

**AGENDA**  
**REGULAR CITY COUNCIL**  
**MEETING**  
**OCTOBER 1, 2018**

1. City Council Meeting Agenda

Documents:

[CITY COUNCIL MEETING AGENDA 2018-10-01.PDF](#)

2. City Council Meeting Agenda And Packet

Documents:

[CITY COUNCIL MEETING AGENDA AND PACKET 2018-10-01.PDF](#)

3. Amendment: Tab 7 - Order 69-18/19 \*10-1-18 REVISION 3\*

Documents:

[AMENDMENT TAB 7 - ORDER 69 18-19 10.1.2018 REVISION 3.PDF](#)

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

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

**AGENDA**  
**REGULAR CITY COUNCIL MEETING**  
**OCTOBER 1, 2018**

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

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

**ANNOUNCEMENTS:**

**RECOGNITIONS:**

Arts in the Chamber, Palaver Strings

**APPROVAL OF MINUTES OF PREVIOUS MEETING:**

(Tab 1) September 17, 2018 Draft Regular City Council Meeting Minutes

**PROCLAMATIONS:**

**APPOINTMENTS:**

**Order 70-18/19**      **Order Appointing Members to Various Boards and Committees –**  
**(Tab 2)**              **Sponsored by the Nominating Committee, Councilor Pious Ali, Chair.**

The Nominating Committee is making the following recommendations to the Various Boards and Committees.

<b>Name</b>	<b>Board and Committee</b>	<b>Expiration</b>
Bert Jongerden	Harbor Commission	12/31/2021
Daniel Haley	Harbor Commission	12/31/2021
Thomas Valteau	Fish Exchange C	10/31/2020
Nick Alfiero	Fish Exchange B	10/31/2020
Avis Leavitt	Fish Exchange A	10/31/2020
Eric Larsson	Zoning Board of Appeals	12/31/2021
Kathie Jacks	Board of Assessment Review	09/30/2020
Julia Tate	Historic Preservation Board	11/30/2021
Timothy Agnew	Portland Development Corporation	09/30/2021
Stephen Lovejoy	Portland Development Corporation	09/30/2021

Blaine Grimes	Portland Development Corporation	09/30/2021
James Dowd	Portland Development Corporation	09/30/2021
Laura Reading	Portland Development Corporation	09/30/2021
Jeffery Hicklin	Portland Development Corporation	09/30/2020
Samuel Martin	CDBG	09/30/2021

Five affirmative votes are required for passage after public comment.

**Order 71-18/19  
(Tab 3)**

**Order Appointing Keith Gautreau Chief of the Fire Department – Sponsored by Jon P. Jennings, City Manager.**

This order appoints Keith Gautreau to the position of Fire Chief for the City of Portland’s Fire Department at the annual salary rate of \$122,791.50.

This order must be read on two separate days. This is its first reading. Staff is requesting that the second reading be waived, and this item be passed as an emergency in order to make it effective immediately. Seven affirmative votes are required to waive the second reading and also for passage as an emergency.

**CONSENT ITEMS:**

**Order 72-18/19  
(Tab 4)**

**Order Setting Time for Opening of Polls on November 6, 2018 Re: State and Local Elections - Sponsored by Katherine L. Jones, City Clerk.**

Pursuant to 21-A M.R.S. §626, the hour of poll opening must be set by the municipal officers. This is done for every election. The polls open at 7:00 a.m. and close at 8:00 p.m.

Five affirmative votes are required for passage after public comment.

**LICENSES:**

**Order 73-18/19  
(Tab 5)**

**Order Granting Municipal Officers’ Approval of Atwater Holdings, LLC dba Sagamore Hill Lounge for a Class A Lounge with Outdoor Dining on Public Property at 150 Park Street. – Sponsored by Michael Russell, Director of Permitting and Inspections.**

Application was filed on 9/5/2018. New City and State applications. This is a change of ownership in an existing business.

Five affirmative votes are required for passage after public comment.

**Order 74-18/19  
(Tab 6)**

**Order Granting Municipal Officers’ Approval of Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance at 375 Forest Avenue – Sponsored by Michael Russell, Director of Planning and Inspections.**

Application was filed on 9/6/2018. New City and State applications. Location was formerly Sun Tiki Tanning Salon.

Five affirmative votes are required for passage after public comment.

**BUDGET ITEMS:**

**COMMUNICATIONS:**

**RESOLUTIONS:**

**UNFINISHED BUSINESS:**

**Order 69-18/19 (Tab 7) Amendment to the Portland City Code Chapter 17 Re: Moratorium on Medical Marijuana Retail Stores, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facilities - Sponsored by Jon P. Jennings, City Manager.**

This agenda item proposes a temporary moratorium on new marijuana caregiver retail stores, manufacturing facilities, and testing facilities to give the City time to implement zoning, licensing, and other regulatory ordinances to minimize any potential adverse impacts from their operation in the City. This moratorium will not impact legally existing caregiver operations in the City.

This item must be read on two separate days. It was given a first reading on September 5, 2018. At the September 17, 2018 Council meeting this item was postponed to this meeting. Staff is requesting that this item be passed as an emergency in order to protect the public safety and welfare of the City of Portland. Seven affirmative votes are required for passage.

**ORDERS:**

**Order 75-18/19 (Tab 8) Order Approving a Real Estate Option Agreement with Capricorn Products, LLC for the Sale of Lot 1 at Portland Technology Park – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.**

The Economic Development Committee met on September 18, 2018 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Approval of this order would move forward the sale of Lot 1, with 3.47 acres, located in the Portland Technology Park, for \$420,000 to Capricorn Products, LLC to support its location and retention in Portland. Company headquarters and laboratories are now located at 12 Rice Street, Portland.

At present, Patron’s Oxford Insurance Company is the first tenant in the Portland Technology Park. Three additional lots, including Lot 1, are served by public infrastructure and all utilities and are available for sale.

Five affirmative votes are required for passage after public comment.

**Order 76-18/19  
(Tab 9)**

**Order Authorizing the Assignment of a Portion of the McCauley Place Tax Increment Financing District Credit Enhancement Agreement to DC Baxter Woods LLC, DC Baxter Woods II LLC, and DC Baxter Woods III LLC - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.**

The Economic Development Committee met on September 18, 2018 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Changes in corporate entities are taking place to support the redevelopment of the Motherhouse Project and surrounding property located in the McCauley Place TIF District. This necessitates City Council approval to assign a portion of the McCauley Place TIF Credit Enhancement Agreement (CEA) which is permitted under the existing City Council approved CEA per Section 7.3.

The redevelopment project includes 88 total (66 with affordable restrictions and 22 market rate) units located in the Motherhouse; and 21 market rate residential units located between the Motherhouse and Baxter Woods.

Five affirmative votes are required for passage after public comment.

**Order 77-18/19  
(Tab 10)**

**Order Amending the Bayside Tax Increment Financing District to Increase Public Investment Options – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.**

The Economic Development Committee met on September 18, 2018 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Amendments to the Bayside Tax Increment Financing (TIF) District are proposed to maximize utilization of the TIF District revenue by adding more public investment options for use of TIF revenue, including, but not limited to, professional service costs; and workforce training funds.

The City staff proposed amendments do not involve credit enhancement agreements.

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

**Order 78-18/19  
(Tab 11)**

**Order Amending the Downtown Transit Oriented Development and Omnibus Tax Increment Financing District to Add More Public Investment Options and to Increase the Capture Rate – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.**

The Economic Development Committee met on September 18, 2018 and voted to forward this item to the City Council with a recommendation for passage.

Amendments to the Downtown Transit Oriented Development Tax Increment Financing (TIF) District are proposed to maximize utilization of the TIF District revenue by adding more public investment options for use of TIF revenue, including, but not limited to shuttle service to downtown business; professional service costs; workforce training funds; and multi-modal surface and structured parking. A further amendment would increase the TIF District Annual Capture Rate from up to 22% to up to 100%.

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

**Order 79-18/19  
(Tab 12)**

**Order Amending the 2002 Waterfront Tax Increment Financing District to Increase Public Investment Options and to Add New Properties – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.**

The Economic Development Committee met on September 18, 2018 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

Amendments to the Waterfront Tax Increment Financing (TIF) District and Growth area are proposed to maximize utilization of the TIF District revenue by adding more public investment options for use of TIF revenue, along with adding additional properties to expand the Waterfront TIF District, which properties can be seen on the map included in the Council packet. Additional investment options include, but are not limited to, multi-modal surface and structured parking; new publicly owned pier; economic development programs or events; environmental improvement projects; professional service costs; and dredge sediment disposal and CAD Cell Development.

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

**AMENDMENTS:**

**Order 80-18/19  
(Tab 12)**

**Amendment to Portland City Code Chapter 14 and Chapter 8  
Re: Waterfront Development Growth Area – Sponsored by the  
Economic Development Committee, Councilor Justin Costa, Chair.**

The Economic Development Committee met on September 18, 2018 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

This is a companion Amendment to Order 79 above.

The amendments to the Waterfront Capital Improvement and Economic Redevelopment Zone and Ordinance are proposed to expand the future growth area for the Waterfront Tax Increment Financing (TIF) District from Casco Bay Bridge to include Sprague Energy.

Housekeeping and clarifying amendments to the ordinance are also proposed to align the ordinance with current practice and avoid confusion with other sections of the Land Use Code. To promote clarity within the ordinance and to avoid confusion with other sections of the Land Use Code, the amendments include changing the title of the program from Waterfront Capital Improvement and economic Redevelopment Zone and Ordinance to Waterfront Development Growth Area Ordinance.

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**Order 81-18/19  
(Tab 14)**

**Amendment to Zoning Map RE: Hope Avenue – Sponsored by the  
Planning Board, Sean Dundon, Chair.**

On September 11, 2018 the Planning board met and voted 5-0 (Dundon and Silk Absent) to forward this item to the City Council with a recommendation for passage.

On September 11, 2018, the Planning Board voted unanimously, 5-0 (Dundon and Silk absent) to recommend to City Council adoption of the proposed map amendment to rezone a 14-acre parcel comprising 0 Hope Avenue and adjacent right-of-way to R-3 Residential, as requested by Estelle Estates, LLC. This map amendment would enable the development of a planned residential unit development with 27 duplexes (54 residential units) on currently undeveloped land off of Hope Avenue in the North Deering Neighborhood. The proposed development was conceived as part of a negotiated land conveyance agreement between the City and then property owners Lloyd Wolf and Robert Adam that brought 48-acres of land into the City of Portland's municipal limits and established the Presumpscot River Preserve.

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

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

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER THIBODEAU (2)  
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This item must be read on two separate days. This is its first reading.

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

Tab 1 10/11/18

**IN COUNCIL A REGULAR MEETING SEPTEMBER 17, 2018 VOL.134 PAGE 26**

**ROLL CALL:** Mayor Strimling called the meeting to order. (Councilor Costa Absent, Council Ali arrived before the minutes, Councilor Batson & Councilor Thibodeau arrived after Arts in the Chamber).

**ANNOUNCEMENTS:**

**RECOGNITIONS:**

**Arts in the Chamber, Portland Laureate Linda Aldrich**

**APPROVAL OF MINUTES OF PREVIOUS MEETING:**

Motion was made by councilor Ray and seconded by Councilor Duson for approval of the September 5, 2018 Regular City Council Minutes. Passage 6-0.

**PROCLAMATIONS:**

- Proc 7-18/19**      **Proclamation Honoring Linda Aldrich as Portland’s Poet Laureate – Sponsored by Mayor Ethan K. Strimling.**
- Proc 8-18/19**      **Proclamation Recognizing Childhood Cancer Awareness Month - Sponsored by Mayor Ethan K. Strimling.**
- Proc 9-18/19**      **Proclamation Recognizing the 75<sup>th</sup> Anniversary of the Portland Housing Authority – Sponsored by Mayor Ethan K. Strimling.**
- Proc 10-18/19**      **Proclamation Honoring the Portland Community Free Clinic – Co-Sponsored by Councilor Belinda Ray, Councilor Justin Costa, Councilor Kim Cook, Councilor Spencer Thibodeau, Councilor Jill C. Duson, Councilor Nicholas M. Mavodones, Jr., Councilor Pious Ali, and Mayor Ethan K. Strimling.**
- Proc 11-18/19**      **Proclamation Honoring Jason Chan, Health and Human Services Department, Social Services Division, as Employee of the Month for September 2018 – Sponsored by Mayor Ethan K. Strimling.**

**APPOINTMENTS:**

**CONSENT ITEMS:**

**LICENSES:**

**BUDGET ITEMS**

**COMMUNICATIONS:**

**RESOLUTIONS:**

- Resolve 1-18/19**      **Resolution Opposing Federal Preemption of Local Pesticide Ordinances – Co-Sponsored by Councilor Spencer Thibodeau, Councilor Nicholas M. Mavodones, Jr., Councilor Jill C. Duson,**

**IN COUNCIL A REGULAR MEETING SEPTEMBER 17, 2018 VOL.134 PAGE 27**  
**Councilor Justin Costa, Councilor Belinda Ray, Councilor Pious Ali, and Mayor Ethan K. Strimling.**

Motion was made by Councilor Thibodeau and seconded by Councilor Ray to add Councilor Batson's name to the list of sponsors. Passage 8-0.

**UNFINISHED BUSINESS:**

**Order 67-18/19      Amendment to Portland City Code Chapter 6 Re: Short Term Rentals – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.**

It was given a first reading on September 5, 2018.

Motion was made by Councilor Cook and seconded by Councilor Ray to postpone Order 67 to the November 5, 2018 City Council Meeting. Passage 8-0.

**Order 68-18/19      Amendment to Zoning Map, B-6 Building Height Overlay and Building Envelopes Map Re: 100 Fore Street – Sponsored by the Planning Board, Sean Dundon, Chair.**

It was given a first reading on September 5, 2018

Councilor Thibodeau recused himself; his employer represents some of the tenants at 100 Fore Street. Passage 8-0.

Motion was made by Councilor Ray and seconded by Councilor Duson for passage. Passage 7-0, (Councilor Costa absent, Councilor Thibodeau recused).

**Order 69-18/19      Amendment to the Portland City Code Chapter 17 Re: Moratorium on Medical Marijuana Retail Stores, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facilities - Sponsored by Jon P. Jennings, City Manager.**

It was given a first reading on September 5, 2018.

Councilor Thibodeau recused himself; he has acquaintances that will be affected by the outcome of Order 69.

Motion was made by Councilor Strimling and seconded by Councilor Batson to postpone order 69 to October 1, 2018. Passage 7-0, (Councilor Costa absent, Councilor Thibodeau recused.).

Motion was made by Councilor Ray and seconded by Councilor Batson to adjourn. Passage 7-0, at 9:20 P.M. (Councilor Costa absent, Councilor Thibodeau gone).

**A TRUE COPY.**

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Katherine L. Jones, City Clerk.

Order 70-18/19  
Tab 2 10-1-18

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 APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMITTEES**

**ORDERED**, that the following are hereby appointed to the Boards and Committees indicated for the stated term:

Name	Board and Committee	Expiration
Bert Jongerden	Harbor Commission	12/31/2021
Daniel Haley	Harbor Commission	12/31/2021
Thomas Valleau	Fish Exchange C	10/31/2020
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Office of the City Clerk  
Katherine L. Jones, CMC

### MEMORANDUM

**TO:** Mayor Ethan Strimling, and Members of City Council  
**FROM:** Katherine L. Jones  
**DATE:** September 17, 2018  
**RE:** Appointments

The Nominating Committee is making the following recommendations to the Various Boards and Committees.

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Timothy Agnew	Portland Development Corporation	09/30/2021
*Stephen Lovejoy	Portland Development Corporation	09/30/2021
*Blaine Grimes	Portland Development Corporation	09/30/2021
*James Dowd	Portland Development Corporation	09/30/2021
*Laura Reading	Portland Development Corporation	09/30/2021
*Jeffery Hicklin	Portland Development Corporation	09/30/2020
*Samuel Martin	CDBG	09/30/2021

\* Symbolizes new Board and Commission members

Order 71-18/19  
Tab 3 10-1-18

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 APPOINTING KEITH GAUTREAU  
CHIEF OF THE FIRE DEPARTMENT**

**ORDERED**, that Keith Gautreau is hereby appointed Chief of the Fire Department at an annual salary of \$122,791.50; and

**BE IT FURTHER ORDERED**, that this appointment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately and allow Keith Gautreau to assume his formal title as soon as possible.



**Human Resources Department**  
Gina M. Tapp, SPHR  
Director

**MEMORANDUM**  
**City Council Agenda Item**

**TO:** Mayor and City Council

**FROM:** Gina Tapp, Director of Human Resources

**DATE:** September 24, 2018

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

**SUBJECT:** Appointment of Fire Chief

**SPONSOR:** Jon Jennings, City Manager

**COUNCIL MEETING DATE ACTION IS REQUESTED:**

1<sup>st</sup> reading \_\_\_\_\_ **October 1, 2018** \_\_\_\_\_ **Final Action** \_\_\_\_\_

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

**PRESENTATION:**

**I. SUMMARY OF ISSUE**

Approval is requested to appoint Keith Gautreau to the position of Fire Chief of the City of Portland's Fire Department at the annual salary rate of \$122,791.50.

**II. REASON FOR SUBMISSION**

Keith Gautreau has been serving in the capacity of Acting Fire Chief since April 1, 2018. He has displayed exemplary leadership during this period and proven that he is capable of being promoted to Fire Chief on a permanent basis.

**III. INTENDED RESULT**

**IV. COUNCIL GOAL ADDRESSED**

**V. FINANCIAL IMPACT**

**VI. STAFF ANALYSIS**

**VII. RECOMMENDATION**

**VIII. LIST ATTACHMENTS**

Current resume is attached.

Prepared by: Gina Tapp, Director of Human Resources

Date: September 24, 2018

**KEITH GAUTREAU**  
[kng@portlandmaine.gov](mailto:kng@portlandmaine.gov)

**OBJECTIVE:**

To obtain the position of Fire Chief within the Portland Fire Department.

**WORK EXPERIENCE:**

**Portland Fire Department**

Portland, Maine

Firefighter	May 1995 - 2003
Fire Lieutenant	February 2003 - 2008
Fire Captain (Fire Prevention Bureau)	January 2009 - 2011
• Fire Investigator	March 2009 - 2015
Fire Captain, Ladder Company 1	August 2011 - 2014
• Appointed House Captain (2011-2013)	
Deputy Fire Chief, Platoon 1	July 2014 - 2015
Assistant Fire Chief	May 2015 - 2018
Interim Fire Chief	April 2018 - Present

**Fire Prevention Projects Accomplished:**

- Reinstated the policy for reviewing Fire Alarm and Sprinkler permits
- Along with the Chief of the Department, created and managed a Fire Investigation Team to investigate all fires and explosions within the City
- Worked closely with Corporation Counsel to update Chapter 10 in the City Ordinance to better meet the needs of the Department and the City's customers
- Conducted the first department wide Inspections training in over 15 years
- Adopted and managed the first ever single family home sprinkler ordinance
- Created a Fire Alarm installation and maintenance Certificate program
- Rewrote the Public Safety technical standard (Section 3) to address life safety issues from blasting operations in the City
- Developed the first ever Standard Operating Guidelines for Inspections

**Portland Fire Academy**

2000 - Present

Lead Instructor

**Portland Hazmat/WMD Regional Response Team**

2000 - Present

Member of the team since its inception in 2000. Responsible for operations and decision making. Played critical role in the Incident Command System.

**Kellogg's Sales Company**

March 1993 - April 1995

Sales Representative

Responsibilities included achieving assigned budget, reporting to the retail manager, working closely with the retail manager and key account manager.

**EDUCATION:**

**Assumption College**

Worcester, MA

Bachelor of Arts Degree (B.A.)

May 1991

Major: Business Management

**Southern Maine Community College**

1996 - 1999

**Fire Science Courses:**

- Fire Tactics & Strategy
- Fire Prevention
- Fire Hydraulics
- Building Construction
- Fire Administration
- Fire Instructor I

**City of Portland Leadership Development Course**

May 2007

**National Fire Academy:**

- Incident Emergency Management Course (IEMC) June 2009
- Fire/Arson Origin and Cause Investigations July 2011

**COMMENDATIONS/AWARDS:**

- Esprit de Corps Award, Ladder Company 3 Plt#2 November 2000
- Thomas G. O'Connor Firefighter of the Year October 2002
- Unit Citation Award October 2005
- Esprit de Corps Award, Hazmat/WMD Team October 2005
- John Rafferty Officer of the Year October 2006
- William M. Perry Community Service Award November 2009
- Fire Chief's Recognition Award October 2010
- Robert B. Ganley Public Service Award November 2016

*Order 72-18/19  
Tab 4 10-1-18*

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 SETTING TIME FOR OPENING  
OF POLLS ON NOVEMBER 6, 2018  
RE: STATE AND LOCAL ELECTION**

**ORDERED**, that pursuant to 21-A M.R.S. Sec. 626, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on Tuesday, November 6, 2018, for the State and Local Election.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk  
Katherine L. Jones, CMC

**MEMORANDUM**

**TO:** Mayor Strimling and Members of the  
Portland City Council

**FROM:** Katherine L. Jones, City Clerk

**DATE:** September 17, 2018

**RE:** Setting the time for opening the polls on November 6, 2018

Pursuant to 21-A M.R.S.A. §621, the hour of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 A.M. and close at 8:00 P.M.

Notices are then posted in each district and at City Hall.

*Order 13-18/19  
Tab 5 10-1-18*

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

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

**Atwater Holdings, LLC dba Sagamore Hill Lounge. Application for a Class A Lounge  
with Outdoor Dining on Public Property at 150 Park Street.**



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

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

**FROM:** Jessica Hanscombe, Licensing and Registration Coordinator

**SUBJECT:** Liquor License for Atwater Holdings, LLC  
d/b/a Sagamore Hill Lounge, 150 Park Street

**DATE:** September 12, 2018

This application is being brought back before the City Council for reconsideration at the request of the State Bureau of Alcoholic Beverages (BABLO). The City Council previously approved the application for this business on November 6, 2017. At the time of the City Council's consideration, the applicant listed two members of the LLC – Ryan Deskins and Michael Savona. After the Council approved the application, the applicants sent their application form to the state, but removed the name of Mr. Savona. This discrepancy was discovered on August 30, 2018 by BABLO in the context of an investigation. BABLO revoked the applicant's business license and requested that the City Council reconsider the application in light of these events. Below is a timeline of the original application:

**10/16/2017** The City received the application with two owners listed.  
**11/6/2017** The application was approved by the City Council with two owners listed.  
**11/7/2017** The State Liquor application was signed by the City Licensing and Registration Division and submitted with two owners listed.  
**11/21/2017** The State Liquor application was received by BABLO with only one owner listed.  
**5/22/2018** City and State Liquor Licenses were issued to the owners.  
**8/30/2018** During the course of an investigation it was discovered that there was a discrepancy in the ownership and that the original application was altered prior to being received by BABLO.  
**8/30/2018** BABLO revoked the State Liquor License and notified the City of Portland.  
**9/5/2018** The City received a new application with just one owner listed, which will be before Council on 10/1/2018.

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

# ATWATER HOLDINGS, LLC

667 Congress Street #706, Portland, ME 04101  
215.317.7469 - ryan@sagamorehillmaine.com

September 5, 2018

Honorable Mayor Ethan K. Strimling  
Honorable Members, Portland City Council  
389 Congress Street  
Portland, ME 04101

**RE: Application for Municipal Approval Class A Lounge (Class X) and  
Application for Outdoor Dining on Public Property**

Dear Mayor Strimling and Members of Council:

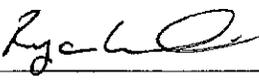
Enclosed you will find an application for reapproval of a Class X Liquor License and Outdoor Dining Permit for Sagamore Hill Lounge, which is located on the West End at 150 Park Street, in a renovated portion of the former lobby of the Lafayette Building.

Sagamore Hill previously received your unanimous approval to operate at this location on November 6, 2018, and invested several hundred thousand dollars to renovate and revitalize both an underused portion of a landmark building and to revitalize an otherwise under-appreciated corner at the front door of the West End. I believe our efforts have been a success - I currently employ 8 full and part-time employees, provide revenue to the City and State, and have operated without incident since opening on May 26, 2018.

Due to an unfortunate mistake on my State license application, submitted last November, which removed a minority interest holder who's interest terminated after your initial approval, I have been advised by the City and State that we require a new approval from Council before a license can reissue and I can resume operations at this location. It is certainly my wish to comply with any and all licensing requirements and I truly regret any error in my original submissions. I am submitting the enclosed in hopes that you will again approve our operating Sagamore Hill Lounge at this location.

I appreciate your consideration and look forward to many years of success in Portland.

Very truly yours,

By:   
Ryan L. Deskins

Portland, Maine



Yes. Life's good here.

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

**Application for Food Service Establishment with Alcoholic Beverages License**

<b>Business Information</b>			
Business Name (d/b/a):	Sagamore Hill Lounge	Phone:	207 808-8622
Location Address:	150 Park Street Portland ME Zip: 04101		
If new, what was formerly at this location:	former lobby of Lafayette Hotel/Lafayette Building		
Mailing Address:	667 Congress St. #706 Portland ME Zip: 04101		
Contact Person:	Ryan L. Deskins	Phone:	215 317 7469
Contact Person Email:	ryan@sagamorehillmaine.com		
Manager of Establishment:	Ryan Deskins	Date of Birth:	11/6/1980 Phone: 215 317 7469
Owner of Premises (Landlord):	638 Congress Street Partners, LLC		
Address of Premises Owner:	104 Grant St. Portland, ME Zip: 04101		

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

Name of Owner(s)	Date of Birth	Residence Address

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

<b>Corporate Name</b>		<b>Corporate Mailing Address</b>	
Atwater Holdings, LLC		667 Congress St. #706 Portland ME Zip: 04101	
Contact Person:	Ryan L. Deskins	Phone:	215 317 7469
<b>Principal Officers</b>			
<b>Title</b>	<b>Date of Birth</b>	<b>Residence Address</b>	
Ryan L. Deskins	owner	11/6/1980 667 Congress St. #706 Portland ME 04101	

### About Your Establishment

Class of Liquor License:	Class A Lounge (Class X)	
Type of food served:	As required under 18-553 Ch. 102(6) - Limited to MREs	
Please circle all that will be served:	Beer <input checked="" type="checkbox"/> Wine <input checked="" type="checkbox"/> Liquor <input checked="" type="checkbox"/>	
Projected percentage of sales:	Generated from Food: 2%	Generated from Alcohol: 98%
Hours & days of operation:	Seven days per week 4:00 PM - 1:00 AM	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	<input checked="" type="checkbox"/>
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	<input checked="" type="checkbox"/>
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	<input checked="" type="checkbox"/>
Will you permit dancing on the premises?	<input checked="" type="checkbox"/>
Will you permit dancing after 1:00 a.m.?	<input checked="" type="checkbox"/>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	<input checked="" type="checkbox"/>
If yes, will the outside dining be on <u>PUBLIC</u> or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	<input checked="" type="checkbox"/>
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? <u>October 2018</u>	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	<input checked="" type="checkbox"/>
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	<input checked="" type="checkbox"/>
If Yes, please list business name(s) and location(s):	
<u>Same as above. This is a reapplication for new 2018 license</u>	
Is any principal officer under the age of 21?	<input checked="" type="checkbox"/>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	<input checked="" type="checkbox"/>
If Yes, please explain:	

I Ryan L. Deskins do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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

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

Signature Ryan L. Deskins Title Owner Date 9/5/2018

For more information about Liquor Licenses, see Portland City Code Chapter 15 at [www.portlandmaine.gov](http://www.portlandmaine.gov) and M.R.S.A. Title 28-A at [www.maine.gov](http://www.maine.gov).



