170 respectively. PHDC states these are discounted 10% vs. true market rate. There will be 38 units affordable at 50% or



60% of AMI with rents ranging from \$880 for a 1 bedroom to \$1,406 for a 3 bedroom. Vacancy is budgeted at 5%.

Operating Expense

Total operating cost per unit is \$7,730, towards the upper end of affordable housing operating costs. However this does not account for the TIF. A property with an equivalent real estate tax subsidy in the form of a PILOT would show operating expenses of \$6,413, exactly in range for affordable housing. Administration is slightly high at \$2,101 per unit. Utilities are currently thin at \$1,234 per unit – given large units and large families, this is inadequate. PHDC has conducted a utility review of comparable units and agrees to increase the utility line item to \$1,527 per unit. Given energy efficient construction and a range of unit sizes, this should be sufficient. Annual contribution to Reserves for Replacement is \$450/unit, which should be sufficient even given the larger units and anticipation of some wear and tear from larger families.

20 Year Cashflow & Debt Service Coverage Ratio (DSCR)

The projected year 1 Debt Service Coverage Ratio (DSCR) is an adequate 1.16. With industry standard inflators of 2% for income and 3% for expense, the projections show the DSCR gradually increasing to 1.43 in year 20.

Since there is a hefty developer fee loan -- \$2.4 mill – which the investors will insist is repaid from cashflow prior to the end of the 15 year tax credit compliance period, there is not a lot of leeway in projected cashflow to retire the City investment in the early years. If the cashflow is divided 75% to the developer fee loan, projections show the developer fee loan fully retired in year 14. Ten percent of cashflow is the minimum which should be retained by the project. If 15% of cashflow goes the City, that would be a repayment of about \$24,000 in the first year, rising to \$50,000 by year 14 when the developer fee loan is fully repaid. The percentage of cashflow paid to the City should be structured to increase at the point the developer fee loan is repaid. If the cashflow share paid to the City rises to 50% when the developer fee is repaid, the full City investment is retired in year 19.

Developer Financials

Portland Housing Authority has submitted audits for FY2014, 2015, 2016 and 2017. Their fiscal year ends 6/30. Their audit as of 6/30/17 showed strong and improving financial health, with current assets of \$13.7 million and current liabilities of \$1.7 million, resulting in a current ratio of 8. The Quick Ratio (cash and cash equivalents divided by current liabilities) is a remarkably healthy 4.9. In 2017, they increased their Net Position by \$1,104,212, as growth in revenues exceeded growth in expenses. This brought their total Net Worth to over \$20 million. Overall, this organization has very strong financial health. This developer has the financial capacity to intervene in a development facing unexpected setbacks and or cost over-runs to keep the development process moving forward. Their financial strength as an organization mitigates the risk of the thin hard and soft cost contingency.

Recommendations

At this time, I recommend a HOME loan in the amount of \$480,174, zero percent interest, payment from cashflow with cashflow waterfall acceptable to City, with the following conditions prior to loan closing:



1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.
2. Commitment of all sources on terms and conditions acceptable to City of Portland, including acceptable cashflow waterfall, and cashflow projection which shows retirement of developer fee loan and City of Portland loans;
3. Revised operating budget reflective of higher utility costs and cashflow projection satisfactory to City.

Development Budget with Permanent Sources

Date 5/15/2018
 Project Name Front Street
 Project Address _____
 Developer/Sponsor _____

Total Units 111
 Total Square Feet 60,000 incorrect \$1,431,268

	Total	Per Unit	Per Sq Ft
Sources of Funds			
Permanent Financing - 1st Lien	\$14,045,415	\$126,535	\$234
Permanent Financing - AHP Loan \$3.4 mill Subsidy \$500k	\$3,900,000	\$35,135	\$65
Equity (LIHTC/tenant contributions)	\$8,307,892	\$74,846	\$138
Deferred development fee	\$2,400,000	\$21,622	\$40
HOME -- City of Portland	\$841,540	\$7,581	\$14
Housing Trust Fund -- City of Portland	\$589,728	\$5,313	\$10
Total Sources of Funds	\$30,084,575	\$271,032	\$501