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

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

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

Legal Advertisement Deposit \$100.00

Outdoor Dining on Public Property \$84.00 plus \$2.00 per Square foot \$2.00 X 676 SF = 1352

Outdoor Dining on Public Property in a City Park \$84.00 plus \$6.30 per Square foot \$6.30 X \_\_\_\_\_ SF = \_\_\_\_\_

<b>Business Information</b>			
Business Name (d/b/a):	SAGAMORE HILL LOUNGE	Phone:	207 808 8622
Location Address:	150 Park St. Portland ME <sup>Zip:</sup> 04101		
Mailing Address:	667 Congress St. #706 Portland ME <sup>Zip:</sup> 04101		
Contact Person:	Ryan L. Deskins	Phone:	215 317 7469
Contact Person Email:	ryan@sagamorehillmaine.com		
Manager of Establishment:	Ryan L. Deskins	Date of Birth:	11/6/1980
		Phone:	215 317 7469
Owner of Premises (Landlord):	638 Congress St. Partners, LLC		
Address of Premises Owner:	104 Grant St., Portland ME <sup>Zip:</sup> 04101		

**Owner Information**

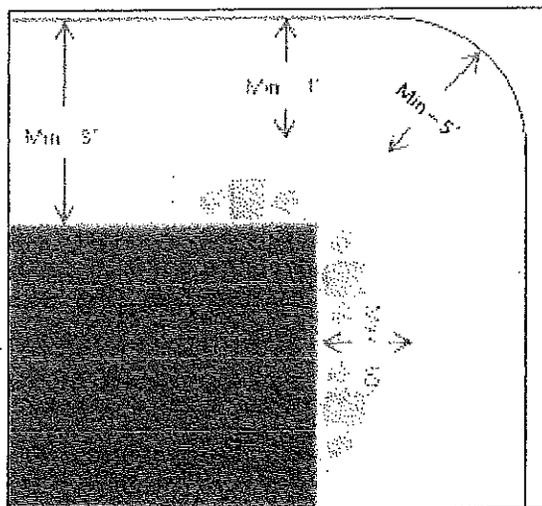
<b>Corporate Name</b>		<b>Corporate Mailing Address</b>	
Atwater Holdings, LLC		667 Congress St. #706 Portland ME <sup>Zip:</sup> 04101	
Contact Person:	Ryan L. Deskins	Phone:	215 317 7469
<b>Principal Officers</b>	<b>Title</b>	<b>Date of Birth</b>	<b>Residence Address</b>
Ryan L. Deskins	owner	11/6/1980	667 Congress St. #706 Portland ME 04101

### About Your Establishment

Class of License:	Class A Lounge (Class X)	
Type of food served:	limited to required food under 18-553 Ch. 102(6) MREs	
Please circle all that will be served:	Beer Wine Liquor	
Hours & days of operation:	seven days 4:00 PM to 1:00 AM Exterior 11:00 AM - 9:30 PM per lease	
Number of Tables	Exterior 19 seasonal	Interior none
Number of Chairs	Exterior 38 seasonal	Interior 57

### Design and Construction

Existing Sidewalk Width (property line to curb)	Sidewalk Dining Allowed?
< 8'0"	No
≥ 8'0"	Yes -- up to 60% of sidewalk
Sidewalk Type	Sidewalk Passage Width (Min)
Standard sidewalk	4'0"
Street corner	5'0"

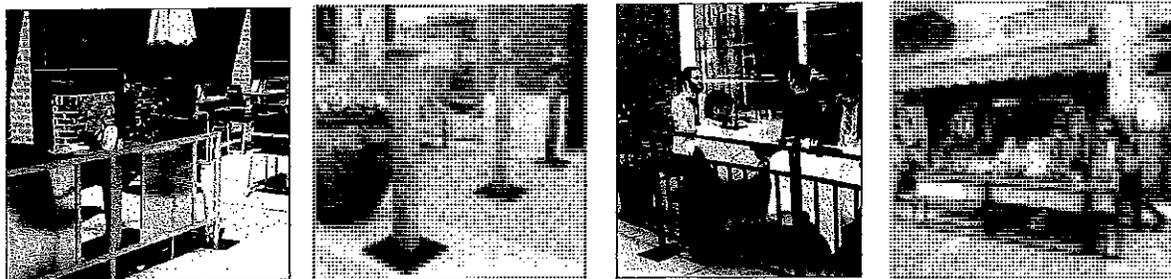


- Outdoor dining area shall not exceed 60% of the sidewalk width.
- A continuous, unobstructed sidewalk passage of 4 feet from the outer boundary of the seating area to the curb must be maintained. If the passage is not straight due to existing obstacles, then additional width may be required. Any changes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

### Barriers

- If barriers are proposed, they must be free-standing. Physical attachments to a building are not allowed.
- Stanchions and ropes are encouraged. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open). Solid or opaque barriers are not allowed.
- Shall not exceed 42" in height and may not include commercial signage.

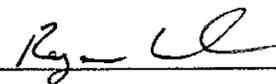
### Example barrier types that meet regulation



### Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- The permit holder is responsible for keeping the outdoor seating area clean.
- No food shall be prepared in the designated outdoor dining area.
- All outdoor dining components shall be removed before snowfall and while any snow or ice exists within four feet of the outdoor dining area. The City will not be responsible for damage to any property that is not removed prior to sidewalk maintenance.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.
- Request for the use of adjacent on street parking space for outdoor dining installations requires Parking Office and Building Authority review and approval.

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

Signature  Title Owner Date 9/5/2018

#### For Administrative Use Only

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

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

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

**PRESENT LICENSE EXPIRES**

NEW application:  Yes  No (reapplication for new license for previously licensed premises)  
 If business is NEW or under new ownership, indicate starting date: October 2, 2018

Requested inspection date: October 3, 2018 Business hours: 4:00 PM - 1:00 AM

INDICATE TYPE OF PRIVILEGE:  MALT  VINOUS  SPIRITUOUS

**INDICATE TYPE OF LICENSE:**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI)     | <input checked="" type="checkbox"/> CLASS A LOUNGE (Class X) |
| <input type="checkbox"/> HOTEL (Class I,II,III,IV)      | <input type="checkbox"/> HOTEL, FOOD OPTIONAL (Class I-A) | <input type="checkbox"/> BED & BREAKFAST (Class V)           |
| <input type="checkbox"/> CLUB w/o Catering (Class V)    | <input type="checkbox"/> CLUB with CATERING (Class I)     | <input type="checkbox"/> GOLF COURSE (Class I,II,III,IV)     |
| <input type="checkbox"/> TAVERN (Class IV)              | <input type="checkbox"/> QUALIFIED CATERING               | <input type="checkbox"/> OTHER: _____                        |

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

Corporation Name: <u>Atwater Holdings, LLC</u>		Business Name (D/B/A) <u>Sagamore Hill Lounge</u>	
APPLICANT(S) –(Sole Proprietor) DOB:		Physical Location: <u>150 Park St.</u>	
DOB:		City/Town <u>Portland</u>	State <u>ME</u>
		Zip Code <u>04101</u>	
Address <u>667 Congress St. #706</u>		Mailing Address <u>667 Congress St. #706</u>	
City/Town <u>Portland</u>	State <u>ME</u>	City/Town <u>Portland</u>	State <u>ME</u>
Zip Code <u>04101</u>		Zip Code <u>04101</u>	
Telephone Number <u>215 317 7469</u>	Fax Number	Business Telephone Number <u>207 808 8622</u>	Fax Number <u>NONE</u>
Federal I.D. # <u>82-2949210</u>	Seller Certificate #: or Sales Tax #: <u>1188079</u>		
Email Address: Please Print <u>ryan@sagamorehillmaine.com</u>	Website: <u>www.sagamorehillmaine.com</u>		

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

License #	Name of Business	Physical Location	City / Town

5. Do you permit dancing or entertainment on the licensed premises? YES  NO
6. If manager is to be employed, give name: Ryan L. Deskins
7. Business records are located at: 150 Park St. Portland - ME 04101 (on premises)
8. Is/are applicant(s) citizens of the United States? YES  NO
9. Is/are applicant(s) residents of the State of Maine? YES  NO
10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Ryan L. Deskins	11/6/1980	Charleston, WV
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Newtown, PA		
Portland, ME		

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

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_  
 Offense: \_\_\_\_\_ Location: \_\_\_\_\_  
 Disposition: \_\_\_\_\_ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit directly in your license, if issued?  
 Yes  No  If Yes, give name: \_\_\_\_\_

13. Has/have applicant(s) formerly held a Maine liquor license? YES  NO  5/26/18 - 8/30/18  
issued in error

14. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner:  
638 Congress Street Partners, LLC 104 Grant St., Portland ME 04101

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) \_\_\_\_\_  
see attached

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

17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? unknown. Greater than 1,000 ft.  
 Which of the above is nearest? church

18. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO   
 If YES, give details: SBA Loan Bangor Savings Bank

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

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

Dated at: Portland, ME on Sept. 5, 20 18  
Town/City, State Date

  
 Signature of Applicant or Corporate Officer(s)  
Ryan Deskins  
 Print Name

**Please sign in blue ink**

\_\_\_\_\_  
 Signature of Applicant or Corporate Officer(s)  
 \_\_\_\_\_  
 Print Name

**FEE SCHEDULE**

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

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

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

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



Division of Alcoholic Beverages and Lottery  
Operations  
Division of Liquor Licensing and Enforcement

<b>For Office Use Only:</b>	
License #:	_____
SOS Checked:	_____
100% Yes	<input type="checkbox"/> No <input type="checkbox"/>

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

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

- Exact legal name: Atwater Holdings, LLC
- Doing Business As, if any: Sagamore Hill Lounge
- Date of filing with Secretary of State: 9/18/17 State in which you are formed: ME
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:  
\_\_\_\_\_
- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Ryan L. Deskins	54 Chatham Pl. Newtown PA 667 Congress St. Portland ME	11/6/1980	OWNER	100

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

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

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

Yes  No

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

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

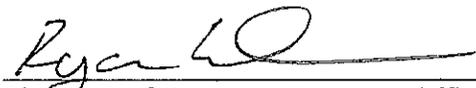
Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_

Location of Conviction: \_\_\_\_\_

Disposition: \_\_\_\_\_

**Signature:**

  
Signature of Owner or Corporate Officer

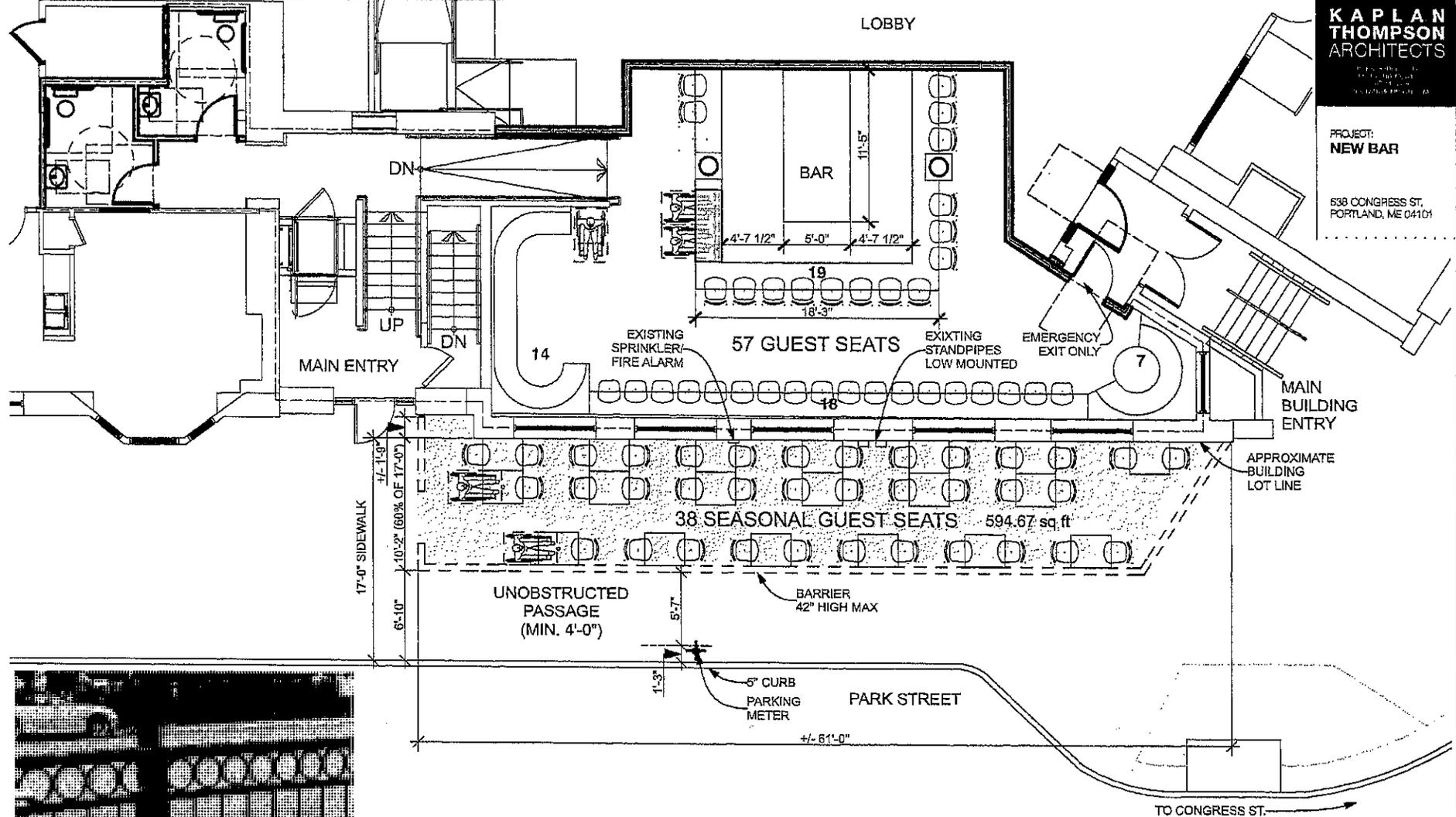
9/5/2018  
Date

Ryan Deskins  
\_\_\_\_\_

Print Name of Owner or Corporate Officer

Submit Completed Forms to:

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



② TYPICAL FREESTANDING BARRIER

① OUTDOOR SEATING  
SCALE: 3/32" = 1'-0"



DATE: 06/13/17  
 DRAWN BY: JB  
 REVISED:  
 PHASE: SCHEMATIC DESIGN



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

JESSICA HANSCOMBE  
389 CONGRESS ST.  
PORTLAND, ME 04101

Transaction Response #: MIQ99D711844

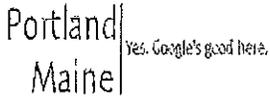
## Criminal History Record

### Introduction

This criminal history record was produced in response to the following request ( Produced on 2018-09-05 ) :

Inquiries Name(s) RYAN DESKINS (1980-11-06)

**NO MATCH WAS FOUND FOR YOUR REQUEST.**



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

**Re: Sagamore Hill Lounge**

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Sep 11, 2018 at 4:42 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Danielle Buck <dbuck@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Katharine Cahoon <kcahoon@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Wed, Sep 5, 2018 at 3:56 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application. This is going back before council as a change of owners on 10/01/2018. Please advise. Thanks Jessica

Jessica Blais Hanscombe  
Licensing and Registration Coordinator  
389 Congress Street Room 307  
Portland, Maine 04101  
207-874-8783  
jhanscombe@portlandmaine.gov

--  
Lt. Kevin Cashman  
Portland Police Department  
Patrol Division  
109 Middle St  
Portland, Maine 04101  
(O) 207-756-8294  
kevindc@portlandmaine.gov.  
Hours - Saturday thru Tuesday (4pm-2am)

Portland, Maine



Yes. Life's good here.

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

September 12, 2018

Atwater Holdings, LLC  
667 Congress Street #706  
Portland ME 04101

**Re: Atwater Holdings, LLC dba Sagamore Hill Lounge. Application for a Class A Lounge with Outdoor Dining on Public Property at 150 Park Street.**

Dear Ryan Deskins,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday October 1, 2018 at 5:30 p.m.**, for the review of application for a Class A Lounge with Outdoor Dining on Public Property at 150 Park Street. The meeting will take place in Council Chambers on the 2<sup>nd</sup> floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,



Jessica Hanscombe  
Licensing and Registration Coordinator

## **Legal Advertisement**

### **Notice of Public Hearing City of Portland**

A Public Hearing will be held on October 1, 2018 at 5:30 P.M., in City Council Chambers, 389 Congress St., Atwater Holdings, LLC dba Sagamore Hill Lounge. Application for a Class A Lounge with Outdoor Dining on Public Property at 150 Park Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

Order 74-18/19  
Tab 6 10-1-18

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

ORDER  
GRANTING MUNICIPAL OFFICERS'  
APPROVAL OF:

**Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance at 375 Forest Avenue.**



Permitting and Inspections Department  
Michael A. Russell, MS, Director  
389 Congress Street Room 307  
Portland, Maine 04101

September 5, 2018

Dear Mr. Mayor and Members of the City Council:

I, Ian Smith, owner of Sun Tiki Studios, LLC, hereby state that my intention is to operate my business with an auditorium liquor license.

Currently, Sun Tiki Studios provides hourly musician rehearsal practices spaces. Our mission is to help foster the growth and sustainability art and music in Portland, Maine. With this letter we submit our application for an auditorium liquor license.

Should you have any questions, I am readily available to speak with you. My cell phone is 207-329-5621. Thank you in advance for your consideration of our application.

Sincerely,

A handwritten signature in black ink, appearing to read "I. Smith", written in a cursive style.

Ian H. Smith

Sun Tiki Studios, LLC 375 Forest Ave. Portland, ME 04101  
[suntikistudios@gmail.com](mailto:suntikistudios@gmail.com) 207-329-5621

Portland, Maine



Yes. Life's good here.

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

**Application for Food Service Establishment with Alcoholic Beverages License**

Business Information	
Business Name (d/b/a):	Sun Tiki Studios LLC Phone: 207 329-5621
Location Address:	375 Forest Ave, Portland, ME Zip: 04101
If new, what was formerly at this location:	Sun Tiki Tanning Salon
Mailing Address:	375 Forest Ave, Portland, ME Zip: 04101
Contact Person:	Cecil Gardner Phone: 207 838-1333
Contact Person Email:	Cecil.gardner22@gmail.com
Manager of Establishment:	Ian Smith Date of Birth: 6/8/1965 Phone: 207 329-5621
Owner of Premises (Landlord):	Michael Kaplan
Address of Premises Owner:	49 OCEAN AVE PORTLAND ME Zip: 04103

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

Name of Owner(s)	Date of Birth	Residence Address
Ian Smith	6/8/1965	33 TURNER ST. PORTLAND ME 04101

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

Corporate Name		Corporate Mailing Address	
SUNTIKI STUDIOS LLC		375 FOREST AVE. PORTLAND ME 04101 Zip:	
Contact Person:	IAN SMITH	Phone:	207 329-5621
Principal Officers	Title	Date of Birth	Residence Address

### About Your Establishment

Class of Liquor License:	Auditorium	
Type of food served:	N/A	
Please circle all that will be served:	<input checked="" type="checkbox"/> Beer	<input checked="" type="checkbox"/> Wine    Liquor
Projected percentage of sales:	Generated from Food: N/A	Generated from Alcohol: 100%
Hours & days of operation:	N/A	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	<input checked="" type="checkbox"/>
If No, please explain: <i>WR will not have full meals served.</i>	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	<input checked="" type="checkbox"/>
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	<input checked="" type="checkbox"/>
Will you permit dancing on the premises?	<input checked="" type="checkbox"/>
Will you permit dancing after 1:00 a.m.?	<input checked="" type="checkbox"/>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	<input checked="" type="checkbox"/>
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	<input checked="" type="checkbox"/>
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? <i>December 1st, 2018</i>	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	<input checked="" type="checkbox"/>
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	<input checked="" type="checkbox"/>
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	<input checked="" type="checkbox"/>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	<input checked="" type="checkbox"/>
If Yes, please explain:	

I IAN SMITH do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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

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

Signature *IAN SMITH* Title OWNER Date 9/5/2018

For more information about Liquor Licenses, see Portland City Code Chapter 15 at [www.portlandmaine.gov](http://www.portlandmaine.gov) and  
M.R.S.A. Title 28-A at [www.maine.gov](http://www.maine.gov).

Portland, Maine



Yes. Life's good here.

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

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

[www.portlandmaine.gov](http://www.portlandmaine.gov)

**Supplemental Application for Dancing and Entertainment License**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

<input type="checkbox"/> Entertainment without Dancing: \$295	<input checked="" type="checkbox"/> Entertainment with Dancing: \$529	<input type="checkbox"/> After-Hours (1 a.m. to 3 a.m.): \$595
---	---	--

Business Information			
Business Name (d/b/a):	Sun Tiki Studios	Phone:	207 329-5621
Location Address:	375 Forest Avenue	Zip:	04101

**About Your Establishment**

Describe in detail the type and nature of the business and proposed entertainment:		
Live Music + Entertainment Venue		
Will music be electric, acoustical, or both? (Circle)		
Will amplification be used?		Y/N
If yes, where and at what level?		
Normal Concert/Club level only Inside the Venue		
Will music be played (Circle all that apply): Inside Outside		
Will you permit dancing on the premises?		Y/N
Will you permit dancing after 1:00 a.m.?		Y/N
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? <del>0</del> 10 FT		
What is your targeted opening date? December 1st, 2018		
Does the issuance of this license directly or indirectly benefit any City employee(s)?		Y/N
If Yes, list name(s) of employee(s) and department(s):		

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

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

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

Signature [Signature] Title Manager Date 9/5/18

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at [www.portlandmaine.gov](http://www.portlandmaine.gov)

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

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

NEW application:  Yes  No

PRESENT LICENSE EXPIRES N/A

INDICATE TYPE OF PRIVILEGE:  MALT  VINOUS  SPIRITUOUS

INDICATE TYPE OF LICENSE:

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

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Sun Tiki Studios, LLC.</u>			Business Name (D/B/A) <u>Sun Tiki Studios</u>		
APPLICANT(S) - (Sole Proprietor) <u>Ian Smith</u>		DOB: <u>6/8/1965</u>	Physical Location: <u>375 Forest Avenue</u>		
Address <u>375 Forest Avenue</u>			City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
Telephone Number <u>207-329-5621</u>	Fax Number	Business Telephone Number <u>207-808-8080</u>		Fax Number	
Federal I.D. # <u>82-4597082</u>			Seller Certificate #: or Sales Tax #: <u>Pending</u>		
Email Address: Please Print <u>SunTikiStudios@gmail.com</u>			Website:		

If business is NEW or under new ownership, indicate starting date: 12/1/18

Requested inspection date: 10/5/18 Business hours: N/A

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

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

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

License #	Name of Business
Physical Location	City / Town

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

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

7. Business records are located at: 375 FOREST AVE PORTLAND ME 04101

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

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

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

Name in Full (Print Clearly)	DOB	Place of Birth
<u>Ian Smith</u>	<u>6/8/65</u>	<u>Portland, Maine</u>
<u>Cecil Gardner</u>	<u>5/2/91</u>	<u>Portland, Maine</u>
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
<u>33 Turner Street, Portland, Maine, 04101</u>		
<u>166 Franco Street, Portland, Maine, 04102</u>		

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

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_ (use additional sheet(s) if necessary)

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

Yes  No  If Yes, give name: \_\_\_\_\_

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

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

Michael Kralon / Kralon Mgmt, 49 Ocean Ave. 04103

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) Live Music + Entertainment  
venue w/ hourly rehearsal spaces.

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

YES  NO  Applied for: \_\_\_\_\_

17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.4 MILES

Which of the above is nearest? UNIVERSITY OF MAINE

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

If YES, give details: \_\_\_\_\_

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

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

Dated at: PORTLAND ME on 9/5, 20 18  
Town/City, State Date

Please sign in blue ink

*CHSA*  
 Signature of Applicant or Corporate Officer(s)  
IAN H. SMITH  
 Print Name

\_\_\_\_\_  
 Signature of Applicant or Corporate Officer(s)  
 \_\_\_\_\_  
 Print Name

**FEE SCHEDULE**

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

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



Division of Alcoholic Beverages and Lottery  
Operations  
Division of Liquor Licensing and Enforcement

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

<b>For Office Use Only:</b>	
License #:	_____
SOS Checked:	_____
100% Yes	<input type="checkbox"/> No <input type="checkbox"/>

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

- Exact legal name: IAN HIBBARD SMITH
- Doing Business As, if any: SUN TIKI STUDIOS LLC
- Date of filing with Secretary of State: 2/16/2018 State in which you are formed: ME
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:  
\_\_\_\_\_

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

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
IAN SMITH	33 TURNER ST. PORTLAND ME 04101 22 FESSENDEN ST 04103	6/8/1965	OWNER	100

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

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

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

Yes  No  If Yes, Name: \_\_\_\_\_ Agency: \_\_\_\_\_

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

Yes  No

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

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

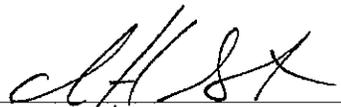
Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_

Location of Conviction: \_\_\_\_\_

Disposition: \_\_\_\_\_

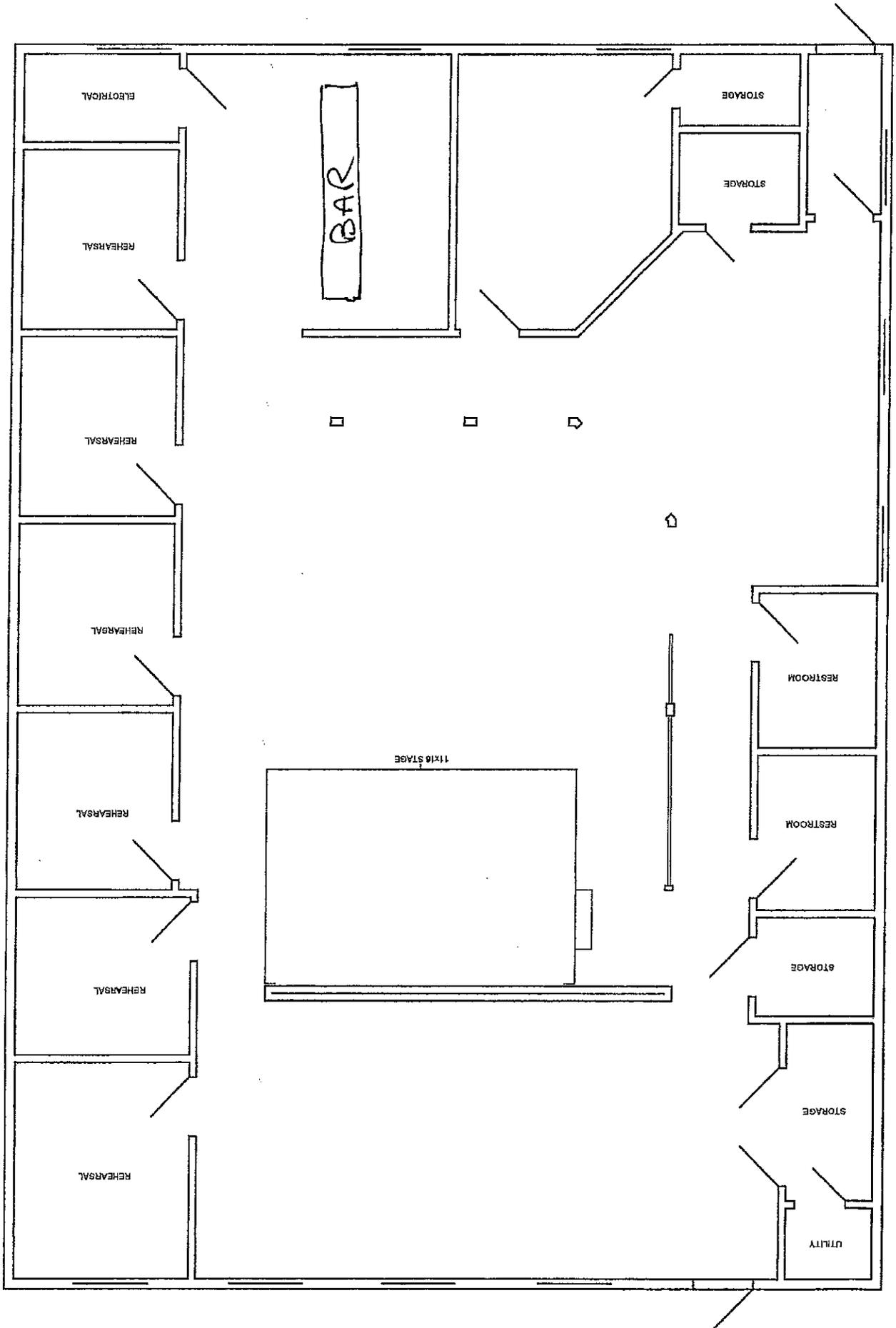
Signature:

 9/5/2018  
\_\_\_\_\_  
Signature of Duly Authorized Person Date

IAN H. SMITH  
\_\_\_\_\_  
Print Name of Duly Authorized Person

Submit Completed Forms to:

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





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

JESSICA HANSCOMBE  
389 CONGRESS ST.  
PORTLAND, ME 04101

Transaction Response #: MIQ99D723101

## Criminal History Record

### Introduction

**This criminal history record was produced in response to the following request ( Produced on 2018-09-13 ) :**

Inquiries Name(s) IAN SMITH (1965-06-08)

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

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

**\*\*THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2018-09-13**

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

THE FOLLOWING ATN(S) ARE UNSUPPORTED BY FINGERPRINTS IN STATE BUREAU OF IDENTIFICATION FILES: (895309A).

### Identification

Subject Name/or potential Alias Name(s)

SMITH, IAN H

Subject Description (date information provided listed in parentheses)

**State ID Number**  
ME0220647

**DOC Number**  
Unknown/NA

**Sex**  
Unknown/NA

**Race**  
Unknown/NA

**Skin Tone**  
Unknown/NA

**Height**  
Unknown/NA

**Weight**  
Unknown/NA

**Date of Birth**  
1965-06-08

**Hair Color**  
Unknown/NA

**Eye Color**  
Unknown/NA

**Scars, Marks, and Tattoos**  
Unknown/NA

**Place of Birth**  
Unknown/NA

**Citizenship**  
Unknown/NA

**Residence**

Residence as of  
Address

2011-07-22  
HAILEY ROAD PO BOX 190  
HOLLIS, ME

**Caution Information**

Firearms Disqualified

X - Unknown

### Criminal History

Cycle 001

**ATN/Tracking Number**

895309A

**Earliest Event Date**

1987-02-28

**Arrest/Charge**

(Cycle 001)

**Arrest/Charge Date** 1987-02-28  
**Arresting/Charging Agency** SOUTH PORTLAND PD SOUTH PORTLAND; ME0030600  
**Subject Name(s)** SMITH, IAN H  
**Arrest Type** Adult  
**Charge 1**

Charge Number 895309A 001  
 Charge Tracking Number 895309A  
 Agency SOUTH PORTLAND PD SOUTH PORTLAND; ME0030600  
 Offense Date 1987-02-28  
 Charge Description THEFT (Misdemeanor Unknown Class)  
 Statute MRSA 17-A SUBSECTION 353  
 State Sequence Code 999993  
 Severity Misdemeanor

**Prosecutor Disposition** No data supplied

**Court Disposition** (Cycle 001)  
**Court Case Number** 87-9694  
**Court Agency** 9TH DISTRICT COURT PORTLAND; ME003035J  
**Charge 1**

Charge Number 895309A 001  
 Charge Tracking Number 895309A  
 Agency 9TH DISTRICT COURT PORTLAND; ME003035J  
 Offense Date 1987-02-28  
 Charge Description THEFT (Misdemeanor Unknown Class)  
 Statute MRSA 17-A SUBSECTION 353  
 State Sequence Code 999993  
 Severity Misdemeanor  
 Disposition 1987-03-26; GUILTY

**Sentencing** (Cycle 001)  
**Sentencing Agency** 9TH DISTRICT COURT PORTLAND; ME003035J  
 Court Case Number 87-9694  
 Charge Number 895309A 001  
 Charge Sequence Number 1  
 Charge Tracking Number 895309A  
 Sentence 1987-03-26: FINED \$100.00

**Corrections** No data supplied

## Index of Agencies

Agency 9TH DISTRICT COURT PORTLAND; ME003035J  
 Agency Telephone 207-822-4200

Address 205 NEWBURY ST  
PORTLAND, ME 04101

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Agency SOUTH PORTLAND PD SOUTH PORTLAND; ME0030600  
Agency Telephone 207-799-5511  
Address 30 ANTHOINE STREET  
SOUTH PORTLAND, ME 04106

Portland, Maine



Yes. Life's good here.

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

September 12, 2018

Sun Tiki Studios LLC  
375 Forest Avenue  
Portland ME 04101

**Re: Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance at 375 Forest Avenue.**

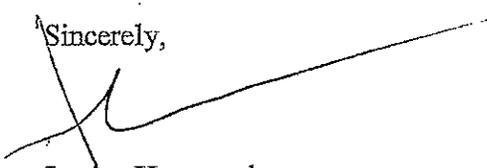
Dear Cecil Gardner,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday October 1, 2018 at 5:30 p.m.**, for the review of application for an Auditorium with Entertainment with Dance at 375 Forest Avenue. The meeting will take place in Council Chambers on the 2<sup>nd</sup> floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,



Jessica Hanscombe  
Licensing and Registration Coordinator

**Legal Advertisement**

**Notice of Public Hearing  
City of Portland**

A Public Hearing will be held on October 1, 2018 at 5:30 P.M., in City Council Chambers, 389 Congress St., Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance at 375 Forest Avenue. Sponsored by Michael Russell, Director of Permitting and Inspections.

Tab 7 10-1-18

Order 69-18/19

Motion to postpone to October 1, 2018: 7-0 (Costa absent, Thibodeau recused and absent)

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 THE PORTLAND CITY CODE CHAPTER 17 RE:  
MORATORIUM ON MEDICAL MARIJUANA RETAIL STORES, MEDICAL MARIJUANA  
TESTING FACILITIES, AND MEDICAL MARIJUANA MANUFACTURING  
FACILITIES**

**WHEREAS**, the Maine Medical Use of Marijuana Act (the "Act"), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorizes registered caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and

**WHEREAS**, on July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), An Act to Amend the Maine Medical Marijuana Law, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and

**WHEREAS**, on July 9, 2018, the Maine Legislature also enacted PL 2017, c. 452 (LD 1539), An Act to Amend Maine's Medical Marijuana Law ("LD 1539"); and

**WHEREAS**, LD 1539 includes express authorization for registered caregivers to 1) operate retail stores for the sale of harvested medical marijuana to qualifying patients, 2) conduct marijuana testing for research and development purposes, and 3) manufacture marijuana products and marijuana concentrates for distribution to patients; and

**WHEREAS**, the unregulated location and operation of medical marijuana retail stores, testing facilities, and manufacturing facilities within the City of Portland (the "City") raises legitimate and substantial questions about the impact of such activity on the City, including questions as to compatibility with existing land uses and developments in the City; the sufficiency of municipal infrastructure to accommodate

such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

**WHEREAS**, as a result of the foregoing issues, the location and operation of medical marijuana retail stores, testing facilities, and manufacturing facilities within the City have potentially serious implications for the health, safety and welfare of the City and its residents; and

**WHEREAS**, existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores; and

**WHEREAS**, the City needs time to understand the impact of the amendments to the Act on the City's existing rules and ordinances regarding, among other things, zoning, land use, and fire and life safety requirements; and

**WHEREAS**, in the judgment of the City Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action; and

**WHEREAS**, a temporary prohibition on medical marijuana retail stores, testing facilities, and manufacturing facilities is therefore appropriate in order to determine what regulations, if any, are necessary within the City as a result of the amendments to the Act:

**NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, that the Portland City Code is hereby amended by adding an Article, to be numbered X, which said Article reads as follows:

**ARTICLE X. MORATORIUM ON MARIJUANA CAREGIVER RETAIL STORES, TESTING FACILITIES, AND MANUFACTURING FACILITIES**

**Sec. 17-124. Necessity.**

**Municipalities are authorized by 30-A M.R.S. § 4356(1) (a) and (b) to enact moratoria for the following reasons:**

**a. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective**

period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or

b. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent public harm from residential, commercial or industrial development in the affected geographic area.

In accordance with 30-A M.R.S. § 4356(1)(a) and (b) and for the reasons stated above, the Portland City Council hereby finds that a moratorium on medical marijuana retail stores, medical marijuana testing facilities, and medical marijuana manufacturing facilities is necessary and warranted in the City of Portland.

#### **Sec. 17-125. Definitions.**

Except as otherwise provided, the following definitions shall apply to this Article:

Marijuana extraction means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Manufacturing or manufacture means the production, drying, blending, infusing, compounding or other preparation of marijuana and marijuana products, including the preparation of food, drink, or similar products from marijuana or marijuana products. Manufacturing includes, but is not limited to, marijuana extraction or preparation by means of chemical synthesis.

Medical marijuana manufacturing facility means an establishment that manufactures marijuana and marijuana products produced by a registered caregiver. Medical marijuana manufacturing facility does not include a single registered caregiver who solely manufactures marijuana and marijuana products out of marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

Medical marijuana retail store means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, regular sales to more than five individual qualifying patients in any one week, and sales

directly to the consumer of the product. This includes, but is not limited to, an establishment meeting the definition of a retail establishment in Sec. 14-47 of this Code that is used by a registered caregiver to offer harvested medical marijuana or marijuana products for sale to qualifying patients.

Medical marijuana testing facility means an establishment that tests marijuana produced by a registered caregiver. Medical marijuana testing facility does not include a single registered caregiver who solely tests the marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

#### **Sec. 17-126. Conflicts/Savings Clause.**

Any provisions of this Code that are inconsistent or conflicting with the provisions of this Article are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Code is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

#### **Section 17-127. Violations.**

If any medical marijuana retail store, medical marijuana testing facility, or medical marijuana manufacturing facility is established in violation of this Article, it shall be subject to the penalties provided for in Sec. 1-15 of this Code.

#### **Sec. 17-128. Term.**

This moratorium shall continue for 180 days from July 9, 2018 to January 5, 2019. It may be extended for additional 180 day periods by the City of Portland in accordance with 30-A M.R.S. § 4356(2).

#### **Sec. 17-129. Applicability.**

Notwithstanding the provisions of 1 M.R.S. § 302, this moratorium shall apply retroactively and include any and all actions and proceedings pending on July 9, 2018 or thereafter, including any proposed medical marijuana retail store, medical marijuana testing facility, or medical marijuana manufacturing

facility for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the City.

**BE IT FURTHER ORDERED**, that this Moratorium shall go into effect and be applicable as of July 9, 2018, and remain in effect for one hundred and eighty (180) days thereafter, unless extended, repealed, or modified by the Portland City Council; and

**BE IT FURTHER ORDERED**, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, to make it effective immediately in order to protect the public safety and welfare of the City of Portland.

AMENDMENT TO ORDER NUMBER 69-18/19  
PREPARED BY CORPORATION COUNSEL FOR COUNSELOR RAY

AMENDMENT TO THE PORTLAND CITY CODE CHAPTER 17 RE:  
MORATORIUM ON MEDICAL MARIJUANA RETAIL STORES, MEDICAL MARIJUANA  
TESTING FACILITIES, AND MEDICAL MARIJUANA MANUFACTURING  
FACILITIES

**WHEREAS**, the Maine Medical Use of Marijuana Act (the "Act"), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorizes registered caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and

**WHEREAS**, on July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), An Act to Amend the Maine Medical Marijuana Law, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and

**WHEREAS**, on July 9, 2018, the Maine Legislature also enacted PL 2017, c. 452 (LD 1539), An Act to Amend Maine's Medical Marijuana Law ("LD 1539"); and

**WHEREAS**, LD 1539 includes express authorization for registered caregivers to 1) operate retail stores for the sale of harvested medical marijuana to qualifying patients, 2) conduct marijuana testing for research and development purposes, ~~and~~ 3) manufacture marijuana products and marijuana concentrates for distribution to patients, and 4) grow up to 30 plants per caregiver; and

**WHEREAS**, the unregulated location and operation of medical marijuana retail stores, testing facilities, ~~and~~ manufacturing facilities, and grow facilities within the City of Portland (the "City") raises legitimate and substantial questions about the impact of such activity on the City, including questions as to compatibility with existing land uses and developments in the City; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

**WHEREAS**, as a result of the foregoing issues, the location and operation of medical marijuana retail stores, testing facilities, ~~and~~ manufacturing facilities, and grow facilities within the City have potentially serious implications for the health, safety and welfare of the City and its residents; and

**WHEREAS**, existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores, testing facilities, manufacturing facilities, and grow facilities; and

**WHEREAS**, the City needs time to understand the impact of the amendments to the Act on the City's existing rules and ordinances regarding, among other things, zoning, land use, and fire and life safety requirements; and

**WHEREAS**, in the judgment of the City Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action; and

**WHEREAS**, a temporary prohibition on medical marijuana retail stores, testing facilities, ~~and~~ manufacturing facilities, and grow facilities is therefore appropriate in order to determine what regulations, if any, are necessary within the City as a result of the amendments to the Act:

**NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, that the Portland City Code is hereby amended by adding an Article, to be numbered X, which said Article reads as follows:

**ARTICLE X. MORATORIUM ON MARIJUANA CAREGIVER RETAIL STORES, TESTING FACILITIES, AND MANUFACTURING FACILITIES**

**Sec. 17-124. Necessity.**

Municipalities are authorized by 30-A M.R.S. § 4356(1)(a) and (b) to enact moratoria for the following reasons:

a. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or

b. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent public harm from residential, commercial or industrial development in the affected geographic area.

In accordance with 30-A M.R.S. § 4356(1)(a) and (b) and for the reasons stated above, the Portland City Council hereby finds that a moratorium on medical marijuana retail stores, medical marijuana testing facilities, ~~and~~ medical marijuana manufacturing facilities, and medical marijuana grow facilities is necessary and warranted in the City of Portland.

**Sec. 17-125. Definitions.**

Except as otherwise provided, the following definitions shall apply to this Article:

*Marijuana extraction* means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

*Manufacturing or manufacture* means the production, drying, blending, infusing, compounding or other preparation of marijuana and marijuana products, including the preparation of food, drink, or similar products from marijuana or marijuana products. Manufacturing includes, but is not limited to, marijuana extraction or preparation by means of chemical synthesis.

*Medical marijuana grow facility* means a lot or parcel where more than one registered caregiver is growing medical marijuana.

*Medical marijuana manufacturing facility* means an establishment that manufactures marijuana and marijuana products produced by a registered caregiver. Medical marijuana manufacturing facility does not include a single registered caregiver who solely manufactures marijuana and marijuana products out of marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

*Medical marijuana retail store* means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, regular sales to more than five

individual qualifying patients in any one week, and sales directly to the consumer of the product. This includes, but is not limited to, an establishment meeting the definition of a retail establishment in Sec. 14-47 of this Code that is used by a registered caregiver to offer harvested medical marijuana or marijuana products for sale to qualifying patients.

*Medical marijuana testing facility* means an establishment that tests marijuana produced by a registered caregiver. Medical marijuana testing facility does not include a single registered caregiver who solely tests the marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

#### **Sec. 17-126. Conflicts/Savings Clause.**

Any provisions of this Code that are inconsistent or conflicting with the provisions of this Article are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Code is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

#### **Section 17-127. Violations.**

If any medical marijuana retail store, medical marijuana testing facility, ~~or~~ medical marijuana manufacturing facility, or medical marijuana grow facility is established in violation of this Article, it shall be subject to the penalties provided for in Sec. 1-15 of this Code.

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This moratorium shall continue for 180 days from July 9, 2018 to January 5, 2019. It may be extended for additional 180 day periods by the City of Portland in accordance with 30-A M.R.S. § 4356(2).

#### **Sec. 17-129. Applicability.**

Notwithstanding the provisions of 1 M.R.S. § 302, this moratorium shall apply retroactively and include any and all actions and proceedings pending on July 9, 2018 or thereafter,

including any proposed medical marijuana retail store, medical marijuana testing facility, ~~or~~ medical marijuana manufacturing facility, or medical marijuana grow facility for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the City.

**BE IT FURTHER ORDERED**, that this Moratorium shall go into effect and be applicable as of July 9, 2018, and remain in effect for one hundred and eighty (180) days thereafter, unless extended, repealed, or modified by the Portland City Council; and

**BE IT FURTHER ORDERED**, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, to make it effective immediately in order to protect the public safety and welfare of the City of Portland.

**MEMORANDUM**  
**City Council Agenda Item**

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

**FROM:** Jon P. Jennings, City Manager

**DATE:** August 16, 2018

**SUBJECT:** Caregiver Facility Moratorium

**SPONSOR:** Jon P. Jennings, City Manager  
**(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:**  
1<sup>st</sup> reading \_\_\_\_\_ **X** \_\_\_\_\_ Final Action \_\_\_\_\_

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

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

Acting Police Chief, Vern Malloch, and Associate Corporation Counsel, Anne Torregrossa, will provide an overview of recent changes in state law with respect to medical marijuana, as well as the need for a moratorium to give the City time to put in place rules and regulations governing caregiver medical retail stores, manufacturing facilities, and testing facilities.

**I. ONE SENTENCE SUMMARY**

The agenda item proposes a moratorium on registered marijuana caregiver retail stores, manufacturing facilities, and testing facilities.

**II. AGENDA DESCRIPTION**

Proposal to place a temporary moratorium on new marijuana caregiver retail stores, manufacturing facilities, and testing facilities to give the City time to implement zoning, licensing, and other regulatory ordinances to minimize any potential adverse impacts from their operation in the City. This moratorium will not impact legally existing caregiver operations in the City.

**III. BACKGROUND**

In July of this year, the state legislature enacted two statutes that impacted medical marijuana caregivers. The statutes allow medical marijuana caregiver retail stores, manufacturing and testing. They also changed the rules for the number of plants a caregiver can grow and eliminated the cap of five patients. The new statutes also expressly gives municipalities the right to regulate caregivers under their home rule authority.

Without a moratorium in place to allow the City to adopt zoning and performance standards, these facilities may be able to open under current regulations that are not designed to address marijuana caregiver facilities. The moratorium will give the City time to consider the potential impacts on the community and craft ordinances to mitigate any potential negative impacts.

This moratorium does not impact caregivers who are not operating a retail store, manufacturing facility, or a testing facility.

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

Moratorium to allow for the development of ordinances to govern the location and operation of medical marijuana caregiver retail stores, manufacturing facilities, and testing facilities.

#### **V. FINANCIAL IMPACT**

None anticipated.

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

City staff has an internal working group that has been meeting for several months to work towards regulating the recreational marijuana industry when it is eventually licensed by the state. Because of this work, staff anticipates being able to present proposals to the Council with respect to the medical industry within the next several months. The moratorium will give staff the time needed to ensure that its recommendations are thoughtful and complete to facilitate Council decision making.

#### **VII. RECOMMENDATION**

Staff recommends that this moratorium be approved.

#### **VIII. LIST ATTACHMENTS**

Draft moratorium.

Prepared by: Anne Torregrossa, Associate Corporation Counsel

Date: August 16, 2018

September 25, 2018

To: Members of the Portland City Council  
 From: Michael Russell, Director, Permitting and Inspections  
 Cc: Jon Jennings, City Manager  
 Michael Sauschuck, Assitant City Manager  
 RE: Marijuana related permit applications in review and historical context

Permit Number	Zone	Main Address	Permit Type	Permit Status*	Work Class	Apply Date	Issue Date	Expire Date	Finalize Date	Inspection Date	Square Feet	Valuation	Permit Fee	Description
BLDC2018-00339	B3	363 FORE ST	Commercial Construction	In Review	Alterations	8/31/2018					1700	8,500.00	\$145.00	New tenant - 367 Fore Street, medical marijuana facility (retail) Minor interior alterations to retail space. No demolition/construction of walls.
BLDC2018-00302	IM	71 CADDIE LN	Commercial Construction	In Review	Alterations	8/12/2018					8000	70,000.00	\$1,060.00	Applicant seeks change of use in connection with its installation of marijuana extraction equipment to expend permitted uses to include medical marijuana cultivation and extraction and processing, including third party extraction and processing
BLDC2018-00262	IM	135 WALTON ST	Commercial Construction	In Review	Alterations	7/24/2018					5842	50,000.00	\$760.00	Change of Use: Adding an extraction booth to "unit h". This is considered it's own class of cultivation. Unit H is currently being used for cultivating and processing plants.

**Historical Context**

HVAC2018-00051		71 Caddie Lane	HVAC	In Review	HVAC	5/10/2018					0	40,000.00	\$610.00	Install air conditioning system with a 10 ton indoor AHU with 24 gauge supply and return ducts and exterior condensers for medical marijuana cultivation facility, Unit #15
BLDC2018-00245		460 WARREN AVE	Commercial Construction	Issued	Alterations	7/12/2018	8/31/2018	2/27/2019			600	5,000.00	\$85.00	Minor tenant renovation to interior of existing Getty gas station building for new medical marijuana retail. Pumps shall remain working, completely self-serve, by the property owner.
BLDC2018-00156		2 EVERGREEN DR	Commercial Construction	Issued	Alterations	5/25/2018	8/13/2018	2/9/2019			2749	75,000.00	\$1,135.00	Commercial fit-out for a new marijuana extraction and processing facility, Tastefully Baked.
201701341		71 CADDIE LN	Commercial Construction	Issued	Alterations	8/22/2017	10/20/2017	2/12/2019		8/17/2018	0	50,000.00	\$760.00	Interior fit-up/establish use of new pre-engineered metal building for a medical marijuana cultivation facility. Add second floor, metal stairs, steel stud framed drywall partitions, hollow metal doors and frames, accessible toilet facilities, employee kitchen area.
201700538		230 WARREN AVE	Commercial Construction	Issued	Alterations	4/19/2017	6/14/2017			6/26/2017	0	0.00	\$25.00	Change use from autobody shop to medical marijuana cultivation facility (5,000 SF)
201700219		457 RIVERSIDE ST	Commercial Construction	Issued	Alterations	2/22/2017	5/5/2017			11/20/2017	0	7,500.00	\$130.00	Change of use from an auto repair garage to a medical marijuana cultivation facility for single caregiver.
201606559		1567 WESTBROOK ST	Electrical	Issued	Electrical	10/27/2016	10/27/2016				0	0.00		Electrical work for medical marijuana grow room.
201602543		273 PRESUMPCOT ST	Commercial Construction	Issued	Alterations	9/27/2016	5/2/2017			6/19/2017	0	0.00	\$25.00	After-the-fact change of use to Medical Marijuana grow facility on 1st floor and offices on the 2nd floor. Also after-the-fact approval for deck.
201502834		220 RIVERSIDE IND PKWY	Commercial Construction	Issued	Alterations	11/20/2015	1/21/2016			6/17/2016	2880	11,500.00	\$190.00	Change of Use to Medical Marijuana Growing Facility - minor interior renovations, build wall for 4 separate grow areas for two primary care givers and electrical upgrades
201400877		320 WARREN AVE - 324C	Commercial Construction	Expired	Alterations	4/28/2014					0	9,000.00	\$145.00	Change of use from Automotive Repair to Indoor Garden facilities for the cultivation of medical marijuana with minor construction in 324C. This is an after the fact permit.
201606653		470 RIVERSIDE ST	Electrical	Complete	Electrical	11/28/2016	11/28/2016			12/7/2016	0	0.00		CMP 103-003-067-86 Wiring for marijuana grow facility unit #3
201602818		470 RIVERSIDE ST (Unit 3)	Commercial Construction	Complete	Alterations	11/1/2016	12/27/2016		3/1/2018	1/27/2017	0	2,000.00	\$40.00	Change of use and interior alterations to create a medical marijuana grow facility. Construct a 10' security fence per State requirements.
201602550		470 Riverside St Bldg. 2 (Unit 2A)	Commercial Construction	Complete	Alterations	9/28/2016	11/10/2016		2/3/2017	2/3/2017	2450	16,350.00	\$265.00	Change of use to add medical marijuana cultivation facility, construct non-load-bearing walls for 3 separate rooms.
201608024		470 RIVERSIDE ST (Unit 2A)	Plumbing	Complete	Plumbing	9/28/2016	9/28/2016				0	0.00		Plumbing for medical marijuana grow facility (Unit 2A)-property owner doing work
201602470		470 RIVERSIDE ST	HVAC	Complete	HVAC	9/20/2016	1/25/2017		2/3/2017	9/26/2016	0	59,064.00	\$910.00	Installing HVAC Appliance Bryant Legacy in Unit 1B for cultivation of medical marijuana
201602168		470 RIVERSIDE ST	Plumbing	Complete	Plumbing	8/15/2016	8/15/2016				0	0.00		Plumbing for new marijuana cultivation facility (BP #2016-01214)
201601214		470 RIVERSIDE ST (Unit 1B) Bld #1	Commercial Construction	Complete	Alterations	5/11/2016	7/20/2016		10/11/2016	10/11/2016	0	39,000.00	\$595.00	Change of use from office to medical marijuana cultivation facility
201502206		135 WALTON ST	Commercial Construction	Complete	Alterations	9/14/2015	11/5/2015			1/7/2016	0	15,000.00	\$235.00	Change of use to create three new units from the old Unit B - units L&M - medical marijuana & Unit N - distribution - New egress corridors/emergency lighting, and interior walls/doors
201502016		135 WALTON ST (Unit F)	Commercial Construction	Complete	Alterations	8/18/2015	10/20/2015			12/17/2015	0	16,730.00	\$265.00	Change of Use - (Unit F) create two (2) individual growing spaces for a medical marijuana growing facility for individual patients. Connected to permit #2015-02013
201400934		135 WALTON ST - UNIT H	Commercial Construction	Complete	Alterations	5/5/2014	6/18/2014		9/12/2014	9/12/2014	0	11,000.00	\$175.00	Change of use - Unit H and build 3 interior rooms within warehouse unit for registered medical marijuana cultivation facility
201113549		685 CONGRESS ST	Commercial Construction	Complete	Alterations	12/1/2011	1/4/2012	7/2/2012		3/26/2012	0	48,000.00	\$730.00	Int fit-up for Office / Marijuana Dispensary

**Site Plan Applications**

Permit Number	Zone	Main Address	Permit Type	Permit Status	Apply Date	Square Feet	Fee	Summary
PL-000289-2018	IM	56-66 MILLIKEN ST	Level II Site Plan	On Hold	8/14/2018	22,800	\$1,050	Create four 5,700 sf. spaces for testing, extraction and/or growing operations in existing building

\*In Review - Permit has been submitted and is currently being reviewed by the Permitting and Inspections Department

Issued - Permit has been issued and work is currently underway

Complete - Permit has been issued, work has been completed and passed final inspection by the Permitting and Inspections Department

On Hold- Awaiting guidance related to the moratorium before moving forward

## MEMORANDUM

**TO:** City Council; Mayor Strimling  
**FROM:** Anne Torregrossa, Associate Corporation Counsel  
**DATE:** September 20, 2018  
**RE:** Summary of Status of Medical Marijuana Laws as they Relate to the Proposed Medical Marijuana Moratorium

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Staff is recommending that the Council adopt a moratorium on new caregiver medical marijuana retail stores, manufacturing facilities, testing facilities, and grow facilities of a certain size. The moratorium would apply retroactively to all pending applications for these uses, so long as those applications were filed after July 9, 2018. If the Council adopts the proposed moratorium with the retroactivity provision intact, the effect would be to put the pending applications on hold. Those pending applications would then be taken up once the City has had a chance to adopt a comprehensive set of ordinances for this industry. The resulting ordinances would govern which of the new provisions would apply to the currently pending applications.

The need for, and timing of, this moratorium arises out of the passage of two bills in the legislature relating to new caregiver uses – LD 238 and LD 1539 – which were passed over the governor’s veto on July 9, 2018. For years, the scope and authority of a municipality to regulate registered medical marijuana caregivers has been unclear under state statute. However, with the emergency passage of LD 238, municipalities explicitly received authorization to regulate registered caregivers for the first time. LD 238 provides that, “Pursuant to the home rule authority . . . a municipality may regulate registered primary caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities . . .” 22 M.R.S. § 2423-A(14). In addition to the provisions for local control, LD 238 also made some changes to the law surrounding marijuana testing facilities and caregiver manufacturing facilities. Importantly, although the law contemplates that the state will enact a full licensing and regulatory scheme for testing and manufacturing facilities, it allows those facilities to begin operating without the safeguards.

LD 1539, on the other hand, was not passed as an emergency, and will not take effect until December 13, 2018. LD 1539 is a much more robust and detailed bill. LD 1539 adds in significant detail about the process for registration of caregivers (similar to licensing) at the state level, allows the state to share certain information with local code officers, has annual reporting requirements, and changes some requirements for dispensaries. It also authorizes caregiver retail stores for the first time.<sup>1</sup> Unlike LD 238, which allows manufacturing and testing facilities to open before the state can get its licensing in place, LD 1539 requires municipal approval before manufacturing, testing, or retail stores can open (an “opt-in” clause). LD 1539 also provides that all retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities are grandfathered if they are open and “operating with municipal approval in the municipality” prior to December 13. Once LD 1539 goes into effect, no more caregiver facilities may open until the City enacts its

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<sup>1</sup> While caregiver retail stores are not currently permitted, some caregivers have been “cycling” their fifth patient so that they are essentially selling to anyone who walks through their door. In May of this year, new regulations by DHHS went into effect that made this practice more difficult for anyone operating a separate storefront, but it has not stopped the practice. The distinction between caregivers who are cycling their fifth patient and those who are operating a retail store is not clarified in state law.

licensing program (a so-called “opt-in” provision). However, any facilities that have opened up with municipal approval are allowed to continue and are “grandfathered.” This means that manufacturing and testing facilities have a short window within which to open –between July 9, 2018 and December 13, 2018 – or they have to wait until the City implements a fully developed licensing scheme.

This memo summarizes the current gaps in state and local legislation that indicate the need for a moratorium. It also summarizes the standards to enact a moratorium, state law governing retroactivity, and the City provisions for emergency passage. Finally, more detailed summaries of LD 238 and LD 1539 are attached.

## **I. GAPS IN STATE LAW AND PURELY LOCAL REQUIREMENTS**

LD 238 and LD 1539 have created a strange situation where manufacturing and testing facilities have an incentive to rush to establish a permitted presence in the gap between July 9, 2018 and December 13, 2018. If they do so, they will gain grandfathered status and will also not need to wait for local licensing to be up and running. However, those establishments will be coming in at a time where there is relatively little state regulation, and minimal local regulation.

### **A. Gaps in State Law**

At the state level, the more detailed restrictions and requirements are found in LD 1539, which will not go into effect for another three months. This includes important requirements about labeling, packaging, tracking, record keeping and reporting, education, and signage. None of the caregiver facilities that open between now and December will be subject to those requirements.

Further, none of the rules for either bill have been developed. LD 238, for example, contemplates specific rules for testing facility director qualification requirements and security requirements. It also requires rules for manufacturing facilities including registration of the facility and key players, extraction using inherently hazardous substances, director qualifications, security, a disposal plan, record keeping, and educational materials. Looking at the existing rules currently in place for dispensaries, there are many gaps in regulation that we can expect the state to fill with rulemaking.

Finally, while LD 238 requires ISO<sup>2</sup> certification for labs and NFPA 2018 standards for manufacturing facilities using inherently hazardous substances, there is no one at the state level checking those certifications, and no one yet trained at the City level to do so. Similarly, although there are background check requirements and criminal history disqualifications, because there is no licensing scheme, no one is doing those checks to ensure that new businesses cropping up are being run by appropriate personnel. The Department of Administration and Financial Services, the state agency that will be running this program, still needs to get its regulatory and enforcement arms up and running.

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<sup>2</sup> ISO is the International Organization for Standardization and is a third party who puts out international standards on various topics.

## **B. Local Requirements**

In addition to the anticipated state law, rules, and licensing, there are purely local requirements that will need to be put into place. Some anticipated proposals will include:

- Zoning requirements to ensure that facilities open in appropriate locations and that there is no disproportionate impact on certain areas;
- Separation requirements from schools and other sensitive uses for all types of facilities;
- Separation requirements for retail stores from each other, from dispensaries, and from adult use stores;
- Separation requirements for manufacturing and cultivation facilities from residential properties to mitigate odor concerns;
- Odor mitigation requirements;
- Safety requirements;
- Provisions anticipating the switch from medical to adult use facilities in the future;
- Capping the size of facilities to avoid pushing out other industries;
- Licensing scheme to consider qualifications, likely including criminal history as well as financial and technical capacity; and
- Fire and life safety requirements in addition those that currently apply to manufacturing facilities using inherently hazardous substances.

Other places that have implemented more robust marijuana programs than Maine have already felt the growing pains of inadequate planning. One refrain that staff and I consistently heard from Colorado and other jurisdictions was to get out ahead of the industry with regulations in order to avoid negative impacts on residents and businesses. Frequently cited consequences were the clustering of facilities, the concentration of facilities in low income areas, significant changes to neighborhoods, inadequate building and fire regulations, the improper siting of facilities without thought to traffic, crime, and other impacts, and the need to be able to address an ever-evolving industry. The State of Colorado and a marijuana cultivation facility have been embroiled in litigation that has already gone up on appeal to the Tenth Circuit Court of Appeals over a complaint by neighbors of the facility who claim that the smell interferes with the enjoyment of their property. Maine also has a pending case where a condo owner has sued her neighbors for the nuisance created from the smell of marijuana.

In addition to clear regulations, staff needs training. They need resources to be able to evaluate applications in this relatively new industry. They also need education to be able to enforce even existing state laws, let alone anticipated new laws, rules, and ordinances. Most importantly, staff needs training on how to do all of this with an eye towards safety for themselves and the public. Examples of issues that have already arisen include improper storage and disposal of plants; manufacturing and testing facilities with inadequate fire and life safety protections and questionable operations; mobile testing facilities; electrical system overloads; and neighborhood impacts.