Uses of Funds

Hard Costs			
Site Improvements	\$1,326,000	\$11,946	\$22
Rehabilitation		\$0	\$0
New Construction	\$18,421,902	\$165,963	\$307
Contractor's Profit, Overhead, & Gen. Requirements	6.0% \$1,180,000	\$10,631	\$20
Hazardous Materials abatement (if contracted separately)		\$0	\$0
Demolition Cost (if contracted separately)		\$0	\$0
Bond Premium	\$50,000	\$450	\$1
Other		\$0	\$0
Hard Cost Contingency (% of hard costs)	5.0% \$1,048,895	\$9,450	\$17
Total Hard Costs	\$22,026,797	\$198,440	\$367

Soft Costs			
Building Permit & Fees	\$322,613	\$2,906	\$5
Survey & Engineering	\$103,900	\$936	\$2
Design & Permitting (% of const exp)	5.0% \$945,000	\$8,514	\$16
Borrower Legal (all closings, excluding syndication legal)	\$73,000	\$658	\$1
Title & Recording	\$15,000	\$135	\$0
Accounting	\$8,000	\$72	\$0
Construction Period Taxes	\$2,000	\$18	\$0
Construction Period Insurance	\$25,000	\$225	\$0
Other: FF&E, Security		\$0	\$0
Other		\$0	\$0
Total Soft Costs	\$1,494,513	\$13,464	\$25

Financing Costs			
Construction Loan Origination Fees	\$8,500	\$77	\$0
Construction Period Interest	\$700,000	\$6,306	\$12
Lender Inspection Fees	\$28,750	\$259	\$0
Letter of Credit Fee		\$0	\$0

Permanent Loan Fee	\$282,500	\$2,545	\$5
Construction Lender Legal		\$0	\$0
Other	\$0	\$0	\$0
Total Financing Costs	\$1,019,750	\$9,187	\$17

Miscellaneous			
Market Survey	\$5,200	\$47	\$0
Appraisal	\$6,000	\$54	\$0
Environmental Study	\$13,500	\$122	\$0
LIHTC Fees -- prepaid monitoring	\$142,625	\$1,285	\$2
Other: Commissioning	\$47,080	\$424	\$1
Relocation Costs		\$0	\$0
Other -- FF&E	\$89,000	\$802	\$1
Soft Cost Contingency (% of soft costs excl Dev Fee)	0.99%	\$42,000	\$378
Total Miscellaneous:	\$345,405	\$3,112	\$6

Acquisition			
Acquisition: Buildings	\$0	\$0	\$0
Acquisition: Land	\$0	\$0	\$0
Acquisition: Legal	\$0	\$0	\$0
Other	\$0	\$0	\$0
Total Acquisition	\$0	\$0	\$0

Reserves and Developer Fee			
Operating Deficit Escrow	\$925,000	\$8,333	\$15
Prefunded Replacement Reserve	\$196,519	\$1,770	\$3
Taxes & Insurance Escrow	\$126,592	\$1,140	\$2
Developer Overhead	\$2,000,000	\$18,018	\$33
Developer Profit	\$1,900,000	\$17,117	\$32
Rent Up Reserve & Marketing	\$50,000	\$450	\$1
Other	\$0	\$0	\$0
Total Reserves and Developer Fee	\$5,198,111	\$46,830	\$87

Total Uses of Funds	\$30,084,576	\$271,032	\$501
----------------------------	---------------------	------------------	--------------

Developer Fee Analysis: Total Fees: \$3,900,000
Percent of TDC: 15.64% (excluding reserves & developer fee)

Project Operating Pro Forma

Date May 15, 2018
 Project Name Front Street
 Project Address _____
 Developer/Sponsor _____