## **II. STANDARDS FOR MORATORIA, RETROACTIVITY IN MORATORIA AND ORDINANCES, AND EMERGENCY PASSAGE**

The standards for moratoria, retroactivity, and emergency passage are all very deferential to the municipal officers.

### **A. Moratorium Standards**

A municipal moratorium may be enacted for up to 180 days if it is needed, “Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area.” 30-A M.R.S. § 4356(1)(B). “Absent evidence to the contrary, a moratorium, like any other municipal ordinance, is presumptively valid.” *Minster v. Gray*, 584 A.2d 646, 649 (Me. 1990). Any party who challenges a moratorium must establish “the complete absence of any state of facts that would support the need for the enactment.” *Id.*, quoting *Tisei v. Town of Ogunquit*, 491 A.2d 564, 569 (Me. 1985). The absence of adequate zoning or other regulatory requirements has been upheld as an adequate justification for a moratorium. *See id* (moratorium on mobile home parks acceptable).

Without the proposed moratorium, caregiver testing and manufacturing facilities will have an incentive to rush into the market before LD 1539 goes into effect so that they will be “grandfathered” and allowed to continue operating. Until the state and the City establish their regulatory and licensing scheme, these businesses will operate with very little oversight or guidance.

### **B. Retroactivity Standards**

State law provides that generally, “actions and proceedings pending at the time of the passage, amendment or repeal of an Act or ordinance are not affected thereby.” 1 M.R.S. § 302. However, the Law Court has explained that § 302 “does not expressly or impliedly prohibit municipalities from applying ordinances retroactively.” *Portland v. Fisherman's Wharf Assocs. II*, 541 A.2d 160, 164 (Me. 1988). Instead, it is simply a rule of statutory construction that does not apply where the legislative body (here, the City Council) is clear on its desire to make the legislation apply retroactively. *Kittery Retail Ventures, LLC v. Town of Kittery*, 2004 ME 65, ¶ 17.

The law in Maine is quite permissive in allowing municipalities to enact legislation that has retroactive application. In fact, in “neither the submission of a development application, nor the issuance of a development permit, establishes vested rights” that would prevent retroactivity. *Kittery Retail Ventures, LLC*, 2004 ME 65, ¶ 24. Additionally, a party’s “mere reliance on the language of an existing ordinance, or the incurrence of preliminary expenses to satisfy application requirements, is not sufficient” to change the municipality’s rights in this respect. *Id.*

If the moratorium is not made retroactive, the applications for three additional extraction facilities and one testing lab will continue to move forward and be processed.<sup>3</sup> If these facilities open before December 13, 2018, they will be grandfathered and will be operating in an environment with minimal standards and oversight.

### **C. Emergency Passage**

Ordinarily, City ordinances take effect 30 days after passage. However, the Council has the authority to pass emergency ordinances. The charter provides:

The city council may, by vote of at least seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders, or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the city council shall be conclusive.

City of Portland Charter Art. III, § 11. This standard does not require an imminent threat of significant harm, or some other heightened standard. The Council's determination of the need for emergency passage is final.

If the moratorium is not passed as an emergency, then additional manufacturing and testing facilities will have an incentive to rush in to get permitted in the additional 30-day period before the moratorium takes place. Additionally, larger cultivation facilities, where multiple caregivers are sited at the same location, will have the same incentive. As discussed above, both state and local requirements have significant gaps that are needed to protect residents, existing business, neighborhoods, and customers of the new facilities themselves. Also, the short time frame may encourage businesses who do not have fully developed resources, business plans, or knowledge to rush into the market to hold their place.

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<sup>3</sup> It is unlikely that the retail store application will be granted, given that retail stores are not yet allowed under state law.

**ATTACHMENT A**  
**LD 238 – CAREGIVER TESTING AND MANUFACTURING**

LD 238 paves the way for manufacturing facilities, and also provides additional requirements for testing facilities. While the bill specifically contemplates a state licensing scheme, it allows these facilities to move forward without state licensing.

**A. Testing Facilities.**

Testing facilities have been allowed for several years under state law, although it was previously unclear whether they could open in the absence of state rules and licensing. LD 238 clarified that testing facilities could open without state approval, and also added the requirement that labs be accredited to ISO/IEC 17025 standards. As discussed above, it also made it clear that the City could regulate these facilities. Under current state law, testing facilities must:

- (1) Dispose of marijuana residue in a manner that prevents diversion of marijuana to persons not authorized to possess marijuana tested by the facility;
- (2) House and store marijuana in the facility's possession or control during the process of testing, transport or analysis in a manner to prevent diversion, theft or loss;
- (3) Label marijuana being transported to and from the facility with the following statement: "For Testing Purposes Only"; [and]
- (4) Maintain testing results as part of the facility's business books and records.

22 M.R.S. § 2423-A(10)(C). Testing facilities must also “obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body.” 22 M.R.S. § 2423-A(10)(E). This ISO standard largely governs documentation of processes and procedures.

State statute specifically contemplates that the State will further develop rules regarding “(1) Marijuana testing facility director qualification requirements; (2) Required security for marijuana testing facilities; and (3) Requirements for the licensing, certifying or other approval of marijuana testing facilities.” 22 M.R.S. § 2423-A(10)(D). The state has not promulgated any of these rules, and there are no specific requirements in these areas.

**B. Caregiver Manufacturing Facilities.**

Although caregivers have been allowed to extract and manufacture marijuana products, LD 238 fleshes out the requirements for stand-alone manufacturing for caregivers. State law distinguishes between caregiver manufacturing facilities that engage in extraction using “inherently hazardous substances,” and those that do not. Inherently hazardous substance is defined as “a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. ‘Inherently hazardous substance’ does not include any form of alcohol or ethanol.” 22 M.R.S. § 4-D.

Caregivers who do not extract using inherently hazardous substances are not subject to NFPA 2018 standards and are subject to only a few requirements. State statute requires that they “Shall dispose of marijuana used in the manufacturing process in a manner that prevents diversion of marijuana to persons not authorized to possess marijuana or marijuana products possessed by the facility and in accordance with rules adopted by the department,” and must also label their product with certain information. 22 M.R.S. § 2423-F(4)(D), (9).

Caregivers who do use inherently hazardous substances are subject to additional requirements, including:

- (1) Certification from a professional engineer licensed in this State of the safety of the equipment used for marijuana extraction and the location of the equipment and the professional engineer's approval of the standard operating procedures for the marijuana extraction;
- (2) Documentation from a professional engineer licensed in this State or a state or local official authorized to certify compliance that the equipment used for marijuana extraction and the location of the equipment comply with state law and all applicable local and state building codes, electrical codes and fire codes, including the chapters of the most recent National Fire Protection Association Fire Code relating to marijuana extraction facilities; [and]
- (3) Documentation from the manufacturer of the marijuana extraction system or a professional engineer licensed in this State showing that a professional grade, closed-loop extraction system that is capable of recovering the solvents used to produce marijuana concentrate is used by the person or entity.

22 M.R.S. § 2423-F(3)(A). Officers and employees of manufacturing facilities using inherently hazardous substances must also pass a criminal background check. 22 M.R.S. § 2423-F(8)(B). The facilities must also “maintain records of all transactions for a minimum of one year after the date of the transaction.” 22 M.R.S. § 2423-F(12).

The State is required to adopt rules specifically addressing the following:

- A. Requirements for the registration of a manufacturing facility and the principal officers, board members and employees of a registered manufacturing facility;
- B. Requirements for engaging in marijuana extraction using inherently hazardous substances;
- C. Manufacturing facility director or principal officer qualification requirements;
- D. Required security for manufacturing facilities;
- E. Requirements of a disposal plan for marijuana used in the manufacturing process;
- F. Minimum record-keeping requirements, including an annual audit requirement; and
- G. Minimum content of educational materials provided to the recipient of the marijuana products or marijuana concentrate.

22 M.R.S. § 2423-F(10). Again, the State has not promulgated any of these rules, and there are no specific requirements with respect to manufacturing facilities in these areas.

**ATTACHMENT B**  
**LD 1539 – CAREGIVER RETAIL STORES**  
**AND ADDITIONAL REGULATION**

**A. Caregiver Retail Stores.**

One of the more significant changes in LD 1539, is that it explicitly authorizes registered caregivers to operate a retail store. Currently, retail stores are not permitted, although the distinction between a caregiver who is cycling his or her fifth patient and one who is operating a retail store is unclear. This issue may be dealt with at the state level through rule making, or the City could address it through ordinances.

**B. Manufacturing of Edibles**

LD 1539 also implements several specific protections around the production of edible marijuana products. Among other requirements, edibles must be manufactured so that cannabinoid content and marijuana concentrate is consistent throughout the product; may not be manufactured in the shape of a human, animal, or fruit; may not contain additives that are toxic or harmful to humans or that are designed to make the product appeal to persons under 21; and may not be added to a trademarked food or drink product except under limited circumstances.

**C. Additional Restrictions**

LD 1539 has very specific packaging requirements for marijuana sold in a retail transaction, including that it be:

- A. Prepackaged in child-resistant and tamper-evident packaging or placed in child-resistant and tamper-evident packaging with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient;
- B. Prepackaged in opaque packaging or an opaque container or placed in opaque packaging or an opaque container with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient;
- C. Packaged in a container with an integral measurement component and child-resistant cap if the marijuana product is a multiserving liquid; and

...

Any package required under this subsection that contains edible marijuana products must include a signifier that the package contains harvested marijuana.

It also includes specific packaging restrictions, including that marijuana sold may not be:

- A. Labeled or packaged in violation of a federal trademark law or regulation or in a manner that would cause a reasonable consumer confusion as to whether the harvested marijuana was a trademarked product;
- B. Labeled or packaged in a manner that is specifically designed to appeal particularly to a person under 21 years of age;

- C. Labeled or packaged in a manner that obscures identifying information on the label or uses a false or deceptive label;
- D. Sold or offered for sale using a label or packaging that depicts a human, animal or fruit.

The new law will also require testing in certain situations, the distribution of educational materials, plant tracking and labeling, and significant record keeping requirements. It also limits signs, advertising, and marketing.

**MMA Legal Services Update:  
Effective Date of New Medical Marijuana Laws**

There appears to be much confusion as to the effective date of recently enacted medical marijuana legislation. In July, Maine's Legislature enacted two amendments to the Maine Medical Use of Marijuana Act. One, PL 2017, c. 447 (LD 238) was enacted as emergency legislation and took effect immediately.

However, the other, PL 2017, c. 452 (LD 1539), which includes a sweeping reform to the entire medical marijuana statute and creates an "opt in" system for medical marijuana retail stores, testing facilities, manufacturing facilities and dispensaries, is not yet in effect. Contrary to what we have seen reported, LD 1539 will not take effect this October. The law will take effect 90 days after the date the Legislature adjourns. Although currently in recess, the Legislature is still in session. It is unknown when the Legislature will return to complete its work and adjourn *sine die* (finally). As a result, LD 1539 will not become effective until at the earliest, late November and possibly as late as early Spring, 2019.

When LD 1539 does go into effect, it will establish an "opt-in" system similar to the laws regulating liquor. However, medical marijuana retail stores, testing facilities, manufacturing facilities and dispensaries that are operating "with municipal approval" as of the effective date of LD 1539 law will be grandfathered. For this reason, municipalities may wish to consider enacting a moratorium on medical marijuana establishments to cover the time period before LD 1539 becomes effective. For more information on marijuana legislation and a sample moratorium ordinance, see the [Marijuana Resources Page](#) on MMA's website.

In addition, because of the Legislature's delayed adjournment, the legislative update by MMA's State & Federal Relations staff originally planned for the August/September issue of *Maine Town & City* will be published in a later issue.

8/17/18

## **New Laws on Medical Marijuana Retail Stores**

Many municipalities have been struggling with how to handle requests from registered caregivers to operate medical marijuana retail stores. Existing law has been completely silent on the legal status of these stores and unclear as to municipal authority to regulate them. These ambiguities have created a breeding ground of confusion – some towns have refused to permit them, others have permitted them on the assumption they must, and others have taken no action either way. Two new laws provide some clarity, but may also pose a problem before both laws finally become effective. Here's a summary:

On July 9, 2018 the Legislature enacted two amendments to the Maine Medical Use of Marijuana Act which recognize municipal home rule authority to regulate registered caregivers. The smaller of the two, PL 2017, c. 447 (LD 238), was enacted as an emergency and took effect immediately – municipalities may now, by ordinance, regulate registered caregivers.

The larger of the two, PL 2017, c. 452 (LD 1539), is a sweeping reform to the entire medical marijuana statute. One part authorizes registered caregivers to operate medical marijuana retail stores. However, caregivers may only do so if the municipality has voted to allow them generally. In other words, once this law takes effect, new medical marijuana retail stores are prohibited unless the municipal legislative body affirmatively votes to allow their operation. This is similar to the municipal “opt-in” requirement for adult use marijuana establishments under the Adult Use Marijuana Act.

But herein lies the rub: this opt-in requirement will not apply to medical marijuana retail stores until LD 1539 takes effect, which will not be until sometime in late 2018 or later. In addition, LD 1539 expressly grandfathers stores “operating with municipal approval” prior to the law’s effective date. This means medical marijuana retail stores will have at least several months to become grandfathered before new stores are prohibited from operating without a municipal vote to “opt-in.”

For municipalities that want to prohibit medical marijuana retail stores, or for municipalities that may want to allow them but need time to amend local ordinances to regulate them, we recommend adopting a moratorium ordinance. Since LD 238 is already in effect, there is no doubt that a moratorium applying to registered caregivers is now authorized.

Note that LD 238 also imposes new state registration requirements for medical marijuana manufacturing facilities. In addition LD 1539 will grandfather medical marijuana dispensaries, testing facilities and manufacturing facilities that are “operating with municipal approval” prior to the law’s effective date (again, sometime in late 2018 or later). Municipalities wanting to regulate or prohibit these establishments should consult with local counsel about including them in a moratorium ordinance.

For MMA Legal Services’ Sample Moratorium Ordinance Regarding Medical Marijuana Retail Stores, see the following link:

[https://memun.org/Documents?Command=Core\\_Download&EntryId=11969](https://memun.org/Documents?Command=Core_Download&EntryId=11969)

**[NOTE: This ordinance is provided as a basic sample only. Municipalities should NOT use this or any sample unless it has been reviewed by local legal counsel to ensure that all provisions are consistent with local circumstances and any applicable charter, ordinance or regulations.]**

**MUNICIPALITY OF \_\_\_\_\_  
MORATORIUM ORDINANCE REGARDING  
MEDICAL MARIJUANA RETAIL STORES, DISPENSARIES,  
TESTING FACILITIES, AND MANUFACTURING FACILITIES**

WHEREAS, the legislative body of the Municipality of \_\_\_\_\_ (the “Municipality”) makes the following findings:

- (1) The Maine Medical Use of Marijuana Act, codified in 22 M.R.S. Ch. 558-C, authorizes the use, possession, cultivation and transfer of marijuana for medical purposes, and authorizes qualifying patients to obtain medical marijuana from other qualifying patients, registered caregivers, or registered dispensaries, as those terms are defined by 22 M.R.S. § 2422; and
- (2) On July 9, 2018, the Maine Legislature enacted PL 2017, c. 452 (LD 1539), *An Act to Amend Maine’s Medical Marijuana Law*, which includes express authorization for the operation of retail stores by registered caregivers to sell marijuana to qualifying patients, as well as authorization for the operation of medical marijuana manufacturing facilities, medical marijuana testing facilities, and six additional registered medical marijuana dispensaries; and
- (3) On July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 238), *An Act to Amend the Maine Medical Marijuana Law*, which expressly recognizes municipal home rule authority to regulate registered caregivers, registered dispensaries, testing facilities, and manufacturing facilities; and
- (4) The unregulated location and operation of medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the Municipality raises legitimate and substantial questions about the impact of such activity on the Municipality, including questions as to compatibility with existing land uses and developments in the Municipality; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and
- (5) As a result of the foregoing issues, the location and operation of medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the Municipality have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (6) The Municipality currently has no regulations governing medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities; and

- (7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities in the Municipality; and
- (8) In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the Municipality as follows:

**Section 1. Moratorium.** The Municipality does hereby declare a moratorium on the location, operation, permitting, approval, or licensing of any and all new medical marijuana retail stores, registered dispensaries, testing facilities, and manufacturing facilities within the municipality.

No person or organization shall develop or begin operation of a medical marijuana retail store, registered dispensary, testing facility, or manufacturing facility within the Municipality on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana retail store, registered dispensary, testing facility, or manufacturing facility.

**Section 2. Definitions.** For purposes of this ordinance, the following terms have the following meanings.

*Medical marijuana retail store* means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, and sales directly to the consumer of the product, including [include any reference to "retail store" or "retail business" definitions in local ordinances here], that is used by a registered caregiver to offer marijuana for sale to qualifying patients.

*Marijuana* means the leaves, stems, flowers, seeds and other plant material harvested from a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica, and Cannabis ruderalis or their hybrids or seeds of those plants. "Marijuana" includes any product derived from any marijuana plant or plant material, including, but not limited to marijuana concentrate and marijuana products.

*Registered dispensary* means an entity registered under the Maine Medical Use of Marijuana act that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

*Testing facility* means a public or private laboratory that is authorized under the Maine Medical Use of Marijuana Act to analyze contaminants in and the potency and cannabinoid profile of marijuana samples.

*Manufacturing facility* means a facility or person engaged in the production, blending, infusing, compounding, or other preparation of marijuana, marijuana concentrate, or marijuana product for medical use, including, but not limited to, extraction or preparation by means of chemical synthesis.

**Section 3. Pending Proceedings.** Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall govern any proposed medical marijuana retail store, registered dispensary, testing facility, and manufacturing facility for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

**Section 4. Conflicts/Savings Clause.** Any provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

**Section 5. Violations.** If any medical marijuana retail store, registered dispensary, testing facility, or manufacturing facility is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Municipality shall be entitled to all rights and remedies available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.

# Marijuana fumes dispute drives Augusta condo neighbors to court

cm [centralmaine.com/2018/08/03/marijuana-fume-dispute-drives-augusta-condo-neighbors-to-court/](http://centralmaine.com/2018/08/03/marijuana-fume-dispute-drives-augusta-condo-neighbors-to-court/)

By Betty Adams

August 3, 2018



AUGUSTA — One homeowner says secondhand marijuana smoke sickens her; the smoker, a neighbor, says she needs medical marijuana for her own health.

Now their dispute is in Kennebec County Superior Court, where Philip and Jessica Manfre are suing Ashley Seile. Both parties are owners and occupants of adjacent condominiums at 136 Old Winthrop Road in Augusta. The Manfres live above Seile's ground-floor unit in the secluded, two-story, eight-unit building near Interstate 95.

The case is pending, but the problem is likely to arise more in states such as Maine that have legalized medical and recreational marijuana.

It is unclear whether this is the first lawsuit of its kind filed in the state, because civil complaints in Maine currently are only kept in paper form.

In this instance, a judge already approved a temporary restraining order telling Seile and her guests to "immediately cease and desist any and all smoking" in the building and within 50 feet of the building.

Justice Michaela Murphy issued the order in May following a hearing.

The order says that “the court believes the plaintiffs are likely to succeed on the merits ... that the plaintiffs will suffer irreparable injury in the absence of a temporary restraining order, and that the harm to plaintiffs ... outweighs any inconvenience to the defendant.”

Murphy concluded that the harm in particular to Jessica Manfre, “who suffers from rheumatoid arthritis, exacerbated by coughing spasms, is immediate and irreparable” and that smoke coming from Seile’s unit into the Manfres’ unit causes the spasms.

An affidavit by Philip Manfre, attached to the lawsuit, says “with little effort,” Seile could smoke outside away from the building or consume marijuana in an alternative method.

## Related

### Want news about Maine’s marijuana industry? Subscribe to the Maine Cannabis Report

The condominium association’s board of directors weighed in on the dispute in December 2017, asking Seile to refrain from smoking in the building and telling her that the smoking of tobacco and/or marijuana within the building “is interfering with the peaceful possession or proper use of the property by the other occupants.”

The letter from the board, which is filed with the lawsuit, cites a paragraph in the association’s declaration: “No nuisances shall be allowed on the property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession of the property by its residents.”

In responding to the allegations in the lawsuit, Seile admits smoking marijuana indoors but denies other claims by the Manfres. She also notes that she has been issued a Medical Marijuana Certificate “for use in treating anxiety which allows her to smoke marijuana as part of her treatment regime (sic).”

Through her lawyer, Jon Languet, she asks that the court dismiss the lawsuit. She also notes that Maine’s Medical Marijuana Act prohibits her from smoking it in “any public place,” which would place the building’s parking lot off limits.

The Public Health Law Center offers some guidance for such neighbor issues in its publication “Toking, Smoking & Public Health,” which includes information about what was learned with regard to tobacco smoke in multi-unit residential dwellings:

“Secondhand smoke, whether from tobacco or marijuana, spreads throughout multi-unit dwellings. This infiltration of smoke can damage the health of other residents and increase the costs of maintaining the apartments. Concern over the health impact of secondhand marijuana smoke led the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) to update its national air standards to include both cannabis smoke and emissions from electronic smoking devices.”

The Manfreds' complaint, filed by attorney Jennifer Bryant, says that both parties have lived at the building since November 2016 and that the Manfreds first noticed the second-hand marijuana smoke in August 2017.

In the court filings, the Manfreds said they took steps to seal off openings around plumbing, shut their doors and window, sealed up the hot water heater area "and use face masks to try to minimize their inhalation of the fumes." Then they went to the condominium board, and Seile complied with that request to smoke outside, according to the filings.

However, the Manfreds say the marijuana smoke problem arose again as winter approached and the defendant and/or her guests smoked inside again.

The Manfreds claim the smoke is a nuisance and causes them "substantial financial and physical harm." They want the court to order Seile and her guests to stop smoking marijuana in her unit and to award the Manfreds damages.

In Seile's initial response to the lawsuit, which she filed herself, she said, the dispute has increased the anxiety for which she is prescribed marijuana. Also, she said the association has no smoking prohibitions in privately owned units.

Seile also wrote, "The claim that smoke is entering the unit is false and they are mistaking it for the aroma." She said she initially smoked outside, but then moved into the garage because of complaints. Then complaints there forced her to smoke in her unit, she said.

She said she purchased an air purifier "in an effort to be a good neighbor."

No one was home at the Manfreds or at Seile's home on Friday; however, a woman who took a message at Seile's number indicated that a smoke test had been performed recently at Seile's unit and that nothing permeated the Manfreds' unit.

While Seile did not return the call, Languet called later Friday evening. He said that he conducted a test Thursday that included setting off red smoke flares in Seile's apartment and then waiting above with the Manfreds and their attorney to see if anything permeated.

"There was not even a whiff of smoke," Languet said.

He added, "Reasonable people ought to find a way so both parties get the medical treatment they need without causing each other a problem."

Bryant on Friday referred to the test as "home-grown" and noted that another complicating factor is that "in the state of Maine, many of the experts that would test air quality do not have the ability, yet, to test for marijuana."

"When Ms. Seile opens her windows down below, the marijuana fumes certainly come right up into the Manfreds' home," she added.

Bryant also cited a 2014 District of Columbia case in which a court issued a temporary restraining order forbidding a neighbor from allowing anyone to smoke tobacco and marijuana in the home after a pregnant woman said the secondhand smoke wafting into her family's adjacent home was harming her unborn child as well as her 1-year-old.

Both Bryant and Languet said they anticipated seeing more cases involving people's rights and personal property and competing interests.

Bryant also said the Manfres have not yet pursued a claim under the federal Fair Housing Act.

*Betty Adams — 621-5631*

*[email protected]*

Twitter: [@betadams](https://twitter.com/betadams)

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# Marijuana grow room in Rumford up in smoke

By **Liz Marquis, Staff Writer** - June 2, 2018

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RUMFORD — A fire of unknown origin heavily damaged a marijuana grow room in the back of a wood products plant on Route 2 on Saturday morning, Rumford Fire Chief Chris Reed said.

There were no injuries.

An investigator from the state Fire Marshal's Office will inspect the scene Monday to try to determine the cause, the chief said.

No one was in the 15,000- to 20,000-square-foot Woodworkers Paradise plant when firefighters arrived, and Reed said to his knowledge no one was inside at the time of the alarm at 8:46 a.m.

He said the fire started in the 40- by 25-foot grow room, which is rented from the furniture business owner, whose name was not immediately available. The fire was contained to that room, and fire crews cut a hole in the roof above it to vent heat and smoke.

"Everything in there was made out of combustible materials" such as wood and plastic, he said.

Advertisement

Reed said he did not know who rented the grow room.

Woodworkers Paradise manufactures furniture and displays its products in a showroom, which firefighters emptied of high-value pieces to prevent further damage, Reed said.

Reed said there was no estimate of the financial loss and it was not known if there was insurance coverage on the building.

Firefighters from Andover, Mexico, Peru, Dixfield and Bethel assisted in extinguishing the blaze by 10:30 a.m.

emarquis@sunmediagroup.net



*Smoke and steam rise from the Woodworkers Paradise building on Route 2 in Rumford on Saturday morning, where Rumford Fire Chief Chris Reed said a flames erupted in a rented marijuana grow room. (Bruce Farrin/Rumford Falls Times)ames*



*Firefighters from six different towns fought to contain the fire that broke out in the back of the Woodworkers Paradise building on Route 2 in Rumford on Saturday morning. (Liz Marquis/Sun Journal)*

Read about our commenting guidelines.



**MEMORANDUM**  
**PLANNING AND URBAN DEVELOPMENT DEPARTMENT**  
**PLANNING DIVISION**

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To: Portland City Council  
From: Jeff Levine, Director, Planning & Urban Development Department  
Date: September 25, 2018  
Re: Marijuana Zoning Update  
Meeting Date: October 1, 2018

---

1. INTRODUCTION

As part of an internal working group on discussion regarding the policy implications of changing medical and adult use (recreational) marijuana laws in Maine, Planning staff has been evaluating potential zoning tools for marijuana. Below is an overview of existing zoning as well as a recommended approach to zoning for new categories of marijuana-related uses.

2. BACKGROUND

Portland has had regulations in place for medical marijuana dispensaries since 2010. It's a simple framework, consisting of defined uses and zones where those uses are permitted or conditionally permitted. The two definitions are *Registered medical marijuana dispensary* and *Registered medical marijuana cultivation facility*:

*Registered medical marijuana dispensary*: "Registered medical marijuana dispensary" or "dispensary" means a not-for-profit entity registered under 22 M.R.S.A. section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use, and the registered primary caregivers of those patients.

*Registered medical marijuana cultivation facility*: "Registered medical marijuana cultivation facility" means a facility registered under 22 M.R.S.A. section 2428 that cultivates and manufactures marijuana or related supplies for a "registered medical marijuana dispensary" under common management and operating under the same state and local license(s).

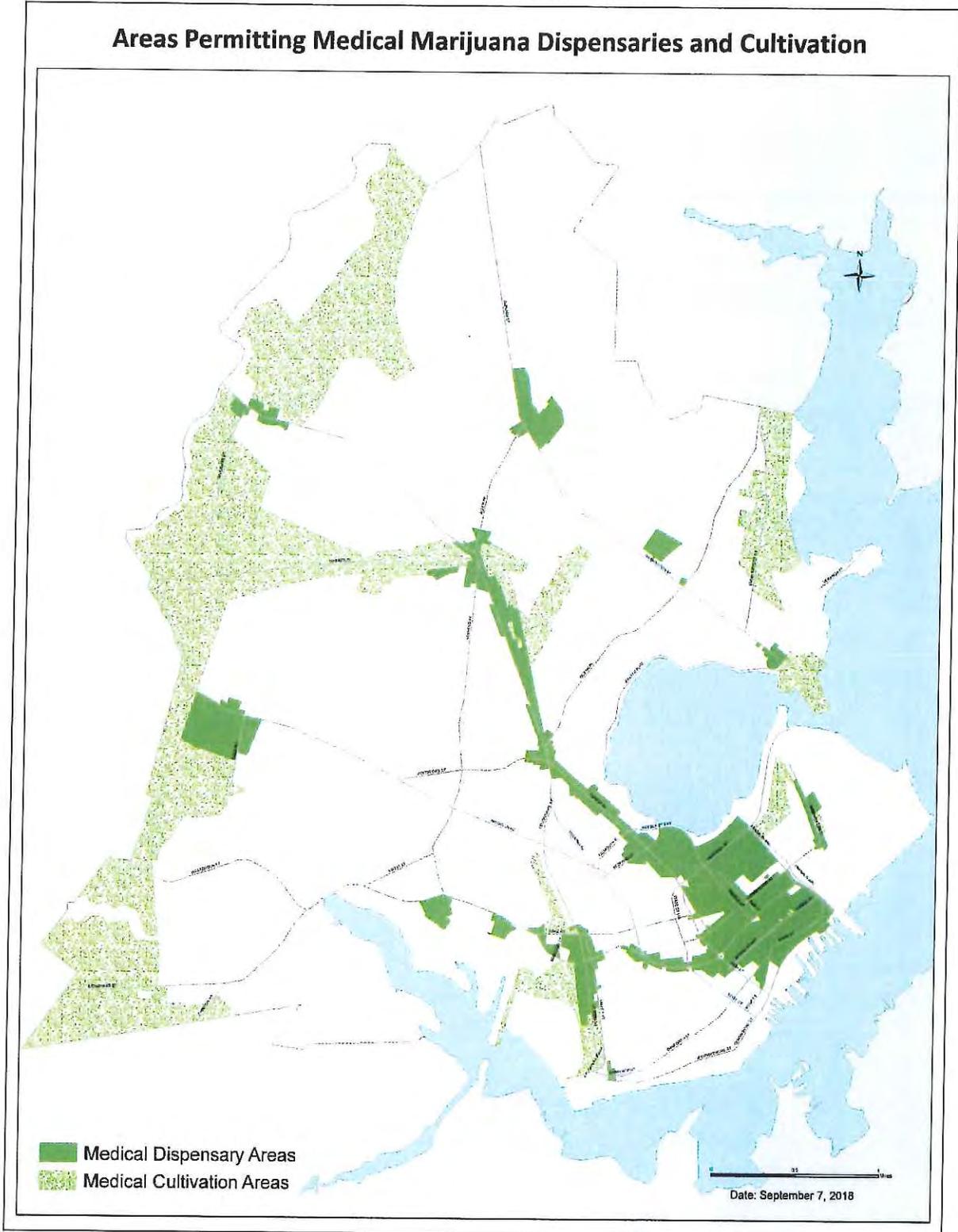
These two uses are permitted in the following zones:

**Table 1, Existing medical marijuana uses/zones**

Use	Zones Permitted
Registered medical marijuana dispensaries	B2, B2b (conditional use), B2c (conditional use), B3, B3C, B7
Registered medical marijuana cultivation facilities	B4, IH, IL, ILb, IM, IMb

The Land Use Code also makes references to dispensaries being permitted in the B3b, and cultivation being permitted in the IHb, IMA zones, but there are not currently areas zoned for B3b, IHb or IMA zones.