Rental Income

Unit Type	Number of Units	Per Unit Sq Ft	Total Sq Ft	Restriction on % Median Inc.	Per Unit Monthly Gross Rent	Utility Deductions	Rent Subsidy	Per Unit Monthly Net Rent	Per Unit Net Rent Per Sq Ft	Total Monthly Net Income	Total Annual Net Rent
1 BR	7		PBV	50%	\$845			\$845	#DIV/0!	\$5,915	\$70,980
1 BR	11		0	50%	\$845			\$845	#DIV/0!	\$9,295	\$111,540
1 BR	11		0	market	\$990			\$990	#DIV/0!	\$10,890	\$130,680
2 BR	7		PBV	50%	\$1,013			\$1,013	#DIV/0!	\$7,091	\$85,092
2 BR	19		0	50%	\$1,013			\$1,013	#DIV/0!	\$19,247	\$230,964
2 BR	12		0	market	\$1,170			\$1,170	#DIV/0!	\$14,040	\$168,480
3 BR	5		0	50%	\$1,171			\$1,171	#DIV/0!	\$5,855	\$70,260
3 BR	19		PBV	50%	\$1,171			\$1,171	#DIV/0!	\$22,249	\$266,988
3 BR	3		0	60%	\$1,406			\$1,406	#DIV/0!	\$4,218	\$50,616
4 BR	13		PBV	50%	\$1,307			\$1,307	#DIV/0!	\$16,991	\$203,892
Other	4		PBV	50%	\$1,442			\$1,442	#DIV/0!	\$5,768	\$69,216
Other			0	60%				\$0	#DIV/0!	\$0	\$0
Total:	111		0							\$121,559	\$1,458,708

6.59% budgeted vacancy per pro forma

Operating Expenses

Rent Increase Rate	2.0%
Expenses Increase Rate	3.0%

\$48,712 Note: Year 1 is the first full year of stabilized operations

	Year 1	Year 1/Unit	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Income											
Sch. Gross Income - Residential	\$1,458,708	\$13,142	\$1,487,882	\$1,517,640	\$1,547,993	\$1,578,952	\$1,610,532	\$1,642,742	\$1,675,597	\$1,709,109	\$1,743,291
Vacancy Loss 5.0%	(\$72,935)	(\$657)	(\$74,394)	(\$75,882)	(\$77,400)	(\$78,948)	(\$80,527)	(\$82,137)	(\$83,780)	(\$85,455)	(\$87,165)
Other income: PBV/HAP Diff.	\$464,628	\$4,186	\$473,921	\$483,399	\$493,067	\$502,928	\$512,987	\$523,247	\$533,712	\$544,386	\$555,273
Other income (laundry)	\$11,100	\$100	\$11,322	\$11,548	\$11,779	\$12,015	\$12,255	\$12,500	\$12,750	\$13,005	\$13,266
TIF - 75%	\$146,138	\$1,317	\$149,061	\$152,042	\$155,083	\$158,184	\$161,348	\$164,575	\$167,867	\$171,224	\$174,648
Effective Gross Income	\$2,007,639	\$18,087	\$2,047,791	\$2,088,747	\$2,130,522	\$2,173,133	\$2,216,595	\$2,260,927	\$2,306,146	\$2,352,269	\$2,399,314
Administrative											
Management Fee	\$109,630	\$988	\$112,919	\$116,306	\$119,796	\$123,390	\$127,091	\$130,904	\$134,831	\$138,876	\$143,042
Management Charges	\$109,630	\$988	\$112,919	\$116,306	\$119,796	\$123,390	\$127,091	\$130,904	\$134,831	\$138,876	\$143,042
Marketing Expense	\$500	\$5	\$515	\$530	\$546	\$563	\$580	\$597	\$615	\$633	\$652
Legal	\$4,000	\$36	\$4,120	\$4,244	\$4,371	\$4,502	\$4,637	\$4,776	\$4,919	\$5,067	\$5,219
Audit & Accounting	\$7,000	\$63	\$7,210	\$7,426	\$7,649	\$7,879	\$8,115	\$8,358	\$8,609	\$8,867	\$9,133
Tenant Computer network	\$2,500	\$23	\$2,575	\$2,652	\$2,732	\$2,814	\$2,898	\$2,985	\$3,075	\$3,167	\$3,262
Total Administrative	\$233,260	\$2,101	\$240,258	\$247,466	\$254,890	\$262,536	\$270,412	\$278,525	\$286,880	\$295,487	\$304,351
Supportive Services											
	\$32,000	\$288	\$32,960	\$33,949	\$34,967	\$36,016	\$37,097	\$38,210	\$39,356	\$40,537	\$41,753
Utilities											
Fuel Oil		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Natural Gas	\$45,000	\$405	\$46,350	\$47,741	\$49,173	\$50,648	\$52,167	\$53,732	\$55,344	\$57,005	\$58,715
Electric	\$50,000	\$450	\$51,500	\$53,045	\$54,636	\$56,275	\$57,964	\$59,703	\$61,494	\$63,339	\$65,239
Water / Sewer	\$42,000	\$378	\$43,260	\$44,558	\$45,895	\$47,271	\$48,690	\$50,150	\$51,655	\$53,204	\$54,800
Other		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Utilities	\$137,000	\$1,234	\$141,110	\$145,343	\$149,704	\$154,195	\$158,821	\$163,585	\$168,493	\$173,548	\$178,754