The following map includes both these uses and the areas they are permitted:



3. Approach to Zoning

Our recommended approach for implementation of adult use and expanded medical marijuana zoning is to build off of the existing framework for dispensaries and cultivation, adding new definitions and use categories to supplement the existing two marijuana-related definitions in the Land Use Code. These include *Marijuana*, *Marijuana Cultivation*, *Testing Facility*, *Marijuana Manufacturing Facility*, and *Caregiver Retail*, and *Adult Use Retail*. No change is proposed to the location of dispensaries. Testing, cultivation and manufacturing would be proposed for the same zones as the current use of *Registered medical marijuana cultivation facility*, which currently encompasses manufacturing as well as cultivation. Though dispensaries are currently permitted in the B2c zone, marijuana retail is not recommended in the B2c, a subset of the B2 zone that doesn't include liquor sales.

Though the existing medical marijuana zoning would form the geographic framework for where new uses would be permitted, new zoning would include recommendations for size caps for certain uses, such as a maximum retail store size to avoid mega-stores and ensure that storefronts are contextually appropriate, and maximum square footage tiers for cultivation facilities to reflect the intended intensities of the respective industrial zones. Marijuana sales as an accessory use would not be permitted. Where medical and adult uses converge in impact, recommended performance standards and scale limits, zoning would treat them as similar or the same categories as much as practicable – caregiver retail and adult use retail, for instance, though they will have different licensing requirements, are anticipated to have similar needs from a land use policy perspective. Medical and adult use cultivation may warrant similar consideration.

Under this recommended approach, the areas where marijuana-related uses are permitted remains the framework for new zoning, and the uses and zones shown in Table 1 are expanded to include new categories. Table 2 includes these new, additional categories and their respective zones:

**Table 2, DRAFT uses/zones**

Use	Zones
Marijuana Retail	B2, B2b, B2c, B3, B3c, B7
Marijuana Cultivation Tier I	IL, IIb
Marijuana Cultivation Tier II	B4
Marijuana Cultivation Tier III	IM, IMb, IH
Marijuana Testing	B4, IH, IL, ILb, IM, IMb
Marijuana Manufacturing	B4, IH, IL, ILb, IM, IMb

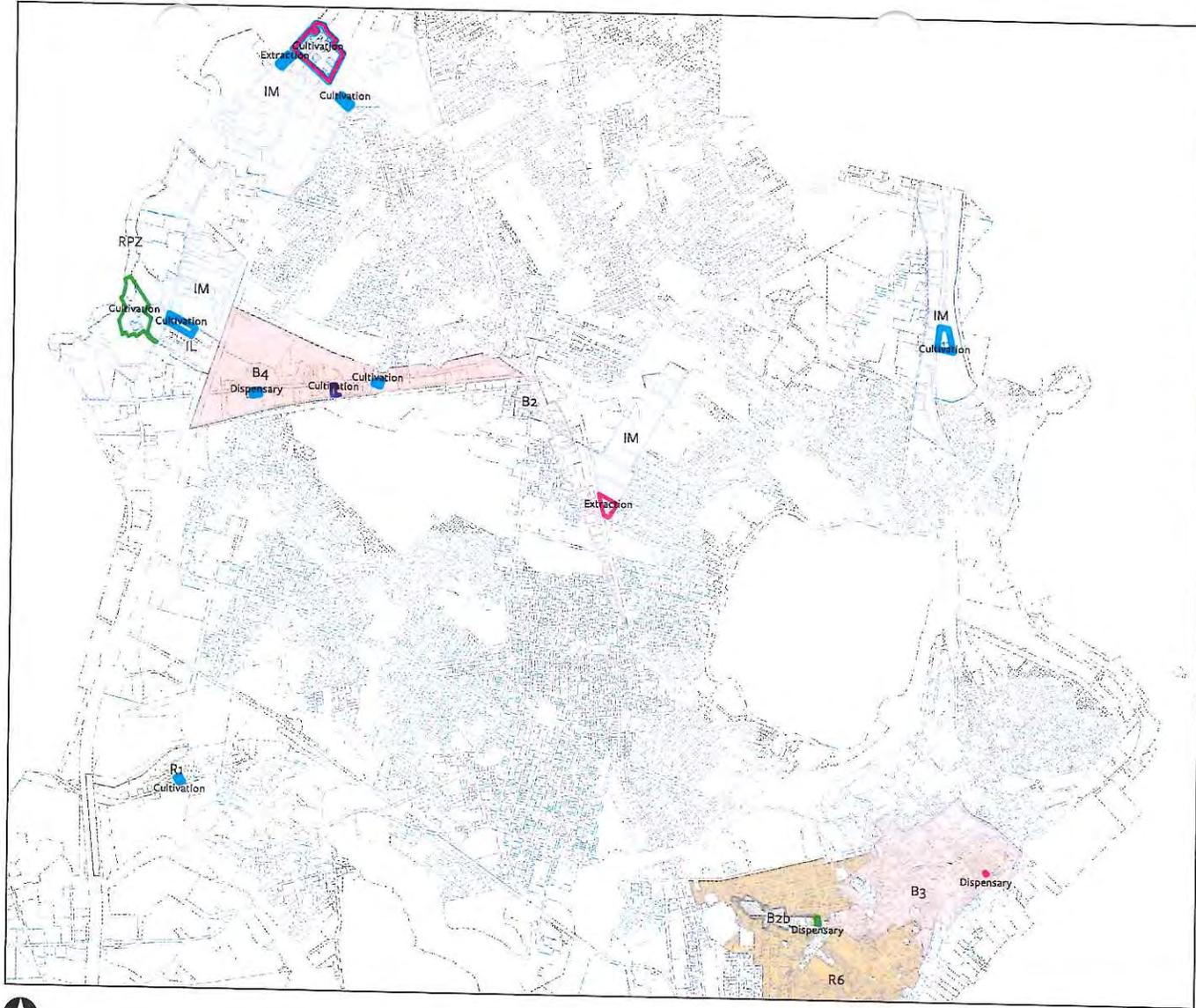
The recent changes to Maine State law gives municipalities new authority to regulate licensed caregivers, and so in addition to caregiver retail stores, staff is exploring zoning options, similar to how home occupations are addressed in the Land Use Code, for smaller-scale caregivers.

In addition to identifying areas new categories of marijuana-related are permitted, a full zoning ordinance will include pertinent performance standards, such as odor control. Additional standards, such as life safety and licensing requirements would be addressed outside of zoning and the Land Use Code.

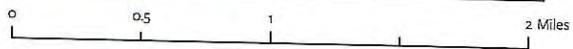
7. NEXT STEPS

The next step is to schedule a Planning Board workshop this fall to discuss the approach to marijuana zoning outlined above.

# Permit Status & Zoning Context of Marijuana-Related Businesses



- Parcel with Permit in Review
- Parcel with Completed Permit
- Parcel with Expired Permit
- Parcel with Permit Issued



*order 75-18/19  
Tab 8 10-1-18*

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 A REAL ESTATE OPTION AGREEMENT  
WITH CAPRICORN PRODUCTS, LLC FOR THE SALE OF LOT 1  
AT PORTLAND TECHNOLOGY PARK**

**ORDERED,** that a Real Estate Option Agreement with Capricorn Products, LLC for the sale of Lot 1 in Portland Technology Park for \$420,000 is hereby approved substantially in the form attached hereto; and

**BE IT FURTHER ORDERED,** that the City Manager is hereby authorized to execute whatever documents are necessary to effect the intent and purpose of the Agreement.



Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**City Council Agenda Item**

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

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

**DATE:** September 19, 2018

**SUBJECT:** **Proposed Real Estate Option for Lot 1 in the Portland Technology Park**

**SPONSOR:** Economic Development Committee, Councilor Costa/Chair;  
Meeting held on September 18, 2018, and the vote was 3-0 to forward to the City Council for approval.

**COUNCIL MEETING DATE ACTION IS REQUESTED:**

**1<sup>st</sup> reading and Final Action:** October 1, 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):** Greg Mitchell/  
5 Minutes

**I. ONE SENTENCE SUMMARY**

Proposed real estate option to sell Lot 1 located in the Portland Technology Park to Capricorn Products, LLC for \$420,000.

**II. AGENDA DESCRIPTION**

The sale of Lot 1, with 3.47 acres, located in the Portland Technology Park, for \$420,000 to Capricorn Products, LLC will support their relocation and expansion in Portland. Company headquarters and laboratories are now located at 12 Rice Street, Portland, Maine, 04103.

At present, Patron's Oxford Insurance Company is the first tenant in the Portland Technology Park. Three additional lots, including Lot 1, are served by public infrastructure and all utilities and are available for sale.

### III. BACKGROUND

Phase I infrastructure, including the road and stubbed utilities, was completed at the Portland Technology Park in October of 2013 with Federal grant public infrastructure assistance from the US Department of Commerce Economic Development Administration. One tenant, Patron's Oxford Insurance, constructed a 19,000 square foot new office building on Lot 4 that was completed in July 2017. Three additional lots are available for sale. Capricorn Products is interested in acquiring Lot 1. See attached aerial photo of the Portland Technology Park for Lot references.

Capricorn Products, LLC is a primary manufacturer and supplier of bulk immunodiagnostic raw materials to in-vitro diagnostic, biotechnology, and veterinary diagnostic test kit manufacturers based in Europe, Asia, and the Americas.

Product lines include: goat polyclonal antisera for turbidimetric and nephelometric serum protein assays; standard and custom calibrators and controls; OEM reagents manufactured to customer specifications; and, an extensive range of monoclonal and polyclonal antibodies and antigens used in immunochemistry and infectious disease testing.

Jane Havey, President, established Capricorn Products LLC in 1994. The Company is ISO 9001 certified and observes FDA Good Manufacturing Practices.

Company headquarters and laboratories are located at 12 Rice Street, Portland, Maine, 04103. The company 10-acre USDA-registered farm facility is located in a nearby rural agricultural community and houses their substantial goat herd.

### IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

City Council approval of the real estate option for Lot 1 located in the Portland Technology Park.

### V. FINANCIAL IMPACT

Highlights of the real estate Option include:

***Purchase Price:*** \$420,000

***Cost of Option:*** \$5,000 non-refundable, but applicable to purchase price

***Term of Option:*** Twelve (12) months

***Purchase and Sale Agreement Terms:*** See Exhibit 1 to Real Estate Option

Additionally, Capricorn is proposing to construct a 15,000-18,000 square foot building and create additional employment. New construction will generate new property taxes to the City, in addition to new spending power associated with new employment.

**VI. STAFF ANALYSIS**

Based on the above, staff recommends approval of the Proposed Real Estate Option.

**VII. RECOMMENDATION**

The Economic Development Committee recommended, in a vote of 3-0 on September 18, 2018, that this item be forwarded to the City Council for approval of the Real Estate Option of Lot 1 to Capricorn Products.

**VIII. LIST ATTACHMENTS**

- Aerial Map of Portland Technology Park
- Proposed Real Estate Option between the City of Portland and Capricorn, LLC.



Rand Road 1

Maine Turnpike, Exit 47

Site #1

Site #2

Site #3

Site #4  
Patron's Oxford

## OPTION AGREEMENT FOR PURCHASE OF PURCHASE REAL ESTATE

KNOW ALL PERSONS BY THESE PRESENTS that, the CITY OF PORTLAND, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine 04101 (the "City" or "Seller"), for and in consideration of the sum of Five Thousand Dollars (\$5,000.00), the receipt of which is hereby acknowledged, hereby grants to CAPRICORN PRODUCTS LLC, a Maine limited liability company with a mailing address of \_\_\_\_\_ ("Buyer"), its successors and assigns, the exclusive option and right to purchase certain premises owned by the City and described in the attached Exhibit 1, located in Portland, Cumberland County, Maine (the "Premises"), subject to the following terms and conditions:

1. Purchase Price. The purchase price for the Premises shall be Four Hundred Twenty Thousand Dollars (\$420,000.00).
2. Consideration for Option. Consideration for the option set forth herein shall be Five Thousand Dollars (\$5,000.00) (the "Option Consideration"), which Buyer shall pay to the City upon execution of this Option. The Option Consideration shall be nonrefundable but shall be credited to the Buyer against the Purchase Price at the closing of the sale of the Premises.
3. Term of Option. Buyer may exercise this Option at any time on or before the date that is twelve (12) months after the Effective Date set forth below. Such 12-month period is referred to herein as the "Option Period."

Prior to the expiration of the Option Period, Buyer, at its sole option, may terminate this Option at any time and for any reason by delivering a written notice of termination to the City.

4. Exercise of Option. To exercise this Option, Buyer must give written notice to the City of its intent to do so (the "Option Notice") by Certified U.S. Mail, return receipt requested, or hand delivery, to the address set forth below. Such notice must be received by the City by the end of the Option Period.
5. Purchase and Sale Terms and Conditions. Upon exercise of the Option, the parties shall be bound by the Terms and Conditions for the Purchase and Sale of Condominium Unit at Portland Technology Park Condominium, which is attached hereto as Exhibit 1 and made a part hereof (the "Terms and Conditions of Sale").
6. Inspections.
  - a. During the Option Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, in its sole discretion, to be required to determine the suitability of the

Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
  - c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City and the Portland Technology Park Condominium Association harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City or the Portland Technology Park Condominium Association on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.
  - d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and general public liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City and Portland Technology Park Condominium Association as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.
  - e. In the event that Buyer does not exercise this Option, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections.
7. Recording of Option. The parties agree that this Option Agreement will not be recorded, but that Buyer may record a memorandum of this Option in a form satisfactory to the parties.
8. Release of Option. If Buyer does not exercise this Option within the Option Period, or if the parties fail to timely close on the purchase and sale of the Premises in accordance with the attached Terms and Conditions of Sale, Buyer shall, on request of the City, execute and deliver to the City a written release or other instrument in the form reasonably satisfactory to the City, evidencing Buyer's non-exercise and release of the option and all other rights hereunder. The instrument shall be signed and acknowledged in recordable form by Buyer. In the event Buyer refuses or fails to deliver such instrument to the City, Buyer acknowledges and agrees that the City may execute and record an affidavit stating that Buyer failed to timely exercise its option to purchase the Premises and that this Agreement

is terminated and all of Buyer's rights under this Agreement are therefore terminated and released.

9. Notices. Any notice under this Option Agreement shall be delivered or sent by certified, postage prepaid, return receipt requested, and addressed as follows:

If to Buyer, to: Dwight G. Havey  
Capricorn Products LLC  
12 Rice Street  
Portland, Maine 04103

With a copy to: Charles Katz-Leavy, Esq.  
Jensen Baird Gardner & Henry  
10 Free Street  
P.O. Box 4510  
Portland, Maine 04112-4510

If to City, to: Jon P. Jennings, City Manager  
City of Portland  
389 Congress Street  
Portland, ME 04101

With a copy to: Office of the Corporation Counsel (at the same address).

10. Miscellaneous Provisions.

- a. This Agreement shall be binding upon and shall inure to the benefit of the successors, administrators and assigns of the parties hereto, except that Buyer will not assign its interest in this Agreement to anyone other than a related entity without the written consent of the City, in its reasonable discretion. As used in this Agreement, the term "Related Entity" shall mean any entity other than Buyer (i) which owns beneficially, directly or indirectly, a majority of the shares of stock or partnership interests in Buyer, or (ii) which controls or is under common control with Buyer. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract or otherwise.
- b. This Agreement represents the entire and complete agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Premises hereunder. This Agreement cannot be amended except by written instrument executed by Seller and Buyer.

- c. This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument.
- d. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court.
- e. If any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity or enforceability of any other provision hereof.
- f. No waiver of any breach of any one or more of the conditions of this Agreement or its attachments by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.
- g. The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

*Signature pages follow.*

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018 (the "Effective Date").

**CITY OF PORTLAND**

\_\_\_\_\_  
WITNESS

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

STATE OF MAINE  
COUNTY OF CUMBERLAND

\_\_\_\_\_, 2018

Personally appeared the above-named Jon P. Jennings, City Manager of the City of Portland, as aforesaid, and acknowledged the foregoing to be his free act and deed in his said capacity, and the free act and deed of said City of Portland.

Before me,

\_\_\_\_\_  
Attorney-at-Law/Notary Public  
Commission Expires:  
Print Name:

Approved as to form:

Approved as to funds:

\_\_\_\_\_  
City Corporation Counsel

\_\_\_\_\_  
City Finance Director

**CAPRICORN PRODUCTS LLC**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF MAINE  
COUNTY OF CUMBERLAND

\_\_\_\_\_, 2018

Personally appeared the above-named \_\_\_\_\_, \_\_\_\_\_ of Capricorn Products LLC, as aforesaid, and acknowledged the foregoing to be his/her free act and deed in his/her said capacity, and the free act and deed of said Capricorn Products LLC.

Before me,

\_\_\_\_\_  
Attorney-at-Law/Notary Public  
Commission Expires:  
Print Name:

**EXHIBIT 1**

**TERMS AND CONDITIONS**  
**FOR THE PURCHASE AND SALE**  
**OF CONDOMINIUM UNIT AT**  
**PORTLAND TECHNOLOGY PARK CONDOMINIUM**

1. **Premises to be Sold.** Seller agrees to sell and Buyer agrees to buy Unit 1 at the Portland Technology Park Condominium located on Rand Road, Portland, Maine, together with said Unit's percentage allocated interest in the Common Elements and Limited Common Elements, all as more particularly described in the Declaration of Condominium, Portland Technology Park (the "Declaration") dated March 10, 2016, and recorded in the Cumberland County Registry of Deeds in Book 32969, Page 97, and as shown on the Condominium Plat pertaining thereto; said Plat being recorded in the Cumberland County Registry of Deeds in Plan Book 216, Pages 62-63; and subject to such state of facts and conditions as shown on a First Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011 and revised through May 1, 2015, as recorded in the Cumberland County Registry of Deeds in Plan Book 215, Page 250. The Premises to be conveyed is hereinafter called the "Unit." Title reference is made to a Deed from Simon A. Snyder et alia to the City of Portland dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31. The Premises are more particularly described in Schedule A attached hereto and made a part hereof.

2. **Purchase Price.** Subject to any adjustment and prorations hereinafter described, Buyer agrees to pay for the Unit the sum of Four Hundred Twenty Thousand Dollars (\$420,000.00), payable to the City at closing by wire transfer.

3. **Title.** City shall convey the Unit to Buyer at the closing in fee simple with good and marketable or insurable title that is acceptable to Buyer, subject to: (a) easements, privileges, restrictions, conditions, development rights, special declarant rights, and agreements created by or referred to in the Declaration, as well as the matters showed or disclosed on the plats or plans mentioned above; (b) provisions of (i) the Maine Condominium Act, and all amendments thereto; (ii) the Declaration, the By-Laws and the Plats for The Portland Technology Park Condominium Association and all amendments or modifications thereto; (iii) building, zoning and land use ordinances; (c) all restrictions required because the Premises were improved, in part, with funding from the United States Economic Development Administration (EDA), United States Department of Commerce, a draft of which restrictions is attached hereto as Schedule B; and (d) such taxes and assessments, including Common Expenses allocable to the Unit, if any, as are not due and payable on the date of delivery of the deed, and (e) a deed restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable; such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine. At the closing, Seller shall execute and deliver to Buyer, against payment of the balance of the

purchase price, a Municipal Quitclaim Deed without Covenant (the "Deed"). In the event that Seller is unable to convey title as aforesaid, Seller shall be given a reasonable period of time in which to remedy any title defects. In the event that said defects cannot be corrected or remedied or in the event that Seller elects not to remedy same, then this Agreement, and Seller's and Buyer's obligations hereunder, will terminate. Buyer may, at Buyer's option elect to close notwithstanding such defects as may exist. Seller and Buyer understand and agree that any mortgages and liens on the Premises shall not be considered title defects provided that the same shall be discharged at or prior to closing at Seller's expense. Seller may use purchase money proceeds for this purpose. The Unit shall be sold and conveyed strictly on an "as is, where is, and with all defects" basis, without representation, warranty or covenant, express, implied or statutory, of any kind whatsoever, including, without limitation, representation, warranty or covenant as to condition, past or present use, tax ramifications or consequences, compliance with law, merchantability or fitness or suitability for any purpose, all of which are hereby expressly disclaimed. Acceptance by Buyer of the deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.

4. Closing. This transaction shall be closed on or before the day that is 30 days after Seller receives Buyer's Option Notice at a time mutually agreeable to the parties (the "Closing Date") at the offices of Buyer's counsel, or if the Seller and Buyer shall mutually agree in advance at another time and place. At the closing:

- (a) Seller shall deliver to Buyer an executed Quitclaim Deed without Covenant to the Premises and such other customary instruments, documents and affidavits as may be associated with said closing in form satisfactory to Seller;
- (b) Buyer shall deliver to Seller the Purchase Price, less the \$5,000.00 Option Consideration, by wire transfer;
- (c) Buyer shall deliver to Seller such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
- (d) Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals acting and executing documents on behalf of Buyer are authorized to do so, and such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.

5. Risk of Loss, Damage, Destruction and Insurance. Before closing, Seller shall bear the risk of any loss to the Premises by fire or otherwise.

6. Possession. Seller shall deliver the Premises to Buyer at closing free and clear of all leases, tenancies and occupancies by any person.

7. Adjustments, Proration and Closing Costs.

(a) Real estate taxes, assessments, and utilities shall be prorated as of the closing.

(b) The Condominium Association assessments for the Unit's Allocated Interest, as defined in the Declaration, shall be prorated as of the closing.

(c) The Maine real estate transfer tax shall be paid by Buyer in accordance with 36 M.R.S.A., §4641-A. Seller is exempt from Maine real estate transfer tax.

(d) The recording fee for the deed of conveyance and any expenses relating to any Buyer's financing or closing shall be paid for by Buyer.

8. Default and Remedies. In the event that Buyer fails to close hereunder for a reason other than the default of the Seller, Seller shall have available to it all remedies at law and in equity. In the event Seller defaults under this Agreement, other than the default of Buyer, Buyer shall have available to it all remedies at law and in equity, including, without limitation, the remedy of specific performance.

9. Brokers. Seller and Buyer each represents and warrants that neither has dealt with a real estate broker in connection with this transaction. Buyer agrees to indemnify and hold harmless Seller from any claims made by any broker should Buyer's representation in this paragraph be false. Subject to the immunities, defenses, and limitation available to Seller pursuant to the Maine Tort Claims Act, Seller agrees to indemnify and hold harmless Buyer from any claims made by any broker should Seller's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

SCHEDULE A  
(Legal Description of Premises)

The Unit designated as Unit 1 (the "Unit") of Portland Technology Park Condominium, located in the City of Portland, County of Cumberland and State of Maine ("Condominium") created pursuant to the provisions of the Maine Condominium Act (the "Act") by the Declaration of Condominium, dated March 10, 2016 and recorded in the Cumberland County Registry of Deeds in Book 32969, Page 97, as the same may be amended from time to time (hereinafter called the "Declaration") and by the Condominium Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated March 17, 2014, as revised March 9, 2016, incorporated into the Declaration and recorded in the Cumberland County Registry of Deeds, Plan Book 216, Page 62. The Unit is subject to and has the benefit of the Declaration, the Plats, Plans and the Act which is incorporated herein by reference, to which reference is hereby made for a more particular specification of the definition, location and description of the real property hereby conveyed and of the rights, obligations, easements, common elements, limited common elements, development rights, special declarant rights, restrictions, covenants and conditions pertaining thereto. The Unit is conveyed subject to such taxes and assessments, including Common Expenses, allocable to the Unit, if any, as are not due and payable on the date of delivery of this deed and subject to all terms, easements, covenants, obligations, conditions, restrictions, reservations and encumbrances contained in or referred to in the Declaration. Said Unit is conveyed together with an undivided interest in the Common Areas of the Condominium and the interest in the Limited Common Areas allocated thereto.

## SCHEDULE B

### COMPLIANCE WITH EDA RESTRICTIVE COVENANTS

The Seller and Buyer acknowledge that the premises were improved, in part, with funding from the United States Economic Development Administration (EDA), United States Department of Commerce, EDA Project Number 01-01-08630 and are subject to the terms and conditions of the EDA financial assistance award. Consequently, all recipients or owners and/or their successors and assigns, agree as follows:

Real Property or tangible Personal Property acquired or improved with EDA Investment Assistance must be used in a manner that is consistent with the authorized general and specific purposes of the Award, in this case, industrial purposes and EDA policies concerning adequate consideration and environmental compliance; and any applicable provisions of 13 CFR §314. It may not be used in violation of the nondiscrimination requirements set forth in 13 C.F.R. §302.20 or for inherently religious activities prohibited by applicable federal law.

Buyer agrees to provide Seller and/or EDA with any document, evidence or report required to assure compliance with federal and state law, including, but not limited to, applicable federal and state environmental laws.

Any deeds or instruments of conveyance shall contain a covenant which shall prohibit the use of the subject property for any purpose other than the authorized purpose of the EDA grant, which in this case, are commercial uses. This covenant shall remain in effect for a period of twenty (20) years.

*Order 76-18/19  
Tab 9 10-1-18*

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
EDWARD J. SUSLOVIC (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)  
HILL C. DUSON (A/L)  
JON HINCK (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING THE ASSIGNMENT OF A PORTION OF  
THE MCAULEY PLACE TAX INCREMENT FINANCING DISTRICT  
CREDIT ENHANCEMENT AGREEMENT TO DC BAXTER WOODS LLC, DC  
BAXTER WOODS II LLC, AND DC BAXTER WOODS III LLC**

**ORDERED**, that the City Council hereby approves the assignment of a portion of the McAuley Place Tax Increment Financing District Credit Enhancement Agreement to DC Baxter Woods LLC, DC Baxter Woods II LLC and DC Baxter Woods III LLC;  
and

**BE IT FURTHER ORDERED**, that the City Council hereby authorizes the City Manager or his or her designee to execute the Consent of the City of Portland and the Agreement and Consent in substantially the form attached hereto and any other related documents necessary or convenient to carry out the intent of said documents.



Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**City Council Agenda Item**

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

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

**DATE:** September 19, 2018

**SUBJECT:** Assignment of the McAuley Place Tax Increment Financing District Credit Enhancement Agreement

**SPONSOR:** Economic Development Committee, Councilor Costa/Chair;  
Meeting held on September 18, 2018, and the vote was 3-0 to forward this to the City Council for approval.

**COUNCIL MEETING DATE ACTION IS REQUESTED:**  
**1<sup>st</sup> reading and Final Action:** October 1, 2018

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

**PRESENTATION:** Greg Mitchell/5 Minutes

**I. ONE SENTENCE SUMMARY**

City Council action is requested to consent to the assignment of a portion of the McAuley Place Tax Increment Financing (TIF) District Credit Enhancement Agreement (CEA) from Sea Coast at Baxter Woods Associates, LLC to DC Baxter Woods LLC, DC Baxter Woods II LLC, and DC Baxter Woods III LLC due to changes in ownership associated with property located in the TIF District.

**II. AGENDA DESCRIPTION**

Changes in corporate entities are taking place to support the redevelopment of the Motherhouse Project and surrounding property located in the McAuley Place TIF District. This necessitates City Council approval to Assign the McAuley Place TIF CEA which is permitted under the existing City Council approved CEA per Section 7.3.

The redevelopment project includes 88 total (66 with affordable restrictions and 22 market rate) units located in the Motherhouse; and, 21 market rate residential units located between the Motherhouse and Baxter Woods.

**III. BACKGROUND**

The City Council approved the McAuley Place TIF District on May 16, 2009. The terms of this TIF District include returning sixty (60) percent of the new property taxes to the Motherhouse Project developer for a period of thirty (30) years and the remaining forty (40) percent will be placed in the City’s General Fund. It is noted that this property was originally tax exempt because it was owned by St. Joseph Convent and Hospital. Also, it is noted that the TIF District approval date started the TIF District term in 2009, but it was not activated at that time because the planned redevelopment project investment did not occur at that time.

The City Council, on August 3, 2015 approved the investment of \$426,262 in HOME funding to support the redevelopment of the Motherhouse Project to create senior affordable housing.

**Motherhouse Project Overview (2016 Low Income Housing Tax Credit Senior Project)**

- 88 total (66 with affordable restrictions and 22 market rate) units located in the Motherhouse; and,
- 21 market rate residential units located between the Motherhouse and Baxter Woods.
- TIF funds dedicated to the operation of the Motherhouse Project were an essential leverage source to secure the Maine State Housing Authority Low Income Housing Tax Credit financing.