Operating Expenses

Rent Increase Rate	2.0%
Expenses Increase Rate	3.0%

	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	
Income											
Sch. Gross Income - Residential	\$1,778,157	\$1,813,720	\$1,849,994	\$1,886,994	\$1,924,734	\$1,963,229	\$2,002,493	\$2,042,543	\$2,083,394	\$2,125,062	
Vacancy Loss	5.0%	(\$88,908)	(\$90,686)	(\$92,500)	(\$94,350)	(\$96,237)	(\$98,161)	(\$100,125)	(\$102,127)	(\$104,170)	(\$106,253)
Other income (laundry)	\$566,379	\$577,707	\$589,261	\$601,046	\$613,067	\$625,328	\$637,835	\$650,591	\$663,603	\$676,875	
Other income (laundry)	\$13,531	\$13,801	\$14,077	\$14,359	\$14,646	\$14,939	\$15,238	\$15,543	\$15,854	\$16,171	
TIF -- 75%	\$178,141	\$181,704	\$185,338	\$189,045	\$192,826	\$196,683	\$200,616	\$204,628	\$208,721	\$212,895	
Effective Gross Income	\$2,447,300	\$2,496,246	\$2,546,171	\$2,597,095	\$2,649,036	\$2,702,017	\$2,756,058	\$2,811,179	\$2,867,402	\$2,924,750	
Administrative											
Advertising	\$147,334	\$151,754	\$156,306	\$160,995	\$165,825	\$170,800	\$175,924	\$181,202	\$186,638	\$192,237	
Office Payroll & Benefits	\$147,334	\$151,754	\$156,306	\$160,995	\$165,825	\$170,800	\$175,924	\$181,202	\$186,638	\$192,237	
Office Supplies, Phone, Misc.	\$672	\$692	\$713	\$734	\$756	\$779	\$802	\$826	\$851	\$877	
Mngr or Super Rent Free Unit	\$5,376	\$5,537	\$5,703	\$5,874	\$6,050	\$6,232	\$6,419	\$6,611	\$6,810	\$7,014	
Audit & Accounting	\$9,407	\$9,690	\$9,980	\$10,280	\$10,588	\$10,906	\$11,233	\$11,570	\$11,917	\$12,275	
Admin Other	\$3,360	\$3,461	\$3,564	\$3,671	\$3,781	\$3,895	\$4,012	\$4,132	\$4,256	\$4,384	
Total Administrative	\$313,482	\$322,886	\$332,573	\$342,550	\$352,827	\$363,411	\$374,314	\$385,543	\$397,110	\$409,023	
Supportive Services											
	\$43,005	\$44,295	\$45,624	\$46,993	\$48,403	\$49,855	\$51,351	\$52,891	\$54,478	\$56,112	
Utilities											
Fuel Oil	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Electric	\$60,476	\$62,291	\$64,159	\$66,084	\$68,067	\$70,109	\$72,212	\$74,378	\$76,609	\$78,908	
Gas	\$67,196	\$69,212	\$71,288	\$73,427	\$75,629	\$77,898	\$80,235	\$82,642	\$85,122	\$87,675	
Water / Sewer	\$56,444	\$58,138	\$59,882	\$61,678	\$63,529	\$65,435	\$67,398	\$69,420	\$71,502	\$73,647	
Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Utilities	\$184,117	\$189,640	\$195,329	\$201,189	\$207,225	\$213,442	\$219,845	\$226,440	\$233,233	\$240,230	