**TIF District Gross Property Tax Estimates**

Years	Capture Rates	
	60% Project	40% City
1-30	\$4.156 Million	\$2.770 Million

**Non TIF District Property Tax Estimates**

It is noted that 140 residential units are planned to be located on the remainder of the former McAuley Campus which are located outside the TIF District. The estimated total taxable value for this portion of the project when complete is \$37,100,000 with property taxes at a 22.48 mil rate equals \$834,008 per year on previously tax exempt property. These units and their corresponding tax revenues were not a part of the 2009 Development Plan.

**IV. INTENDED RESULT OR COUNCIL GOAL ADDRESSED**

City Council approval of the Assignment of the McAuley Place TIF District CEA.

## **V. FINANCIAL IMPACT**

There is no financial impact related to City Council approval to assign the McAuley Place TIF District CEA.

## **VI. STAFF ANALYSIS**

Staff reviewed the request and determined that the requested McAuley Place TIF District CEA assignment is allowed under the City Council approved CEA. Consenting to the assignment will affirm the investment of \$426,262 in HOME funding to the project which was approved by the City Council at its August 3, 2015 meeting (Council Order 35-15/16).

## **VII. RECOMMENDATION**

The Economic Development Committee recommended, in a vote of 3-0 on September 18, 2018, to forward this to the City Council for approval.

## **VIII. LIST ATTACHMENTS**

- Consent of City of Portland
- Agreement and Consent (Collateral Assignment of CEA)
- McAuley Place TIF CEA

Prepared by: Greg Mitchell

Date: September 19, 2018

**CONSENT OF CITY OF PORTLAND**

The undersigned City of Portland (the "City") hereby acknowledges and consents to the assignment of that certain Credit Enhancement Agreement dated May 2009 (the "Agreement") between the City and McAuley Place at Baxter Woods Retirement Community, Inc., a Maine nonprofit corporation ("MPBWRC"), as assigned by MPBWRC to Sea Coast at Baxter Woods Associates, LLC, a Maine limited liability company ("SCBWA") by Assignment and Assumption dated December 16, 2016 (the "Assignment;" collectively with the Agreement, the "CEA") by SCBWA to DC Baxter Woods LLC, DC Baxter Woods II LLC and DC Baxter Woods III LLC (collectively, "Assignee"), each a Maine limited liability company.

The City hereby represents that the CEA is valid and has not been modified to date other than by Partial Assignment of the CEA by SCBWA to Motherhouse Associates LP dated June 1, 2017, and that, to the City's knowledge, SCBWA is not in default under the CEA. The City agrees hereafter to look solely to Assignee for performance under the CEA

Duly executed as of \_\_\_\_\_, 2018.

WITNESS:

CITY OF PORTLAND

\_\_\_\_\_

By: \_\_\_\_\_  
Jon P. Jennings, its City Manager

## AGREEMENT and CONSENT

Re: Collateral Assignment of Credit Enhancement Agreement dated May, 2009

THIS AGREEMENT AND CONSENT is made and entered into by and among **CITY OF PORTLAND, MAINE**, a Maine body corporate and politic (the "City") with a mailing address of 389 Congress Street, Portland Maine 04101 Attn: Jon Jennings, City Manager, and **DC BAXTER WOODS LLC, DC BAXTER WOODS II LLC, and DC BAXTER WOODS III LLC**, each a Maine limited liability company with a mailing address of 100 Commercial Street, Suite 414, Portland, Maine 04101 (collectively the "Borrower"), and **BATH SAVINGS INSTITUTION**, a Maine banking organization with a mailing address of 105 Front Street, P.O. Box 548, Bath, Maine 04530 ("Lender").

### RECITALS:

- A. The City entered into a Credit Enhancement Agreement with McAuley Place at Baxter Woods Retirement Community, Inc. dated on or about May, 2009 (the "TIF Agreement"), which was assigned by McAuley Place at Baxter Woods Retirement Community, Inc. to Sea Coast at Baxter Woods Associates, LLC by Assignment dated December 16, 2016, and further assigned by Sea Coast at Baxter Woods Associates, LLC to the Borrower by Assignment and Assumption Agreement of near or even date herewith, with respect to the Borrower's property located at 605 Stevens Avenue, in the City of Portland, Maine (the "Property").
- B. Borrower has acquired title to the Project as defined in the TIF Agreement, being Lot #2 and Lot #4 as shown on the Overall Subdivision Plan 605 Stevens Avenue, Stevens Avenue and Walton Street, Portland, Cumberland County, Maine, and the real estate located at Units 2 & 3 in 605 Steven Avenue Condominium, 605 Stevens Avenue, Portland, Cumberland County, Maine, all more particularly described in the attached Exhibit A.
- C. Lender has agreed to extend a loan in the amount of \$3,200,000.00, evidenced by a certain Promissory Note in the amount of \$3,200,000.00 from Borrower to Lender of near or even date herewith (together with any extensions, renewals or replacements thereof, the "Loan"), which is to be secured, inter alia, by a Collateral Assignment of Credit Enhancement Agreement encumbering the TIF Agreement and related rights (all collectively together with any amendments, extensions, renewals or replacements thereof, the "Loan Documents"), which Loan is to fund Project Costs as defined in the TIF Agreement.
- D. The extension of the Loan by the Lender is based in part upon the agreement of City to enter into this Agreement, expressly consenting to the Collateral Assignment of the Credit Enhancement Agreement to Lender and providing various assurances to Lender as set forth herein.

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**1. Status of TIF Agreement.** City and Borrower hereby represent to Lender that the TIF Agreement has been duly executed, is presently in full force and effect, that the TIF Agreement constitutes the valid and binding obligations of the City and, to the City's knowledge, Borrower, that the Borrower is entitled to payment of amounts payable to the owner of the Property in accordance with the terms of the TIF Agreement, and that the TIF Agreement has not been subsequently modified or amended, except for the partial Assignment thereof to Borrower and the partial assignment of the TIF Agreement to Motherhouse LP with respect to the real estate owned by Motherhouse Associates LP, which assignments have been approved by the City.

No notice of default is outstanding from City to Borrower regarding in default in the performance of Borrower's obligations to City under the TIF Agreement.

To the best of City's knowledge, to date the Borrower has complied with and fulfilled its obligations to the City under the TIF Agreement and no events of default are outstanding.

**2. Consent to Assignment.** City acknowledges receipt of a copy of and consents to the Borrower's Collateral Assignment of the TIF Agreement to Lender, its successors and assigns, as security for Borrower's obligations to Lender, with right of reassignment (the "Assignment").

Upon an Event of Default in Borrower's obligations to Lender, which is not cured within any applicable grace period, Borrower hereby authorizes Lender to collect all payments from City arising or accruing under that portion of the TIF Agreement then held by Lender as Collateral as they become due, and hereby irrevocably authorizes and directs the City to pay all amounts thereafter arising or accruing under the TIF Agreement and assigned to Lender to Lender and to continue to do so until otherwise directly notified by Lender. Borrower further agrees that the City shall have the right to conclusively rely upon such demand by Lender without any obligation or right to inquire as to whether any Event of Default exists and notwithstanding any assertion, demand or claim of Borrower to the contrary, and that Borrower shall have no right or claim against the City for any amounts paid by the City to Lender following receipt of such demand by Lender.

Upon written certification and demand from Lender based on the foregoing, the City agrees to pay and perform the City's obligations under the TIF Agreement to Lender, its successors and assigns, including without limitation, a receiver, a purchaser of the Project as defined in the TIF Agreement at a mortgage foreclosure/secured party's sale, or assignee pursuant to an assignment entered into by Borrower with the express written consent of Lender (all collectively the "Assignee"), which obligations of the City shall include the payments due from the Company TIF Account established under the TIF Agreement, provided that the preconditions to the City's obligations to make payments established under the TIF Agreement have been satisfied. Such payment shall be forwarded to Lender, its successors and assigns, or Lender's designee even if the Lender's right to receive the payment is disputed by Borrower.

Any sale or transfer of Assignee's interest in the TIF Agreement, by mortgage foreclosure/secured party's sale, assignment or otherwise, shall release such Assignee from any and all liability under the TIF Agreement provided however, that the subsequent Assignee shall assume and agree to perform Borrower's obligations under the TIF Agreement arising thereafter.

The Lender and the City acknowledge that the Lender has previously consented to a transfer of a portion of the rights under the TIF Agreement to Motherhouse Associates LP and that Lender has released its security interest in the portion of the TIF Agreement assigned to Motherhouse Associates LP. The amounts payable to Lender or any Assignee under the TIF Agreement following an Event of Default by Borrower to Lender shall be only those amounts related to the portion of the TIF Agreement that Lender now holds as Collateral for the Loan.

**3. Modifications, etc.** City agrees not to alter, modify, terminate or change the terms of the TIF Agreement without the prior written consent of Lender, which consent shall not be unreasonably withheld, delayed or conditioned.

**4. Defaults under the TIF Agreement.** City agrees that so long as the Assignment or any extension or renewal thereof remains outstanding, the following provisions shall apply:

- (a) City shall serve upon Lender copies of any written notice of any default given to Borrower under the TIF Agreement, either as provided in the TIF Agreement for a notice of default to Borrower, or in any event, not less than thirty (30) days prior to any termination of the TIF Agreement for failure to perform Borrower's obligations thereunder, provided that if the City does not serve Lender with such copies, then the Lender's cure period shall be automatically extended by one day for each day in which the notice was not served on Lender.
- (b) In case Borrower shall be in default under the TIF Agreement, beyond any applicable grace or cure period, Lender or any Assignee shall have the right to remedy such default or cause the same to be remedied, and City shall accept such performance by or at the instance of Lender or Assignee as if the same had been made by Borrower.
- (c) No event of default under the TIF Agreement shall be grounds for termination as against Lender if steps shall, in good faith, have been commenced within the time permitted therefor to rectify the same and shall be prosecuted to completion with diligence and continuity, including without limitation, time (i) to obtain possession of the Property (including possession by a receiver), or (ii) to institute, prosecute and complete foreclosure proceedings or otherwise acquire Borrower's interest in the Property with diligence. Provided, however, that: (i) Lender or an Assignee shall not be obligated to continue such possession or to continue such foreclosure proceedings after such defaults shall have been cured; (ii) nothing herein contained shall preclude the City, subject to the provisions of this Agreement, from exercising any rights or remedies under the TIF Agreement with respect to any other default by Borrower during the pendency of such proceedings other than termination of the TIF Agreement; and (iii) Lender or such Assignee shall agree with City in writing to comply during the period of such forbearance with such of the terms, conditions and covenants of the TIF Agreement as are reasonably susceptible of being complied with by Lender. Any default by Borrower not reasonably susceptible of being cured by Lender on account of insolvency or voluntary and involuntary insolvency or reorganization proceedings, receivership, or an assignment for the benefit of creditors or the like shall be deemed to have been waived by City upon completion of such

foreclosure proceedings or upon such acquisition of Borrower's interest in the TIF Agreement, except that any of such events of default which are reasonably susceptible of being cured after such completion and acquisition shall then be cured with reasonable diligence.

**5. Notices.** Any notice or other communication which is required under the TIF Agreement shall be in writing and shall be served by certified mail, addressed as set forth in this Agreement or at such other address as shall be designated by notice in writing given by certified mail.

**6. General.**

- (a) **Waiver.** No waiver of any of the terms or conditions of this Agreement, and no waiver of any default or failure of compliance, shall be effective unless in writing, and no waiver furnished in writing shall be deemed to be a waiver of any other term or provision or any future condition of this Agreement.
- (b) **Miscellaneous.** This Agreement will be governed by the laws of the State of Maine. The invalidity or unenforceability of any provision of this Agreement will not affect any other provision. The captions of the Paragraphs of this Agreement are for convenience only and do not limit any terms or provisions.

IN WITNESS WHEREOF, the Lender, City and the Borrower have executed this Agreement under seal as of August 15, 2018.

City:

**CITY OF PORTLAND, MAINE**

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

\_\_\_\_\_  
Witness

*Additional signature page follows.*

Lender:

**BATH SAVINGS INSTITUTION**

By: *Mara K. Pennell*  
Mara K. Pennell  
Its Vice President

\_\_\_\_\_  
Witness

Borrower:

**DC BAXTER WOODS LLC**

By: *Kevin R. Bunker*  
Kevin R. Bunker  
Its Manager

*M. Selig*  
Witness

**DC BAXTER WOODS II LLC**

By: *Kevin R. Bunker*  
Kevin R. Bunker  
Its Manager

TO  
Witness

**DC BAXTER WOODS III LLC**

By: *Kevin R. Bunker*  
Kevin R. Bunker  
Its Manager

THESE  
THREE  
Witness

## EXHIBIT A

Certain lots or parcels of land together with all buildings and improvements thereon located in the City of Portland, County of Cumberland and state of Maine, being Lot # 2 and Lot # 4 as shown on the Overall Subdivision Plan 605 Stevens Avenue, Stevens Avenue and Walton Street, Portland, Maine, made for Seacoast at Baxter Woods Associates, LLC by Titcomb Associates dated June 24, 2015, has revised through June 15, 2016 and recorded in the Cumberland County Registry of Deeds, Plan Book 216, Page 433, as amended by First Amended Overall Subdivision Plan 605 Stevens Avenue, Stevens Avenue and Walton Street, Portland, Maine, dated April 10, 2017, recorded in the Cumberland County Registry of Deeds in Plan Book 217, Page 151.

Said premises are subject to and have the benefit of, as applicable, the following:

1. Such state of facts as shown on the Overall Subdivision Plan 605 Stevens Avenue, Stevens Avenue and Walton Street, Portland, Maine, made for Sea Coast at Baxter Woods Associates, LLC by Titcomb Associates, dated June 24, 2015, as revised through June 15, 2016, and recorded in the Cumberland County Registry of Deeds, Plan Book 216, Page 433, as amended by the First Amended Overall Subdivision Plan, 605 Stevens Avenue, Stevens Avenue and Walton Street, Portland, Maine, made for Sea Coast at Baxter Woods Associates, LLC by Titcomb Associates, dated April 10, 2017, and recorded in the Cumberland County Registry of Deeds, Plan Book 217, Page 151, and on the Plan of Lot 3 Sectional Subdivision Plat Motherhouse-88 Units made for Motherhouse Associates LP by Titcomb Associates, dated June 24, 2015 recorded in the Cumberland County Registry of Deeds in Plan Book 216, Page 434, as amended by the First Amended Plan of Lot 3 Sectional Subdivision Plat Motherhouse-88 Units made for Motherhouse Associates LP by Titcomb Associates, dated April 10, 2017 recorded in the Cumberland County Registry of Deeds in Plan Book 217, Page 152, and on the ALTA/NSPS Land Title Survey 605 Stevens Avenue, made for Sea Coast at Baxter Woods Associates LLC by Titcomb Associates, dated March 24, 2016, as revised through March 16, 2017.
2. City of Portland Certificate of Subdivision Waiver Approval, dated September 8, 2015 and recorded in the Cumberland County Registry of Deeds, Book 32584, Page 153.
3. Rights and easements excepted and reserved by St. Joseph's Convent and Hospital in its deed to Sea Coast at Baxter Woods Associates, LLC, dated December 16, 2016 and recorded in the Cumberland County Registry of Deeds, Book 33698, Page 187.
4. Rights, covenants and easements set forth in the Stormwater Drainage System Maintenance Agreement from Sea Coast at Baxter Woods Associates, LLC to the City of Portland, dated December 23, 2016 and recorded in the Cumberland County Registry of Deeds, Book 33752, Page 170, as amended by an Addendum, dated June 1, 2017 and recorded in said Registry, Book 34050, Page 80.

5. Rights, easements and covenants set forth in the Declaration of Covenants and Easements dated May 5, 2017 and recorded in the Cumberland County Registry of Deeds, Book 33992, Page 172.

Also certain condominium units in Portland, Maine, designated as Units 2 and 3 (collectively the "Units") of 605 Stevens Avenue Condominium located in the City of Portland, County of Cumberland and State of Maine (the "Condominium") created pursuant to the provisions of the Maine Condominium Act (the "Act") by the Declaration of Condominium of 605 Stevens Avenue Condominium dated May 5, 2017 and recorded in the Cumberland County Registry of Deeds in Book 34016, Page 205, as the same may be amended from time to time (hereinafter called the "Declaration") and by the Plats and Plans incorporated into the Declaration and recorded in the Cumberland County Registry of Deeds, Plan Book 217, Pages 180-182, and Plan Book 217, Pages 183-186, as same may be amended from time to time (the "Plats and Plans") together with the Allocated Interests, Limited Common Elements and Limited Common Expenses allocated to the Units as defined and described in the Declaration. The Units are subject to and have the benefit of the Declaration, the Plats and Plans and the Act, which are incorporated herein by reference, to which reference is hereby made for a more particular specification of the definition, location and description of the real property hereby conveyed and of the rights, obligations, easements, development rights, special declarant rights, restrictions, covenants and conditions pertaining thereto.

The Units are conveyed with the benefit of and subject to all easements, rights, covenants, obligations, conditions, restrictions, reservations and encumbrances contained in or referred to in the Declaration, including, but not limited to, those referenced in the description of the property attached as Schedule A to the Declaration, and all provisions of the Declaration, the By-laws of 605 Stevens Avenue Condominium Association and the Plats and Plans recorded and filed simultaneously with and as part of the Declaration, as the same may be duly amended or modified from time to time and evidenced by instrument recorded or filed in the Cumberland County Registry of Deeds, which shall constitute covenants running with the land and shall bind any person having at any time any interest or estate in the Unit, its agents, servants and visitors, as if those provisions were recited and stipulated at length herein.

Being a portion of the premises conveyed to Sea Coast at Baxter Woods Associates, LLC by deed of St. Joseph's Convent and Hospital dated December 14, 2016, and recorded in said Registry of Deeds in Book 33698, Page 187.

## CREDIT ENHANCEMENT AGREEMENT

This Credit Enhancement Agreement, dated as of this \_\_\_\_ of May, 2009, between the City of Portland, Maine, a municipal body corporate and politic and a political subdivision of the State of Maine (the "City"), and McAuley Place at Baxter Woods Retirement Community, Inc., a Maine nonprofit corporation ("McAuley Place").

### WITNESSETH THAT

WHEREAS, the City designated the McAuley Place Municipal Development District and Tax Increment Financing District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote at City Council Meeting held on March 16, 2009 and pursuant to the same City Council Meeting action adopted a development program and financial plan for the District (the "Development Program") and Maine Department of Economic and Community Development has reviewed and approved the District and the Development Program, and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the City and McAuley Place and the City approved the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to such City Council Meeting approval, and the City and McAuley Place desire and intend that this Credit Enhancement Agreement be and constitute the Credit Enhancement Agreement contemplated by and described in the Development Program;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

### ARTICLE I: DEFINITIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Agreement" means this Credit Enhancement Agreement between the City and McAuley Place.

"City" means the City of Portland, Maine, a municipality duly organized and existing under the laws of the State of Maine, its successors and assigns.

"Current Assessed Value" means the assessed value of the District certified by the municipal assessor as of April 1st of each year that the District remains in effect.

"Development Program" means the Development Program for the District as adopted by the City at a City Council Meeting held on March 16, 2009.

“Development Program Fund” means the development program fund described in the Development Program.

“District” means the McAuley Place Municipal Development District and Tax Increment Financing District designated by the City pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote at its City Council Meeting held on March 16, 2009.

“Financial Plan” means the financial plan described in the Development Program.

“Fiscal Year” means July 1 to June 30 each year or such other fiscal year as the City may establish.

“Increased Assessed Value” means the valuation amount by which the Current Assessed Value of the District exceeds the Original Assessed Value of the District. If the Current Assessed Value is equal to or less than the Original Assessed Value, there is no Increased Assessed Value.

“McAuley Place” means McAuley Place, its successors and assigns, including any assignee of its rights under this Agreement.

“Original Assessed Value” means the taxable assessed value of the District as of March 31, 2008, which amount was \$0.

“Project” means the design, planning, development, acquisition, construction, financing and installation of the Capital Program described in the Development Program.

“Project Costs” means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 of title 30-A of the Maine Revised Statutes and included in the Development Program.

“Project Cost Account” means McAuley Place Project Cost Account described in the Development Program.

“Property Taxes” means any and all ad valorem property taxes levied, charged or assessed against real property by the City or on its behalf.

“Qualified Investments” means any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

“Tax Increment” means all Property Taxes assessed by the City, in excess of any state, county or special district tax, upon the Increased Assessed Value of all real property in the District.

"Tax Increment Revenues (McAuley Place Share)" means that percentage of the Tax Increment, for each year during the term of this Agreement, with respect to real property in the District as described in Section 3.1 of this Agreement, which revenues shall be deposited by the City in the McAuley Place Project Cost Account and paid to McAuley Place pursuant to this Agreement.

"Tax Payment Date" means the date(s) on which Property Taxes levied by the City are due and payable from owners of property located within the City.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), limited liability companies, trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

(f) If any clause, provision, Article or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision, Article or Section shall not affect any of the remaining provisions hereof.

## **ARTICLE II: MCAULEY PLACE PROJECT COST ACCOUNT OF THE DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS**

Section 2.1. Creation of McAuley Place Project Cost Account of the Development Program Fund. The City hereby confirms the creation and establishment of (a) the McAuley Place Development District and Tax Increment Financing District Development Program Fund; and (b) a segregated fund within such Development Program Fund designated as the "McAuley Place Project Cost Account" (the "McAuley Place Project Cost Account") pursuant to, and in accordance with the terms and conditions of the Development Program. The Development Program Fund shall consist of the McAuley

Place Project Cost Account as described in the Development Program. The City's Share of the Tax Increment Revenues as described in the Development Program is not subject to this Agreement.

Prior to the commencement of construction, McAuley Place shall submit to the Economic Development Division of the City, for review and final approval, documentation of final project sources and uses demonstrating continued need for the level of TIF financing provided herein.

Section 2.2. Deposits into McAuley Place Project Cost Account. The City shall deposit into the McAuley Place Project Cost Account contemporaneously with each payment of Property Tax during the term of the District an amount equal to that portion thereof constituting the Tax Increment Revenues (McAuley Place Share) for the period or year to which the payment relates and shall allocate the amount so deposited to fund fully and pay the payments due to McAuley Place under Article III of this Agreement.

Section 2.3. Use of Monies in McAuley Place Project Cost Account of the Development Program Fund. Monies deposited in the McAuley Place Project Cost Account shall be used and applied exclusively to fund the City's payment obligation described in Article III hereof.

Section 2.4. Monies Held in Trust. All monies required to be deposited with or paid into the McAuley Place Project Cost Account to fund payments of the McAuley Place under the provisions hereof and the provisions of the Development Program shall be held by the City in trust, for the benefit of the McAuley Place.

Section 2.5. Investments. The monies in the McAuley Place Project Cost Account shall be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the McAuley Place Project Cost Account.

Section 2.6. Liens. The City shall not hypothecate or grant or create any liens, security interests, encumbrances, or other interests of any nature whatsoever, with respect to the McAuley Place Project Cost Account or any funds therein, other than the interest granted to the McAuley Place hereunder in and to the amounts on deposit therein.

### **ARTICLE III: PAYMENT OBLIGATIONS**

Section 3.1. Credit Enhancement Payments. The term of this Agreement shall commence on July 1, 2009 and shall end on June 30, 2039. The City agrees to pay to McAuley Place within 30 days following each Tax Payment Date or the date payment of

Property Tax is actually received by the City with respect to real property in the District, whichever is later, payments equal to the Tax Increment Revenues (McAuley Place Share), as hereafter defined, for each Fiscal Year of the City beginning with the first Fiscal Year of the City after the designation and approval of the District by the Maine Department of Economic and Community Development, being the Fiscal Year beginning July 1, 2009 and ending June 30, 2010 and continuing with each Fiscal Year of the City thereafter through and including the Fiscal Year ending June 30, 2039. The Tax Increment Revenues (McAuley Place Share) for each Fiscal Year during the term of this Agreement shall mean 60% of the entire Tax Increment for each Fiscal Year for the period from July 1, 2009 through June 30, 2039, all determined with respect to all real property located in the District. Such percentages for each year for the "Tax Increment Revenues (McAuley Place Share) are based on the fact that no property taxes are currently assessed in the District and thus the Original Assessed Value is equal to zero, due to the fact that the property in the District is currently exempt from taxation; if the City determines to ascribe any amount in excess of zero to the Original Assessed Value, the percentage of the Tax Increment Revenues (McAuley Place Share) set forth in this Section 3.1 for each year shall be increased to an amount so that the Tax Increment Revenues (McAuley Place Share) for each year is equal to 60% of the sum of the Increased Assessed Value plus the Original Assessed Value. The City shall make all such payments of the Tax Increment Revenues (McAuley Place Share) to the McAuley Place, its successors and assigns. The City shall retain up to 1% of the Tax Increment Revenues (McAuley Place Share) to pay administrative costs of the City relating to this Development Program.

The obligation of the City to make such payments shall be a limited obligation payable solely from that portion of the Tax Increment Revenues (McAuley Place Share) payable to McAuley Place hereunder, and any earnings thereon, whether or not actually deposited into the McAuley Place Project Cost Account, and shall not constitute a general debt or obligation on the part of the City or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine or any political subdivision thereof. The Tax Increment Revenues (McAuley Place Share) is computed based on the total Tax Increment of the District; thus the amount to be paid by the City to McAuley Place hereunder for any year shall be equal to the Tax Increment Revenues (McAuley Place Share) percentage set forth above of the total Tax Increment of the District for such year, which total Tax Increment amount includes any portion of the Tax Increment that is not retained or captured in the District.

Section 3.2. Tax Payments. McAuley Place shall pay when due all real property taxes assessed by the City on property owned by McAuley Place unless contested by the Company by appropriate proceedings pursuant to Maine law. No payments shall be made by the City under this Agreement unless McAuley Place has paid in full all real property taxes assessed by the City on McAuley place property when due.

Section 3.3. Failure to Make Payment. In the event the City should fail to, or be unable to, make any of the payments required under Section 3.1 hereof, the item or installment so unpaid shall continue from year-to-year, as a limited obligation of the City,

under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid and the City agrees to pay the same with interest thereon at the rate equal to the rate payable to the City by property tax payers on delinquent property taxes, as adjusted annually, but only from Tax Increment Revenues (McAuley Place Share) paid to the City by McAuley Place from time to time, and any earnings thereon, whether or not deposited into the McAuley Place Project Cost Account of the Development Program Fund. Payments shall be applied first against accrued interest and then against principal. McAuley Place shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation to deposit all Tax Increment Revenues (McAuley Place Share) to the McAuley Place Project Cost Account and its obligation to make payments to McAuley Place.

Section 3.4. Manner of Payments. The payments provided for in this Article III shall be paid in available funds directly to McAuley Place in the manner provided hereinabove for its own use and benefit.

Section 3.5. Obligations Unconditional. The obligations of the City to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against McAuley Place. The City shall not suspend or discontinue any such payment or terminate this Agreement for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration or frustration of purpose or any damage to or destruction of the Project or any change in the tax or other laws of the United States, the State of Maine or any political subdivision of either thereof, or any failure of McAuley Place to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Agreement or the Development Program.

Section 3.6. Limited Obligation. The City's obligations of payment hereunder shall be limited obligations of the City payable solely from monies on deposit in the McAuley Place Project Cost Account, and any earnings thereon, pledged therefore under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of the Tax Increment Revenues (McAuley Place Share) payable to McAuley Place hereunder, and any earnings thereon, whether or not actually deposited into the McAuley Place Project Cost Account. This Agreement shall not directly or indirectly or contingently obligate the City, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation or to levy or to make any appropriation for their payment, excepting the City's obligation to levy Property Taxes upon the property in the District and the pledge of the Tax Increment Revenues (McAuley Place Share), and earnings thereon, established under this Agreement.

Section 3.7. Administrative Fee. McAuley Place shall pay to the City an annual administrative fee equal to 1% of the Tax Increment Revenues (McAuley Place Share).

Such payment shall be deducted pursuant to Section 3.1 of this Agreement contemporaneously with the payment by the City to McAuley Place.

#### **ARTICLE IV: PLEDGE AND SECURITY INTEREST**

Section 4.1. Pledge of McAuley Place Project Cost Account. In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to McAuley Place by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in, and pledge to McAuley Place, the McAuley Place Project Cost Account to the extent of McAuley Place rights under this Agreement to receive funds from the McAuley Place Project Cost Account and all sums of money and other securities and investments now or hereafter therein.

Section 4.2. Perfection of Interest. The City authorizes McAuley Place to file and, if necessary, shall cooperate with the McAuley Place in causing appropriate financing statements and continuation statements naming McAuley Place as pledgee of all amounts from time to time on deposit in the McAuley Place Project Cost Account to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder. To the extent deemed necessary by McAuley Place, the City will at such time and from time to time as requested by McAuley Place establish the McAuley Place Project Cost Account as a segregated fund under the control of an escrow agent, trustee or other fiduciary so as to perfect McAuley Place interest therein.

Section 4.3. Further Instruments. The City shall, upon the reasonable request of McAuley Place, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the City.

Section 4.4. No Disposition of McAuley Place Project Cost Account. Except as permitted hereunder, the City shall not sell, lease, pledge, grant a security interest in, assign or otherwise dispose, encumber or hypothecate any interest in the McAuley Place Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part hereof not permitted hereby.

Section 4.5. Access to Books and Records. All books, records and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the McAuley Place Project Cost Account shall at all reasonable times be open to inspection by McAuley Place, its agents, lenders, designees and employees.

## **ARTICLE V: DEFAULTS AND REMEDIES**

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default":

(a) any failure by the City to pay any amounts due to McAuley Place when the same shall become due and payable and any failure by the City to make deposits into the Development Program Fund or the McAuley Place Project Cost Account as and when due;

(b) any failure by the City or McAuley Place to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or McAuley Place to be observed or performed, provided, however, that failure of McAuley Place to pay Property Taxes when due shall not constitute an event of default hereunder; or

(c) if a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the City's affairs shall have been entered against the City or the City shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the City or of or relating to all or substantially all of its property, including without limitation, the filing of a voluntary petition in bankruptcy by the City or the failure by the City to have a petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the City.