Maintenance	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	
Janitorial	\$24,190	\$24,916	\$25,664	\$26,434	\$27,227	\$28,043	\$28,885	\$29,751	\$30,644	\$31,563	
Exterminating	\$7,392	\$7,613	\$7,842	\$8,077	\$8,319	\$8,569	\$8,826	\$9,091	\$9,363	\$9,644	
Trash Removal	\$53,767	\$55,369	\$57,030	\$58,741	\$60,504	\$62,319	\$64,188	\$66,114	\$68,097	\$70,140	
Security	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Grounds	\$47,037	\$48,448	\$49,902	\$51,399	\$52,941	\$54,529	\$56,165	\$57,850	\$59,585	\$61,373	
Maintenance	\$56,444	\$58,138	\$59,882	\$61,678	\$63,529	\$65,435	\$67,398	\$69,420	\$71,502	\$73,647	
Elevator, HVAC, pool contracts	\$60,476	\$62,291	\$64,159	\$66,084	\$68,067	\$70,109	\$72,212	\$74,378	\$76,609	\$78,908	
Other	\$672	\$692	\$713	\$734	\$756	\$779	\$802	\$826	\$851	\$877	
Total Maintenance	\$249,968	\$257,467	\$265,192	\$273,147	\$281,342	\$289,782	\$298,475	\$307,430	\$316,653	\$326,152	
Taxes & Insurance											
Real Estate Taxes or PILOT	\$261,862	\$269,718	\$277,810	\$286,144	\$294,728	\$303,570	\$312,677	\$322,057	\$331,719	\$341,671	
Payroll Taxes / Fidelity Bond / Workers Comp / Health Ins.	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Insurance (property, liability)	\$33,598	\$34,606	\$35,644	\$36,713	\$37,815	\$38,949	\$40,118	\$41,321	\$42,561	\$43,838	
Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Taxes & Insurance	\$295,460	\$304,324	\$313,454	\$322,857	\$332,543	\$342,519	\$352,795	\$363,379	\$374,280	\$385,508	
Replacement Reserves											
Replacement Reserves	\$67,129	\$69,142	\$71,217	\$73,353	\$75,554	\$77,820	\$80,155	\$82,560	\$85,037	\$87,588	
Operating Reserves											
Operating Reserves	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Expenses											
Total Expenses	\$1,153,161	\$1,187,756	\$1,223,388	\$1,260,090	\$1,297,893	\$1,336,830	\$1,376,934	\$1,418,242	\$1,460,790	\$1,504,613	
Net Operating Income											
Net Operating Income	\$1,294,139	\$1,308,491	\$1,322,783	\$1,337,005	\$1,351,144	\$1,365,188	\$1,379,123	\$1,392,936	\$1,406,613	\$1,420,137	
Debt Service											
First Lien	\$772,498	\$772,498	\$772,498	\$772,498	\$772,498	\$772,498	\$772,498	\$772,498	\$772,498	\$772,498	
Second Lien	\$219,023	\$219,023	\$219,023	\$219,023	\$219,023	\$219,023	\$219,023	\$219,023	\$219,023	\$219,023	
Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Debt Service (Must Pay)	\$991,521	\$991,521	\$991,521	\$991,521	\$991,521	\$991,521	\$991,521	\$991,521	\$991,521	\$991,521	
Cash Flow (after Must Pay Debt)											
Cash Flow (after Must Pay Debt)	\$302,618	\$316,970	\$331,262	\$345,484	\$359,623	\$373,667	\$387,602	\$401,415	\$415,092	\$428,616	
Debt Service Coverage Ratio											
Debt Service Coverage Ratio	1.31	1.32	1.33	1.35	1.36	1.38	1.39	1.40	1.42	1.43	
Cash Flow Debt Payments											
DHCD	15.0%	\$45,393	\$47,545	\$49,689	\$51,823	\$53,943	\$56,050	\$58,140	\$60,212	\$62,264	\$64,292
Developer Fee Loan	75.0%	\$226,964	\$237,727	\$248,446	\$259,113	\$269,717	\$280,250	\$290,702	\$301,061	\$311,319	\$321,462
Cash Flow Retained by Project											
Retained Cash Flow %	2%	\$30,262	\$31,697	\$33,126	\$34,548	\$35,962	\$37,367	\$38,760	\$40,142	\$41,509	\$42,862