Section 5.2. Remedies on Default. Whenever any Event of Default referred to in Section 5.1 hereof shall have occurred and be continuing, the non-defaulting party may take any one or more of the following remedial steps: (a) the non-defaulting party may take whatever action at law or at equity as may appear necessary or desirable to collect any amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the non-defaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder; and (b) McAuley Place shall also have the right to exercise any rights and remedies available to a secured party under the laws of the State of Maine. Neither party has the right to terminate this Agreement.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to insist upon the strict performance of any of the covenants

and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any relinquishment for the future of the rights to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the City with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Agreement to Pay Attorneys' Fees and Expenses. Notwithstanding the application of any other provision hereof, in the event any party should default under any of the provisions of this Agreement and the non-defaulting party shall require and employ attorneys or incur other expenses or costs for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the City or McAuley Place herein contained, the defaulting party shall, on demand thereof pay to the non-defaulting party the reasonable attorneys fees, costs and expenses so incurred by the non-defaulting party.

#### **ARTICLE VI: EFFECTIVE DATE, TERM AND TERMINATION**

Section 6.1. Effective Date and Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof for the entire term of this Agreement and shall expire upon the payment of all amounts due to McAuley Place hereunder and the performance of all obligations on the part of the City and McAuley Place hereunder.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement and following full payment of all amounts due and owing to McAuley Place hereunder or provision for payment thereof and of all other fees and charges having been made in accordance with the provisions to this Agreement, the City and McAuley Place shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

#### **ARTICLE VII: ASSIGNMENT AND PLEDGE OF MCAULEY PLACE INTEREST**

Section 7.1. Consent to Pledge and/or Assignment. The City hereby acknowledges that it is the intent of McAuley Place to pledge and assign and to grant security interests in and to this Agreement and the amounts payable to McAuley Place hereunder and McAuley Place right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on McAuley Place to make such assignment or pledge or to grant such security interests. Recognizing this intention, the City does hereby consent and agree to the grant of such security interests and to pledge and assignment of all of McAuley Place (or the pledge and assignment by any one McAuley Place of its) right, title and interest in, to and under this Agreement and in, and to the payments to be made to McAuley Place hereunder, to third

parties as collateral or security for indebtedness and other obligations or otherwise, on one or more occasions during the term hereof.

Section 7.2. Pledge, Assignment or Security Interest. The City hereby consents to the pledge, assignment or granting of a security interest by McAuley Place (or the pledge and assignment by McAuley Place) of its right, title and interest in, to and under this Agreement. The City agrees to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective secured party, pledgee or assignee, including without limitation, recognition of the secured party, pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such secured party, pledgee or assignee the position of such secured party, assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the secured party, pledgee or assignee such rights and/or remedies as it may deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.3. Assignment. McAuley Place also shall have the right to transfer and assign to any person or entity all or any portion of its rights in, to and under this Agreement, at any time, and from time to time, as McAuley Place may, in its sole discretion, deem appropriate and said right shall not be unreasonably withheld by the City.

#### **ARTICLE VIII: MISCELLANEOUS**

Section 8.1. Successors. The covenants, stipulations, promises and agreements set forth herein shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

Section 8.2. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.3. No Personal Liability of Officials of the City. No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his individual capacity and neither the members of the City Council of the City nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.5. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.6. Notices. All notices, certificates, requests, requisitions or other communications by the City or McAuley Place pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when hand delivered or mailed by first class mail, postage prepaid, addressed as follows:

If to the City:           City Manager  
                                  City of Portland  
                                  389 Congress Street  
                                  Portland, ME 04101

If to McAuley Place: McAuley Place at Baxter Woods Retirement Community,  
Inc.

                                  c/o Sea Coast Management Company  
                                  30 Governor's Way, Suite 100  
                                  Topsham, ME 04086

Any of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.7. Amendments. This Agreement may be amended only with the concurring written consent of the parties hereto.

Section 8.8. Net Agreement. This Agreement shall be deemed and construed to be a "net agreement," and the City shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without any abatement, deductions or setoffs.

Section 8.9. Benefit of Assignees or Pledges. The City agrees that this Agreement is executed in part to induce secured parties, assignees or pledges to provide financing for the Project and accordingly all covenants and agreements on the part of the City as to the amounts payable hereunder are hereby declared to be for the benefit of any such secured parties, assignee or pledgee from time to time of McAuley Place right, title and interest herein.

Section 8.10. Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment, estimated amounts of the Tax Increment Revenues (McAuley Place Share), estimated development costs and other estimates. The City and McAuley Place hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to

McAuley Place property for purposes of ad valorem property taxation or any tax abatement proceeding or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

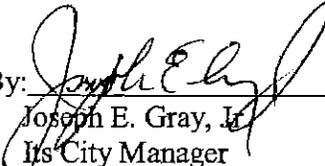
Section 8.11. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and McAuley Place relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

IN WITNESS WHEREOF, the City and McAuley Place have caused this Agreement to be executed in their respective names and their respective seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS

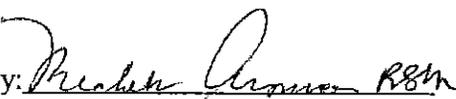


**City of Portland**

By:   
Joseph E. Gray, Jr.  
Its City Manager

**McAuley Place at Baxter Woods  
Retirement Community, Inc.**



By:   
Sr. Michele Aronica, RSM  
Its President

Order 77-18/19  
Tab 10 10-1-18

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 AMENDING THE BAYSIDE TAX INCREMENT  
FINANCING DISTRICT TO INCREASE PUBLIC INVESTMENT OPTIONS**

**ORDERED,** that the Bayside Tax Increment Financing (TIF) District approved by City Council Order 135-03/04 and as amended by Orders 255-04/05, 239-05/06, 224-06/07, 242-07/08, 262-08/09, 217-09/10, 86-14/15, 13-15/16, and 266-17/18 is hereby further amended to add more public investment options for the use of TIF income, in substantially the form attached hereto; and

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



Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**City Council Agenda Item**

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

**FROM:** Greg Mitchell, Economic Development Director  
Brendan O'Connell, Finance Director

**DATE:** September 19, 2018

**SUBJECT:** **Proposed Amendments to City Bayside Area-wide Tax Increment Financing District**

**SPONSOR:** Economic Development Committee, Councilor Costa/Chair;  
Meeting held on September 18, 2018, and the vote was 3-0 to forward to the City Council with a recommendation to approve.

**COUNCIL MEETING DATE ACTION IS REQUESTED:**

**1<sup>st</sup> reading:** October 1, 2018    **2<sup>nd</sup> Reading/Public Hearing/Final Action:** October 15, 2018

**Can action be taken at a later date:**  Yes     No (If no why not?) Public Notice has been advertised in the Portland Press Herald for the public hearing on this for October 15, 2018.

**PRESENTATION: (List the presenter(s), type and length of presentation):** Greg Mitchell/  
5 Minutes

**I. ONE SENTENCE SUMMARY**

City Council action is being requested to approve the proposed amendments to the Bayside TIF District.

**II. AGENDA DESCRIPTION**

Amendments to the Bayside Tax Increment Financing (TIF) District are proposed to maximize utilization of the TIF District revenue by adding more public investment options for use of TIF revenue, including, but not limited to professional service costs; pro-rated salaries of the City Manager, Finance Director, and Planning staff; and workforce training funds.

It is noted that the City staff proposed amendments do not involve credit enhancement agreements.

### III. BACKGROUND

#### Bayside (Existing and Proposed Amendments)

**Geography.** 129.18 acres bounded by Franklin Street, Cumberland Avenue, Forest Avenue and I-295.

**TIF Term.** Fiscal Years 2004-2033

**Capture Rate.** 100%

#### *Overview of TIF District Expenditures FY2016 to Date:*

<b>Bayside TIF Expenditures From FY2016 thru FY2018</b>	
<b>Uses</b>	<b>Expenditures</b>
Public Infrastructure	\$541,950
Credit Enhancement Agreements	\$1,376,957
Debt Service	\$1,208,616
<b>Total Invested:</b>	<b>\$3,127,524</b>

**Existing and Proposed Amendments to Uses of Revenue.** See attached Bayside TIF District Program which shows existing and proposed amendments to allowable uses of TIF District revenue in a strike through and underline format. Adding additional uses of TIF revenue creates the maximum flexibility to use TIF revenue.

*There are no proposed amendments to the capture rate or geography.*

### IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

City Council approval of the proposed amendments to the Bayside TIF District to support increased private sector investment and associated job creation.

### V. FINANCIAL IMPACT

**TIF District Estimates.** See attached spreadsheet for estimated property revenue funds available to the City General Fund and one Credit enhancement Agreement which expires in FY2023.

**Tax Shelter (Financial Benefits).** Probably the most important, but least understood public benefit associated with TIF districts, is the tax shelter or local financial benefits.

Municipalities realize “savings” from the tax sheltering effect of TIF Districts. The following direct financial impacts occur when municipal valuation increases:

- A. State Education Aid is reduced,
- B. State Municipal Revenue Sharing is reduced, and
- C. A municipality pays a higher percentage of the County budget.

***This amount of “savings” is significant and one of the most important benefits of establishing TIF Districts.***

For Portland, tax shelter savings is conservatively estimated at 30%, meaning that for every new tax dollar, Portland saves 30 cents which would otherwise be lost for property tax value not included in a TIF District. The estimated tax shelter savings for the remainder of the Bayside TIF District term – FY2020 through FY2033 - at a 100% capture rate is just under \$13 Million, or a yearly average of \$927,000.

#### ***Net Impact to the General Fund***

The savings referenced above is a direct benefit to the general fund – both to the City and the School Department via an increase in revenue from the State of Maine for education, increased revenues for the City from municipal revenue sharing, and decreased expenses for county tax. It is important to note that whenever the TIF capture rate is adjusted upward there will change in how property tax revenue flows between the general fund and the area TIFs. Via careful TIF budgeting, subject to annual budget approval by City Council, certain types of approved expenditures can be moved from the general fund into area TIFs. If the impact of the revenue shift is able to be fully offset the end result is the 30 cent savings on the dollar. A good example is what was done in the FY19 budget. TIF capture rates were adjusted upward by approximately 5% in the Waterfront and Bayside TIF. Although this resulted in slightly less revenue to the general fund, expenses related to Economic Development Department staff, in an amount approximately equal to the revenue shift, were shifted into the TIF. The net result was an increased capture rate in both TIFs, more sheltering savings (approximately 30% in benefits) and no other negative impact on the City or School budgets. It is this type of calculated TIF budgeting which is expected to continue to be utilized moving forward to increase capture rates, maximize sheltering, and ensure only positive impacts to the City and School budgets.

#### **VI. STAFF ANALYSIS**

Based on the above, City staff recommends approval of the proposed amendments to the Bayside TIF District.

#### **VII. RECOMMENDATION**

The Economic Development Committee recommended, in a vote of 3-0 on September 18, 2018, that this be forwarded to the City Council for approval.

#### **VII. LIST ATTACHMENTS**

- Updated Spreadsheets for Actual and Estimated TIF Revenue and Tax Shelter Savings
- Marked Revision and Clean Version of TIF Narrative and updated Spreadsheets; additional attachments noted in the Narrative are available upon request.
-

Revised Exhibit 1 for Bayside TIF Amendment #9

City of Portland - Bayside TIF Model

Total OAV as of 4/1/2001: \$1,608,190  
 Total OAV as of 4/1/2006: \$44,066,380  
 Total OAV as of 4/1/2013: \$122,318,180

Note: These numbers are actuals through FY2019 (Tax Year 4/1/2018); estimates for FY2020 through End of FY2033 (Tax Year 4/1/2032).  
 9/7/2018

Bayside TIF												
TIF Years 1 (FY2004) through 16 (FY2019) Actual Numbers; Years 17 (FY2020) through 30 (FY2033) Estimates												
TIF Year	Tax Year-April 1	City Fiscal Year	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Municipal Project and CEAs Account	City Non-Captured General Fund Revenues	OAV General Fund Revenue	Captured Revenue to Municipal Project Account	Capture Revenue to CEAs
1	2003	FY2003/2004	\$5,468,950	1.00%	\$54,690	26.80	\$1,466	\$1,466	\$145,102	\$43,099	\$1,466	
2	2004	FY2004/2005	\$7,295,740	1.00%	\$72,957	26.53	\$1,936	\$1,936	\$191,620	\$42,665	\$1,936	
3	2005	FY2005/2006	\$9,171,480	54.16%	\$4,967,274	20.13	\$99,991	\$99,991	\$84,631	\$32,373	\$99,991	
4	2006	FY2006/2007	\$11,052,960	27.74%	\$3,066,091	16.31	\$50,008	\$50,008	\$130,266	\$718,723	\$50,008	
5	2007	FY2007/2008	\$23,657,250	1.00%	\$236,573	17.10	\$4,045	\$4,045	\$400,494	\$753,535	\$4,045	
6	2008	FY2008/2009	\$49,496,900	100.00%	\$49,496,900	17.74	\$878,075	\$878,075	\$0	\$781,738	\$452,194	\$425,881
7	2009	FY2009/2010	\$69,217,260	78.00%	\$53,989,463	17.74	\$957,773	\$957,773	\$270,141	\$781,738	\$602,773	\$355,000
8	2010	FY2010/2011	\$68,355,920	71.00%	\$48,532,703	17.92	\$869,706	\$869,706	\$355,232	\$789,670	\$395,064	\$474,642
9	2011	FY2011/2012	\$62,808,110	73.00%	\$45,849,920	18.28	\$838,137	\$838,137	\$309,996	\$805,533	\$483,137	\$355,000
10	2012	FY2012/2013	\$66,477,790	47.00%	\$31,244,561	18.82	\$588,023	\$588,023	\$663,089	\$829,329	\$141,688	\$446,335
11	2013	FY2013/2014	\$65,716,350	97.72%	\$64,218,017	19.41	\$1,246,472	\$1,246,472	\$29,083	\$855,328	\$800,235	\$446,237
12	2014	FY2014/2015	\$65,131,890	83.00%	\$54,059,469	20.00	\$1,081,189	\$1,081,189	\$221,448	\$881,328	\$634,952	\$446,237
13	2015	FY2015/2016	\$67,362,090	54.58%	\$36,766,229	20.63	\$758,487	\$758,487	\$631,193	\$2,523,424	\$294,738	\$463,749
14	2016	FY2016/2017	\$70,121,790	54.97%	\$38,545,948	21.11	\$813,705	\$813,705	\$666,566	\$2,582,137	\$349,899	\$463,806
15	2017	FY2017/2018	\$82,037,690	58.27%	\$47,803,362	21.65	\$1,034,943	\$1,034,943	\$741,173	\$2,648,189	\$571,631	\$463,312
16	2018	FY2018/2019	\$80,301,620	63.27%	\$50,806,835	22.48	\$1,142,138	\$1,142,138	\$663,043	\$2,749,713	\$817,138	\$325,000
17	2019	FY2019/2020	\$82,327,818	100.00%	\$82,327,818	22.93	\$1,887,744	\$1,887,744	\$0	\$2,804,707	\$1,562,744	\$325,000
18	2020	FY2020/2021	\$84,374,278	100.00%	\$84,374,278	23.39	\$1,973,362	\$1,973,362	\$0	\$2,860,801	\$1,648,362	\$325,000
19	2021	FY2021/2022	\$86,441,203	100.00%	\$86,441,203	23.86	\$2,062,138	\$2,062,138	\$0	\$2,918,017	\$1,737,138	\$325,000
20	2022	FY2022/2023	\$88,528,796	100.00%	\$88,528,796	24.33	\$2,154,178	\$2,154,178	\$0	\$2,976,377	\$1,829,178	\$325,000
21	2023	FY2023/2024	\$90,637,266	100.00%	\$90,637,266	24.82	\$2,249,593	\$2,249,593	\$0	\$3,035,905	\$2,249,593	
22	2024	FY2024/2025	\$92,766,821	100.00%	\$92,766,821	25.32	\$2,348,497	\$2,348,497	\$0	\$3,096,623	\$2,348,497	
23	2025	FY2025/2026	\$94,917,671	100.00%	\$94,917,671	25.82	\$2,451,007	\$2,451,007	\$0	\$3,158,656	\$2,451,007	
24	2026	FY2026/2027	\$97,090,029	100.00%	\$97,090,029	26.34	\$2,557,245	\$2,557,245	\$0	\$3,221,727	\$2,557,245	
25	2027	FY2027/2028	\$99,284,111	100.00%	\$99,284,111	26.87	\$2,667,335	\$2,667,335	\$0	\$3,286,161	\$2,667,335	
26	2028	FY2028/2029	\$101,500,134	100.00%	\$101,500,134	27.40	\$2,781,408	\$2,781,408	\$0	\$3,351,884	\$2,781,408	
27	2029	FY2029/2030	\$103,738,317	100.00%	\$103,738,317	27.95	\$2,899,595	\$2,899,595	\$0	\$3,418,922	\$2,899,595	
28	2030	FY2030/2031	\$105,998,882	100.00%	\$105,998,882	28.51	\$3,022,036	\$3,022,036	\$0	\$3,487,301	\$3,022,036	
29	2031	FY2031/2032	\$108,282,053	100.00%	\$108,282,053	29.08	\$3,148,872	\$3,148,872	\$0	\$3,557,047	\$3,148,872	
30	2032	FY2032/2033	\$110,588,055	100.00%	\$110,588,055	29.66	\$3,280,250	\$3,280,250	\$0	\$3,628,187	\$3,280,250	
<b>30 Year TIF Total</b>			<b>\$2,150,149,224</b>		<b>\$1,876,186,426</b>		<b>\$45,849,352</b>	<b>\$45,849,352</b>	<b>\$5,503,077</b>	<b>\$62,620,736</b>	<b>\$39,884,153</b>	<b>\$5,965,199</b>
<b>30 Year Average</b>			<b>\$71,671,641</b>		<b>\$62,539,548</b>		<b>\$1,528,312</b>	<b>\$1,528,312</b>	<b>\$183,436</b>	<b>\$2,087,358</b>	<b>\$1,329,472</b>	<b>\$198,840</b>

Actual Above This Line  
 Estimates Below This Line

City of Portland Bayside TIF Model  
9/7/2018

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- Bayside TIF Model								
TIF Years 1 (FY2004) through 16 (FY2019) Actual Numbers with Varying Percentage Captures; Years 17 (FY2020) through 30 (FY2033) Estimates at 100% Capture								
TIF Year	Tax Year- April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
					Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2003	FY2003/2004	\$5,468,950	\$54,690	\$0	\$32	\$30	\$62
2	2004	FY2004/2005	\$7,295,740	\$72,957	\$0	\$43	\$40	\$83
3	2005	FY2005/2006	\$9,171,480	\$4,967,274	\$0	\$2,906	\$2,742	\$5,649
4	2006	FY2006/2007	\$11,052,960	\$3,066,091	\$13,046	\$1,794	\$1,693	\$16,533
5	2007	FY2007/2008	\$23,657,250	\$236,573	\$2,013	\$138	\$131	\$2,282
6	2008	FY2008/2009	\$49,496,900	\$49,496,900	\$421,219	\$28,959	\$27,300	\$477,478
7	2009	FY2009/2010	\$69,217,260	\$53,989,463	\$459,450	\$31,587	\$29,775	\$520,813
8	2010	FY2010/2011	\$68,355,920	\$48,532,703	\$413,013	\$28,395	\$26,769	\$468,177
9	2011	FY2011/2012	\$62,808,110	\$45,849,920	\$390,183	\$26,825	\$25,291	\$442,299
10	2012	FY2012/2013	\$66,477,790	\$31,244,561	\$265,891	\$18,280	\$17,240	\$301,412
11	2013	FY2013/2014	\$65,716,350	\$64,218,017	\$546,495	\$37,572	\$35,408	\$619,475
12	2014	FY2014/2015	\$65,131,890	\$54,059,469	\$460,046	\$31,628	\$29,814	\$521,488
13	2015	FY2015/2016	\$67,362,090	\$36,766,229	\$312,881	\$21,511	\$20,284	\$354,676
14	2016	FY2016/2017	\$70,121,790	\$38,545,948	\$328,026	\$22,552	\$21,266	\$371,843
15	2017	FY2017/2018	\$82,037,690	\$47,803,362	\$406,807	\$27,968	\$26,367	\$461,142
16	2018	FY2018/2019	\$80,301,620	\$50,806,835	\$432,366	\$29,725	\$28,022	\$490,113
17	2019	FY2019/2020	\$82,327,818	\$82,327,818	\$700,610	\$48,167	\$45,375	\$794,152
18	2020	FY2020/2021	\$84,374,278	\$84,374,278	\$718,025	\$49,365	\$46,500	\$813,890
19	2021	FY2021/2022	\$86,441,203	\$86,441,203	\$735,615	\$49,365	\$47,637	\$832,616
20	2022	FY2022/2023	\$88,528,796	\$88,528,796	\$753,380	\$51,795	\$48,785	\$853,961
21	2023	FY2023/2024	\$90,637,266	\$90,637,266	\$771,323	\$53,029	\$49,945	\$874,297
22	2024	FY2024/2025	\$92,766,821	\$92,766,821	\$789,446	\$54,275	\$51,116	\$894,836
23	2025	FY2025/2026	\$94,917,671	\$94,917,671	\$807,749	\$55,533	\$52,298	\$915,581
24	2026	FY2026/2027	\$97,090,029	\$97,090,029	\$826,236	\$56,804	\$53,493	\$936,533
25	2027	FY2027/2028	\$99,284,111	\$99,284,111	\$844,908	\$58,088	\$54,699	\$957,695
26	2028	FY2028/2029	\$101,500,134	\$101,500,134	\$863,766	\$59,384	\$55,917	\$979,067
27	2029	FY2029/2030	\$103,738,317	\$103,738,317	\$882,813	\$60,694	\$57,147	\$1,000,654
28	2030	FY2030/2031	\$105,998,882	\$105,998,882	\$902,050	\$62,016	\$58,389	\$1,022,456
29	2031	FY2031/2032	\$108,282,053	\$108,282,053	\$921,480	\$63,352	\$59,644	\$1,044,476
30	2032	FY2032/2033	\$110,588,055	\$110,588,055	\$941,104	\$64,701	\$60,911	\$1,066,717
<b>30 Year TIF Total</b>			<b>\$2,150,149,224</b>	<b>\$1,876,186,426</b>	<b>\$15,909,942</b>	<b>\$1,096,484</b>	<b>\$1,034,030</b>	<b>\$18,040,457</b>
<b>30 Year Average</b>			<b>\$71,671,641</b>	<b>\$62,539,548</b>	<b>\$530,331</b>	<b>\$36,549</b>	<b>\$34,468</b>	<b>\$601,349</b>

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

**I. Introduction/Updated 2018**

East and West Bayside continue to be gateways to Portland’s peninsula. A lot of changes to East and West Bayside have occurred since the Bayside (West) TIF District was adopted by the City Council on March 17, 2003. Relocation of one scrap yard and the addition of new medical office buildings, new housing for college students, , two new grocery stores, pharmacies, and financial institutions have transformed West Bayside’s industrial heritage to a more compact urban development pattern, which extends the Central Business District to I-295. Additionally, City Council approval, during 2017 and 2018, of the sale of six Bayside properties formerly occupied by the Public Works Department will continue to support area wide economic revitalization.

East Bayside has been experiencing its own transformation with new coffee shops, artist studios, and new housing. Continued attention to the West Bayside TIF District is needed to fulfill the *Bayside Vision*.

History

In 1996, the process began when the City of Portland obtained funding from the Environmental Protection Agency (EPA) to undertake a Brownfield’s Pilot Project in Bayside. The City designated a ten-lot, 14-acre parcel between Oxford Street and Marginal Way as the Bayside Brownfield’s Project Area and has since created a \$500,000 loan fund for the express purpose of cleaning up the site to clear the way for future development. The study area was subsequently enlarged to incorporate the area from Congress Street to I-295, and from Franklin Arterial to Forest Avenue, which is approximately 129 acres.

Since 1996, the City of Portland has been working with a team of consultants on planning for opportunities for the reuse of the Bayside land. An extensive public participation process, which involved hundreds of participants, produced a plan entitled “A New Vision for Bayside”. The Bayside plan identifies the following eleven development principles and five critical actions in order to transform this area into a vital, productive and diverse urban neighborhood:

**Development Principles**

- Urban Gateway
- Economic and Employment Opportunities
- A Walkable District
- A Critical Mass of Dwellings
- Transit Oriented Development
- Multi-level Parking Structures
- A Neighborhood Center
- Recreation and Open Space
- A Social Service Network
- Environmental Remediation
- Scrap yard Redevelopment

## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

### **Critical Actions**

- Acquire the Railroad Property
- Redevelop the Scrap yard Parcels
- Build More Housing
- Create Transit Oriented Development
- Secure the Future of Portland's Social Service Network

Public participation continues to be an ongoing aspect of the Plan's implementation. The Bayside Neighborhood Association and the Bayside Community Development Corporation include neighborhood property owners, residents, commercial owners and tenants.

Since adopting the Bayside Vision Plan in December 1999 as a part of the Comprehensive Plan, the City has moved forward on several of the identified critical actions. After several years of complex negotiations with Guilford Transportation and the Maine Department of Transportation, the City purchased the Railroad property. Using Housing and Urban Development ("HUD") and Economic Development Administration ("EDA") funding, this 6+ acre parcel made the City a major property owner in the area of Bayside slated primarily for commercial redevelopment.

EDA and City Capital Improvement Funds have been used to rebuild the sewer system along Somerset Street, adjacent to the railroad parcel, as well as to extend Chestnut Street from Somerset Street to Marginal Way. These improvements were key infrastructure investments for new development in Bayside. The City continues to be committed to investing in Bayside as funding becomes available, but clearly a variety of financing mechanisms have been and will continue to be needed.

With these first actions completed, attention has been focused on the need for structured parking associated with the Federated Midtown Project. At meeting after meeting, then Bayside Development Committee (BDC) members stated unequivocally that the Bayside Plan cannot be implemented to its fullest without structured parking; and that the entire redevelopment plan hinges upon the relocation of the scrap metal recycling facilities. Furthermore, it is clear that the private sector cannot afford to make new investments in Bayside that include the cost of creating structured parking, nor can the market alone bear the cost of relocating the scrap metal recycling facilities.

The first such private development project which included constructing garages occurred on property that was sold by the City to two private developers (Capital, LLC and Southern Maine Student Housing, LLC) who planned a then estimated \$38,400,000 in new taxable commercial investment. The project consisted of a 72,000 sq. ft. office building, perched upon a 430 space parking garage with ground floor retail, alongside a 405 bed student housing facility with a 130 space parking garage. The cost of constructing the structured parking added more costs to the project than market rents could support, so financing relief was sought through the use of Credit Enhancement Agreements (Exhibit 5) so that the project moved forward with the density sought for

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

Bayside. This entire investment occupies just over 3 acres by reducing the footprint and allowing for vertical expansion.

Amendment #7 Approved by MDECD March 28, 2016

The purpose of ~~this~~ Amendment #7 to this TIF application ~~is~~was to amend the Development Program to include municipal use of TIF funds for costs of public transportation improvement projects – including traffic signals, costs associated with environmental site assessment and remediation work to support commercial development, costs associated with environmental sea level adaptation planning and public infrastructure to support commercial development, as well as other development principles and critical actions items contained in the *Bayside Vision Report I and II*

The public benefits associated with an amended Bayside TIF District include:

- Provide support for Portland’s **continued economic development**;
- Help increase the **vibrancy and stability of the Bayside neighborhood**;
- Create **employment opportunities** for area residents;
- Produce **tax shift benefits** averaging an estimated savings to the City of \$680,307 annually at that time;
- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;
- Planning for environmental sea level adaptation, and public infrastructure to support commercial development.

Amendment #8 ~~Proposed to~~Approved by the Portland City Council July 16, 2018/MDECD Approval Pending

Amendment #8 includes a single property in the Expanded Bayside TIF District located at 178 Kennebec Street, Assessor Chart, Block, and Lot Number 034 F001001. The City is in the process of selling this property to a private developer. This developer proposes an elderly affordable housing project on that property with two condominium units. Unit 1 would be ground level commercial space and Unit 2 (air rights above Unit 1) is proposed to be an elderly affordable housing project.

The amendments will exclude all floors above the first floor in a multi-story building to be constructed on a parcel of approximately 0.22 acres presently owned by the City of Portland located at 178 Kennebec Street, Portland and to be conveyed to 100 Parris Street, LP or its designee (the “Developer”), together with all rights appurtenant thereto including without limitation in the land comprising said parcel. It is the intention of the Developer to declare this specified area as Unit 2 in the Furman at Bayside Condominium following acquisition of the land from the City of Portland. Such specified area is referred to below as “178 Kennebec Street Unit 2” or “Unit 2”.

## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

The amendments will provide that the following specified area will remain: the first floor in a multi-story building to be constructed on a parcel of approximately 0.22 acres presently owned by the City of Portland located at 178 Kennebec Street, Portland and to be conveyed to 100 Parris Street, LP or its designee (the “Developer”), together with all rights appurtenant thereto including without limitation in the land comprising said parcel. It is the intention of the Developer to declare this specified area as Unit 1 in the Furman at Bayside Condominium following acquisition of the land from the City of Portland.

### **II. Amended Development Program**

#### *A. The Amended Project*

##### Amendment #8/Pending Approval By MDECD

With this amended and restated Development Program, the City of Portland seeks to amend the Bayside Redevelopment Tax Increment Financing District to allow for 178 Kennebec Street, Condominium Unit 1 on the ground level/commercial space to remain in the Bayside TIF District; and, Condominium Unit 2, floors above the ground level commercial space, to be an Affordable Housing TIF District.