Order 54-18/17
Tab 42 8-13-18

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**AMENDMENT TO PORTLAND CITY CODE
RE: HOUSEKEEPING AMENDMENTS
IN CHAPTERS 2 AND 30**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

2. *That Section 2-406 is hereby amended to read as follows:*

Sec. 2406. Emergency proclamation.

(a) The City Manager shall have the power and authority, after consultation with the Mayor, or City Council members in the Mayor's absence, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the city. If the City Manager is temporarily absent from the City or otherwise unavailable, the ~~Deputy Assistant~~ City Manager may issue the proclamation that an emergency exists. If neither the City Manager nor the ~~Deputy Assistant~~ City Manager are available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Fire Chief; if unavailable, the Chief of Police; if unavailable, the Director of Public Works. A copy of such proclamation shall be filed within twentyfour (24) hours in the office of the City Clerk.

2. *That Section 30-35.5 is hereby amended to read as follows:*

Sec. 3035.5. Transfer.

Notwithstanding any other provision of this article or chapter 15, and in lieu of any other fee, a taxicab or livery business license may be transferred to another vehicle for the unexpired term thereof upon payment of a fee of ~~twentyfivethirty-five~~ dollars (\$~~2535~~.00), and upon relinquishment to the director of the decal previously issued to the corresponding taxicab or livery vehicle, provided that the license application filed pursuant to sections 155 and 3032(a) shall be supplemented as required by section 1513.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Nancy English, Danielle West-Chuhta,
Deivy Periana,

FROM: Nancy English, Paralegal

DATE: July 26, 2018

SUBJECT: Amendment to Portland City Code Re: Housekeeping Amendments in
Chapters 2 and 30

SPONSOR: Danielle West-Chuhta

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading_ August 13, 2018 (Second meeting) Final Action__ September 5, 2018

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

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

I. ONE SENTENCE SUMMARY

For the sake of simplicity, the Permitting and Inspections Department asks that the transfer of a taxi license cost the same amount as the issuance and administrative fee charged for renewal business license applications, which this amendment takes care of, and the City Manager requested that the term Deputy City Manager be replaced with Assistant City Manager.

II. AGENDA DESCRIPTION (This is all that will be included of the agenda.)

This amendment corrects inconsistencies or changed terms in the City Code. While reviewing the City Code business licensing fees this year, a transfer fee for taxi licenses was found that should be increased to the same amount as the issuance and administrative fee charged for renewal business license applications, which is \$35.00. In addition, the term Deputy City Manager has been changed to Assistant City Manager, and another amendment updates the City Code to reflect that.

III. BACKGROUND

The City Code is constantly undergoing revision as the City changes, and on occasion parts of it are inadvertently made outdated by these changes. Changes in titles and business licensing fees have been made, and these amendments simply those updates.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Clarity and accuracy.

V. FINANCIAL IMPACT

A small increase in revenue will result.

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

VII. RECOMMENDATION

The amendment is approved as to form by Corporation Counsel.

VIII. LIST ATTACHMENTS

Amendment to Portland City Code Re: Housekeeping Amendments in Chapters 2 and 30

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by: Nancy English

Date: 7/26/2018

Bean/agendarequestmemo/rev 7/17/18