The amendments will exclude all floors above the first floor in a multi-story building to be constructed on a parcel of approximately 0.22 acres presently owned by the City of Portland located at 178 Kennebec Street, Portland and to be conveyed to 100 Parris Street, LP or its designee (the “Developer”), together with all rights appurtenant thereto including without limitation in the land comprising said parcel. It is the intention of the Developer to declare this specified area as Unit 2 in the Furman at Bayside Condominium following acquisition of the land from the City of Portland. Such specified area is referred to below as “178 Kennebec Street Unit 2” or “Unit 2”.

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Municipal uses of TIF revenue consistent *Bayside Vision Plans I and II* are detailed in Table 1 in Section II(D) below.

The success of these efforts will enhance the City’s ability to attract new investment to Bayside, leading to a densely developed commercial district, which will create new taxable value and provide expanded opportunities for employment and housing.

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

The City's Economic Development Department will continue to market other City land as potential building sites to prospective businesses and developers, in addition to promoting Bayside as a whole.

**Amendment #9 – Proposed to Portland City Council**

**Amendment #9 would increase and clarify the allowable uses of Municipal TIF Revenue in the District. Proposed additional uses include:**

- **Professional service costs to administer the TIF District Program and to assist the City's Economic Development Department to market and prepare for Bayside Redevelopment;**
- **Pro-rated salaries of the City's Finance Director, and the City's Planning staff;**
- **Workforce training funds.**

*B. The Development District*

Properties that are to be designated as part of the TIF District are shown on the attached map (Exhibit 4), containing approximately 129.18 acres with an original assessed value as shown on Exhibit 11 as \$122,318,180

The TIF District will apply to only new value generated within the District and will not affect the current property tax base.

*C. The Amended Development Program*

The City of Portland, by designating the Amended Bayside Redevelopment TIF District, will capture all new investments made within the Amended District. The City is projecting to capture up to 100% of the new assessed value over the original assessed value, and retain from the district the new tax revenues generated from that captured assessed value. These revenues will be allocated to the Project Cost Account for the purposes described in II.A. above and further detailed in Section II(D) below. Each year, the City Council may adjust the specific amount to be captured and retained for purposes of this Amended TIF, based upon the needs of the Amended District, and the commitments made through Credit Enhancement Agreements, collateral for loan or bond repayment, and the like.

*D. The Projects*

**The projects/public benefits associated with an amended Bayside TIF District include:**

- **Provide support for Portland's continued economic development;**
- **Help increase the vibrancy and stability of the Bayside neighborhood;**
- **Create employment opportunities for area residents;**
- **Produce tax shift benefits averaging an estimated savings to the City of \$1.3 Million annually;**

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;
- Planning for environmental sea level adaptation, and public infrastructure to support commercial development.

The City of Portland seeks authorization to utilize the revenues generated from the Amended Bayside TIF District to support economic development in Bayside, all as more detailed in Table 1 below: See Table 1 Below for Municipal Use of TIF Revenues, Statutory Citation, and Cost Estimates – Citations all refer to Title 30-A, Chapter 206, Section 5225.

**Table 1**

<b>Municipal Use of TIF Revenues</b>	<b>Statutory Citation</b>	<b>Cost Estimate</b>
In District: Create Additional Parking Structures	(1)(A)(1)(2)(3)(6)(7)	\$10,000,000
In District: Existing Credit Enhancement Agreements; others as negotiated, executed with public process per <b>Section H-A City of Portland TIF Policy as may be amended from time to time</b>	(1)(A)(1)(2)(3)(6)(7)	\$6,000,000 over life of TIF District for existing CEAs
In District: Relocate one remaining scrap metal recycling facility and acquisition of scrap metal yard site	(1)(A)(1)(2)(3)(6)(7)	T/B/D
In District: <b>Design, upgrades, and construction of public infrastructure, utilities, and financing costs (but not limited to roadway, sidewalk, water, stormwater, sewer systems, telecommunication, electrical distribution upgrades, and transportation improvement projects) located in District</b>	(1)(A)(1)(2)(3)(6)(7)	T/B/D
In District: Pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances public Bayside investment	(1)(A)(2)	\$6,000,000 over life of TIF District
In District: Public infrastructure improvements for both pedestrians and transit, lighting, and open space/trails	(1)(A)(1)(2)(3)(6)(7)(8)	T/B/D
In District: Funding the Economic Development Department, including salaries, to market and prepare for Bayside Redevelopment <b>and professional service costs to administer the TIF District Program</b>	(1)(A)(4)(5)	\$500,000
In and out of District:		

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

a.) Cover the City’s Economic Development Department costs, including <u>pro-rated salaries of City Manager, Finance Director, and Planning and Urban Development Director and Planning staff*</u> ;	(1)(A)(5) and (1)(C)(1)	\$250,000/annual or \$47,500,000 over life of TIF District <u>(30 Years)</u>
b.) Environmental site assessment and remediation to support commercial development;	(1)(C)(2)	\$150,000
<u>c.) Environmental sea level adaptation planning and public infrastructure to support commercial development;</u>	(1)(C)(2)	T/B/D
<u>d.) Workforce training funds. Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained.</u>	<u>(1)(C)(4)</u>	<u>T/B/D</u>
<u>e.) Professional services costs.</u>	<u>(1)(A)(4); (1)(C)(1)</u>	<u>T/B/D</u>
<b>Total:</b>		<b>\$2730,150,000</b>

\*This item is not unique to this TIF District; it is also partially included in the Riverwalk TIF District, and is proposed to be fully included Downtown TIF District and the Waterfront TIF District.

*E. Operational Components*

1. Public Facilities

The City will invest in projects to further goals of the *Bayside Vision*, and as outlined in Table 1 above.

2. Uses of Private Property

The Amended Bayside Economic Redevelopment Program and TIF District includes both public and private property. The funds generated from this district will be used to support commercial investment on both public and private land, the latter through the use of CEA as noted II.(D) above.

3. Plans for relocation of persons displaced by development activities.

Though not contemplated at this point, any possible relocation costs of displaced persons resulted from one or more City projects funded through this Amended Development Program shall be covered by the City as required.

## **PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

### 4. Transportation Improvements

A description of the transportation-related improvements to be financed through this Amended Development Program is set forth above in Table 1 of the Development Program Section II(D).

### 5. Environmental Controls

The Amended Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements.

### 6. Plan of Operation of Amended District

During the life of the Amended Tax Increment Financing District, the City of Portland, City Council, or their designee, will be responsible for the administration of the District.

## **III. Physical Description**

As noted previously, properties that are to be designated as part of the Amended TIF District are shown on the attached map (Exhibit 4), totaling 129.18 acres. The statutory threshold limits addressing the conditions for approval mandated by 30-A M.R.S.A. Section 5223(3) are set forth in Exhibit 6.

Proposed Amendment #8 does not change the acreage numbers for the Bayside TIF District because the 178 Kennebec Street Unit 1 (ground level commercial space) will remain in the Bayside TIF District and Unit 2 (affordable residential units located in the upper floors) is proposed to be an Affordable Housing TIF District.

Enclosed municipal maps:

1. Area map showing site location of the Amended TIF District in relation to geographic location of municipality (see new Exhibit 3(A)).
2. Site map showing tax map locations of the Amended TIF District (see new Exhibit 4(A)).

## **IV. Financial Plan**

### *A. Costs and Sources of Revenues*

With Amendment #6 to this TIF District, the acreage was increased to 129.18 acres, with an associated OAV set at \$122,318,180 as set forth in Exhibit 11. Exhibit 11 details the OAV from the inception of the Bayside TIF District, to its 1<sup>st</sup> expansion

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

via Amendment 1, and 2nd expansion via Amendment 6. Exhibit 4 is the map which highlights the District encompassing the entire 129.18 acres.

The Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the District to be captured and designated as TIF Revenues. The City will apply the retained revenues to the economic development activities described in the Amended Development Program. To date, these activities are included in Table 1, Section II(D) above.

The attached Revised Exhibit 1, as revised and updated for Amendment 9, details the actual numbers from its inception – Tax Year 2003/City Fiscal Year 2003/2004 – through Tax Year April 1, 2018/City Fiscal Year 2018/2019; and estimates beginning Tax Year April 1, 2019/City Fiscal Year 2019/2020 through the life of District ending with Tax Year April 1, 2032/City Fiscal Year 2032/2033. The projections of retained revenues is based upon the anticipated assessed value increases within the District: for the remainder of the District term. Revised Exhibit 1 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

*B. Development Program Account*

This Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5227(3).

The Bayside TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of Company Cost Subaccounts (Company Cost Subaccount), pledged to and charged with payment to authorized companies under the terms of an approved Credit Enhancement Agreement for reimbursements for eligible project costs, and a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses.

*C. Financing Plan*

The original TIF District comprised an area of approximately 11 acres of real and personal property. The value of the real and personal property within the district as of March 31, 2002 was established as the original assessed value. With the subsequent expansion (Amendment 1), the value of the additional real and personal property within the district expansion as of March 31, 2007 was established as the original assessed value, with that value being \$44,066,380. With the additional expansion via Amendment 6 from 62.18 to add 67 acres to the District, for a total of 129.18 acres, the value of real property within the expanded District of 67 acres has a March 31, 2014 date established as the original assessed value, or \$78,251,800 as detailed in Section IV.A. above, for a total OAV of the District at \$122,318,180.

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

The developments within the described Amended Bayside TIF District will add significant new taxable value in the City of Portland. TIF revenues will be allocated as described on revised Exhibit 1 to finance the costs described in the Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained, or a specific amount to be retained within the Amended District, and the actual annual assessed value within the Amended District, to be determined by the City Council on a yearly basis.

**V. Amended Financial Data (See Statutory Requirements & Thresholds, Exhibit 6)**

- A. Estimate of increased assessed value by year after implementation of the development program: See Revised Exhibit 1
- B. Percentage of increased assessed value to be applied to the development program fund: See Revised Exhibit 1
- C. Estimated annual tax increment: \$1,717,654,528,312 (Average)
- D. Total average annual value of development program fund: \$1,717,654,528,312 (Average)
- E. Annual principal and interest payment of bonded indebtedness: N/A at this time \$400,000
- F. Financial assumptions and safeguards: The City of Portland is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit.

**VI. Tax Shifts (See Revised Exhibit 2)**

- A. *Average Annual Amount:*
  - General Purpose Aid to Education Tax Shift: \$593,812,530,331
  - Municipal Revenue Sharing Tax Shift: \$47,751,36,549
  - County Tax Shift: \$38,745,34,468
  - Total Average Annual Savings: \$680,307,601,349

**VII. Municipal Approvals**

- A. *Public Hearing Notice*

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

The City of Portland did give proper Notice of Public Hearing in accordance with the requirements of 30-A M.R.S.A. §~~5253-5226(1)~~. The notice was published on **July 3,** \_\_\_\_\_, 2018, in a newspaper of general circulation (see new Exhibit 8).

*B. Public Hearing*

A Public Hearing at which the proposed Amended Bayside Municipal Tax Increment Financing District was discussed was held on **July 16,** \_\_\_\_\_, 2018, in the Portland City Council Chambers. A copy of the minutes of that meeting is included as new Exhibit 9.

*C. Authorizing Votes*

An attested copy of the resolution of the Portland City Council designating the Amended Municipal TIF district created for the implementation of the Bayside Redevelopment Program is included as new Exhibit 10.

*D. Assessor's Certification*

An attested copy of the certification by the City of Portland Tax Assessor as to the revised Original Assessed Value of the expanded Bayside Municipal Tax Increment Financing District is included as Exhibit 11.

## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

### I. Introduction/Updated 2018

East and West Bayside continue to be gateways to Portland’s peninsula. A lot of changes to East and West Bayside have occurred since the Bayside (West) TIF District was adopted by the City Council on March 17, 2003. Relocation of one scrap yard and the addition of new medical office buildings, new housing for college students, , two new grocery stores, pharmacies, and financial institutions have transformed West Bayside’s industrial heritage to a more compact urban development pattern, which extends the Central Business District to I-295. Additionally, City Council approval, during 2017 and 2018, of the sale of six Bayside properties formerly occupied by the Public Works Department will continue to support area wide economic revitalization.

East Bayside has been experiencing its own transformation with new coffee shops, artist studios, and new housing. Continued attention to the West Bayside TIF District is needed to fulfill the *Bayside Vision*.

#### History

In 1996, the process began when the City of Portland obtained funding from the Environmental Protection Agency (EPA) to undertake a Brownfield’s Pilot Project in Bayside. The City designated a ten-lot, 14-acre parcel between Oxford Street and Marginal Way as the Bayside Brownfield’s Project Area and has since created a \$500,000 loan fund for the express purpose of cleaning up the site to clear the way for future development. The study area was subsequently enlarged to incorporate the area from Congress Street to I-295, and from Franklin Arterial to Forest Avenue, which is approximately 129 acres.

Since 1996, the City of Portland has been working with a team of consultants on planning for opportunities for the reuse of the Bayside land. An extensive public participation process, which involved hundreds of participants, produced a plan entitled “A New Vision for Bayside”. The Bayside plan identifies the following eleven development principles and five critical actions in order to transform this area into a vital, productive and diverse urban neighborhood:

#### **Development Principles**

- Urban Gateway
- Economic and Employment Opportunities
- A Walkable District
- A Critical Mass of Dwellings
- Transit Oriented Development
- Multi-level Parking Structures
- A Neighborhood Center
- Recreation and Open Space
- A Social Service Network
- Environmental Remediation
- Scrap yard Redevelopment

## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

### Critical Actions

- Acquire the Railroad Property
- Redevelop the Scrap yard Parcels
- Build More Housing
- Create Transit Oriented Development
- Secure the Future of Portland's Social Service Network

Public participation continues to be an ongoing aspect of the Plan's implementation. The Bayside Neighborhood Association and the Bayside Community Development Corporation include neighborhood property owners, residents, commercial owners and tenants.

Since adopting the Bayside Vision Plan in December 1999 as a part of the Comprehensive Plan, the City has moved forward on several of the identified critical actions. After several years of complex negotiations with Guilford Transportation and the Maine Department of Transportation, the City purchased the Railroad property. Using Housing and Urban Development ("HUD") and Economic Development Administration ("EDA") funding, this 6+ acre parcel made the City a major property owner in the area of Bayside slated primarily for commercial redevelopment.

EDA and City Capital Improvement Funds have been used to rebuild the sewer system along Somerset Street, adjacent to the railroad parcel, as well as to extend Chestnut Street from Somerset Street to Marginal Way. These improvements were key infrastructure investments for new development in Bayside. The City continues to be committed to investing in Bayside as funding becomes available, but clearly a variety of financing mechanisms have been and will continue to be needed.

With these first actions completed, attention has been focused on the need for structured parking associated with the Federated Midtown Project. At meeting after meeting, then Bayside Development Committee (BDC) members stated unequivocally that the Bayside Plan cannot be implemented to its fullest without structured parking; and that the entire redevelopment plan hinges upon the relocation of the scrap metal recycling facilities. Furthermore, it is clear that the private sector cannot afford to make new investments in Bayside that include the cost of creating structured parking, nor can the market alone bear the cost of relocating the scrap metal recycling facilities.

The first such private development project which included constructing garages occurred on property that was sold by the City to two private developers (Capital, LLC and Southern Maine Student Housing, LLC) who planned a then estimated \$38,400,000 in new taxable commercial investment. The project consisted of a 72,000 sq. ft. office building, perched upon a 430 space parking garage with ground floor retail, alongside a 405 bed student housing facility with a 130 space parking garage. The cost of constructing the structured parking added more costs to the project than market rents could support, so financing relief was sought through the use of Credit Enhancement Agreements (Exhibit 5) so that the project moved forward with the density sought for Bayside. This entire investment occupies just over 3 acres by reducing the footprint and allowing for vertical expansion.

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

Amendment #7 Approved by MDECD March 28, 2016

The purpose of Amendment #7 to this TIF application was to amend the Development Program to include municipal use of TIF funds for costs of public transportation improvement projects – including traffic signals, costs associated with environmental site assessment and remediation work to support commercial development, costs associated with environmental sea level adaptation planning and public infrastructure to support commercial development, as well as other development principles and critical actions items contained in the *Bayside Vision Report I and II*

The public benefits associated with an amended Bayside TIF District include:

- Provide support for Portland’s **continued economic development**;
- Help increase the **vibrancy and stability of the Bayside neighborhood**;
- Create **employment opportunities** for area residents;
- Produce **tax shift benefits** averaging an estimated savings to the City of \$680,307 annually at that time;
- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;
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Amendment #8 Approved by the Portland City Council July 16, 2018/MDECD Approval Pending

Amendment #8 includes a single property in the Expanded Bayside TIF District located at 178 Kennebec Street, Assessor Chart, Block, and Lot Number 034 F001001. The City is in the process of selling this property to a private developer. This developer proposes an elderly affordable housing project on that property with two condominium units. Unit 1 would be ground level commercial space and Unit 2 (air rights above Unit 1) is proposed to be an elderly affordable housing project.

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## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

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### II. Amended Development Program

#### A. *The Amended Project*

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With this amended and restated Development Program, the City of Portland seeks to amend the Bayside Redevelopment Tax Increment Financing District to allow for 178 Kennebec Street, Condominium Unit 1 on the ground level/commercial space to remain in the Bayside TIF District; and, Condominium Unit 2, floors above the ground level commercial space, to be an Affordable Housing TIF District.

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## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

Amendment #9 – Proposed to Portland City Council

Amendment #9 would increase and clarify the allowable uses of Municipal TIF Revenue in the District. Proposed additional uses include:

- Professional service costs to administer the TIF District Program and to assist the City's Economic Development Department to market and prepare for Bayside Redevelopment;
- Pro-rated salaries of the City's Finance Director, and the City's Planning staff;
- Workforce training funds.

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The TIF District will apply to only new value generated within the District and will not affect the current property tax base.

### *C. The Amended Development Program*

The City of Portland, by designating the Amended Bayside Redevelopment TIF District, will capture all new investments made within the Amended District. The City is projecting to capture up to 100% of the new assessed value over the original assessed value, and retain from the district the new tax revenues generated from that captured assessed value. These revenues will be allocated to the Project Cost Account for the purposes described in II.A. above and further detailed in Section II(D) below. Each year, the City Council may adjust the specific amount to be captured and retained for purposes of this Amended TIF, based upon the needs of the Amended District, and the commitments made through Credit Enhancement Agreements, collateral for loan or bond repayment, and the like.

### *D. The Projects*

The projects/public benefits associated with an amended Bayside TIF District include:

- Provide support for Portland's **continued economic development**;
- Help increase the **vibrancy and stability of the Bayside neighborhood**;
- Create **employment opportunities** for area residents;
- Produce **tax shift benefits** averaging an estimated savings to the City of \$1.3 Million annually;
- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

- Planning for environmental sea level adaptation, and public infrastructure to support commercial development.

The City of Portland seeks authorization to utilize the revenues generated from the Amended Bayside TIF District to support economic development in Bayside, all as more detailed in Table 1 below: See Table 1 Below for Municipal Use of TIF Revenues, Statutory Citation, and Cost Estimates – Citations all refer to Title 30-A, Chapter 206, Section 5225.

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In District: Existing Credit Enhancement Agreements; others as negotiated, executed with public process per City of Portland TIF Policy as may be amended from time to time	(1)(A)(1)(2)(3)(6)(7)	\$6,000,000 over life of TIF District for existing CEAs
In District: Relocate one remaining scrap metal recycling facility and acquisition of scrap metal yard site	(1)(A)(1)(2)(3)(6)(7)	T/B/D
In District: Design, upgrades, and construction of public infrastructure, utilities, and financing costs (but not limited to roadway, sidewalk, water, stormwater, sewer systems, telecommunication, electrical distribution upgrades, and transportation improvement projects) located in District	(1)(A)(1)(2)(3)(6)(7)	T/B/D
In District: Pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances public Bayside investment	(1)(A)(2)	\$6,000,000 over life of TIF District
In District: Public infrastructure improvements for both pedestrians and transit, lighting, and open space/trails	(1)(A)(1)(2)(3)(6)(7)(8)	T/B/D
In District: Funding the Economic Development Department, including salaries, to market and prepare for Bayside Redevelopment and professional service costs to administer the TIF District Program	(1)(A)(4)(5)	\$500,000
In and out of District: a.) Cover the City’s Economic Development Department costs, including pro-rated salaries of City Manager, Finance Director, and	(1)(A)(5) and (1)(C)(1)	\$250,000/annual or \$7,500,000 over life of TIF District (30 Years)

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

Planning and Urban Development Director and Planning staff*;		
b.) Environmental site assessment and remediation to support commercial development;	(1)(C)(2)	\$150,000
c.) Environmental sea level adaptation planning and public infrastructure to support commercial development;	(1)(C)(2)	T/B/D
d.) Workforce training funds. Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained.	(1)(C)(4)	T/B/D
e.) Professional services costs.	(1)(A)(4); (1)(C)(1)	T/B/D
<b>Total:</b>		<b>\$30,150,000</b>

\*This item is not unique to this TIF District; it is also partially included in the Riverwalk TIF District, and is proposed to be fully included Downtown TIF District and the Waterfront TIF District.

*E. Operational Components*

1. Public Facilities

The City will invest in projects to further goals of the *Bayside Vision*, and as outlined in Table 1 above.

2. Uses of Private Property

The Amended Bayside Economic Redevelopment Program and TIF District includes both public and private property. The funds generated from this district will be used to support commercial investment on both public and private land, the latter through the use of CEA as noted II.(D) above.

3. Plans for relocation of persons displaced by development activities.

Though not contemplated at this point, any possible relocation costs of displaced persons resulted from one or more City projects funded through this Amended Development Program shall be covered by the City as required.

## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

### 4. Transportation Improvements

A description of the transportation-related improvements to be financed through this Amended Development Program is set forth above in Table 1 of the Development Program Section II(D).

### 5. Environmental Controls

The Amended Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements.

### 6. Plan of Operation of Amended District

During the life of the Amended Tax Increment Financing District, the City of Portland, City Council, or their designee, will be responsible for the administration of the District.

## III. Physical Description

As noted previously, properties that are to be designated as part of the Amended TIF District are shown on the attached map (Exhibit 4), totaling 129.18 acres. The statutory threshold limits addressing the conditions for approval mandated by 30-A.M.R.S.A. Section 5223(3) are set forth in Exhibit 6.

Proposed Amendment #8 does not change the acreage numbers for the Bayside TIF District because the 178 Kennebec Street Unit 1 (ground level commercial space) will remain in the Bayside TIF District and Unit 2 (affordable residential units located in the upper floors) is proposed to be an Affordable Housing TIF District.

Enclosed municipal maps:

1. Area map showing site location of the Amended TIF District in relation to geographic location of municipality (see new Exhibit 3(A)).
2. Site map showing tax map locations of the Amended TIF District (see new Exhibit 4(A)).

## IV. Financial Plan

### A. *Costs and Sources of Revenues*

With Amendment #6 to this TIF District, the acreage was increased to 129.18 acres, with an associated OAV set at \$122,318,180 as set forth in Exhibit 11. Exhibit 11 details the OAV from the inception of the Bayside TIF District, to its 1<sup>st</sup> expansion

## PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9

via Amendment 1, and 2nd expansion via Amendment 6. Exhibit 4 is the map which highlights the District encompassing the entire 129.18 acres.

The Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the District to be captured and designated as TIF Revenues. The City will apply the retained revenues to the economic development activities described in the Amended Development Program. To date, these activities are included in Table I, Section II(D) above.

The attached Revised Exhibit 1, as revised and updated for Amendment 9, details the actual numbers from its inception – Tax Year 2003/City Fiscal Year 2003/2004 – through Tax Year April 1, 2018/City Fiscal Year 2018/2019; and estimates beginning Tax Year April 1, 2019/City Fiscal Year 2019/2020 through the life of District ending with Tax Year April 1, 2032/City Fiscal Year 2032/2033. The projections of retained revenues is based upon the anticipated assessed value increases within the District for the remainder of the District term. Revised Exhibit 1 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

### *B. Development Program Account*

This Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5227(3).

The Bayside TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of Company Cost Subaccounts (Company Cost Subaccount), pledged to and charged with payment to authorized companies under the terms of an approved Credit Enhancement Agreement for reimbursements for eligible project costs, and a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses.

### *C. Financing Plan*

The original TIF District comprised an area of approximately 11 acres of real and personal property. The value of the real and personal property within the district as of March 31, 2002 was established as the original assessed value. With the subsequent expansion (Amendment 1), the value of the additional real and personal property within the district expansion as of March 31, 2007 was established as the original assessed value, with that value being \$44,066,380. With the additional expansion via Amendment 6 from 62.18 to add 67 acres to the District, for a total of 129.18 acres, the value of real property within the expanded District of 67 acres has a March 31, 2014 date established as the original assessed value, or \$78,251,800 as detailed in Section IV.A. above, for a total OAV of the District at \$122,318,180.

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

The developments within the described Amended Bayside TIF District will add significant new taxable value in the City of Portland. TIF revenues will be allocated as described on revised Exhibit 1 to finance the costs described in the Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained, or a specific amount to be retained within the Amended District, and the actual annual assessed value within the Amended District, to be determined by the City Council on a yearly basis.

**V. Amended Financial Data (See Statutory Requirements & Thresholds, Exhibit 6)**

- A. Estimate of increased assessed value by year after implementation of the development program: See Revised Exhibit 1
- B. Percentage of increased assessed value to be applied to the development program fund: See Revised Exhibit 1
- C. Estimated annual tax increment: \$1,528,312 (Average)
- D. Total average annual value of development program fund: \$1,528,312 (Average)
- E. Annual principal and interest payment of bonded indebtedness: \$400,000
- F. Financial assumptions and safeguards: The City of Portland is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit.

**VI. Tax Shifts (See Revised Exhibit 2)**

*A. Average Annual Amount:*

General Purpose Aid to Education Tax Shift: \$530,331

Municipal Revenue Sharing Tax Shift: \$36,549

County Tax Shift: \$34,468

Total Average Annual Savings: \$601,349

**VII. Municipal Approvals**

*A. Public Hearing Notice*

The City of Portland did give proper Notice of Public Hearing in accordance with the requirements of 30-A M.R.S.A. §5226(1). The notice was published on \_\_\_\_\_, 2018, in a newspaper of general circulation (see new Exhibit 8).

**PROPOSED BAYSIDE TIF DISTRICT CITY INVESTMENT OPTIONS –AMENDMENT 9**

*B. Public Hearing*

A Public Hearing at which the proposed Amended Bayside Municipal Tax Increment Financing District was discussed was held on \_\_\_\_\_, 2018, in the Portland City Council Chambers. A copy of the minutes of that meeting is included as new Exhibit 9.

*C. Authorizing Votes*

An attested copy of the resolution of the Portland City Council designating the Amended Municipal TIF district created for the implementation of the Bayside Redevelopment Program is included as new Exhibit 10.

*D. Assessor's Certification*

An attested copy of the certification by the City of Portland Tax Assessor as to the revised Original Assessed Value of the expanded Bayside Municipal Tax Increment Financing District is included as Exhibit 11.

Revised Exhibit 1 for Bayside TIF Amendment #9

City of Portland - Bayside TIF Model

Total OAV as of 4/1/2001: \$1,608,190  
 Total OAV as of 4/1/2006: \$44,066,380  
 Total OAV as of 4/1/2013: \$122,318,180

Note: These numbers are actuals through FY2019 (Tax Year 4/1/2018); estimates for FY2020 through End of FY2033 (Tax Year 4/1/2032), 9/7/2018

Bayside TIF												Captured Revenue to Municipal Project Account	Capture Revenue to CEAs	
TIF Years 1 (FY2004) through 16 (FY2019) Actual Numbers; Years 17 (FY2020) through 30 (FY2033) Estimates														
TIF Year	Tax Year-April 1	City Fiscal Year	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Municipal Project and CEAs Account	City Non-Captured General Fund Revenues	OAV General Fund Revenue				
1	2003	FY2003/2004	\$5,468,950	1.00%	\$54,690	26.80	\$1,466	\$1,466	\$145,102	\$43,099		\$1,466		
2	2004	FY2004/2005	\$7,295,740	1.00%	\$72,957	26.53	\$1,936	\$1,936	\$191,620	\$42,665		\$1,936		
3	2005	FY2005/2006	\$9,171,480	54.16%	\$4,967,274	20.13	\$99,991	\$99,991	\$84,631	\$32,373		\$99,991		
4	2006	FY2006/2007	\$11,052,960	27.74%	\$3,066,091	16.31	\$50,008	\$50,008	\$130,266	\$718,723		\$50,008		
5	2007	FY2007/2008	\$23,657,250	1.00%	\$236,573	17.10	\$4,045	\$4,045	\$400,494	\$753,535		\$4,045		
6	2008	FY2008/2009	\$49,496,900	100.00%	\$49,496,900	17.74	\$878,075	\$878,075	\$0	\$781,738		\$452,194	\$425,881	
7	2009	FY2009/2010	\$69,217,260	78.00%	\$53,989,463	17.74	\$957,773	\$957,773	\$270,141	\$781,738		\$602,773	\$355,000	
8	2010	FY2010/2011	\$68,355,920	71.00%	\$48,532,703	17.92	\$869,706	\$869,706	\$355,232	\$789,670		\$395,064	\$474,642	
9	2011	FY2011/2012	\$62,808,110	73.00%	\$45,849,920	18.28	\$838,137	\$838,137	\$309,995	\$805,533		\$483,137	\$355,000	
10	2012	FY2012/2013	\$66,477,790	47.00%	\$31,244,561	18.82	\$588,023	\$588,023	\$663,089	\$829,329		\$141,688	\$446,335	
11	2013	FY2013/2014	\$65,716,350	97.72%	\$64,218,017	19.41	\$1,246,472	\$1,246,472	\$29,083	\$855,328		\$800,235	\$446,237	
12	2014	FY2014/2015	\$65,131,890	83.00%	\$54,059,469	20.00	\$1,081,189	\$1,081,189	\$221,448	\$881,328		\$634,952	\$446,237	
13	2015	FY2015/2016	\$67,362,090	54.58%	\$36,766,229	20.63	\$758,487	\$758,487	\$631,193	\$2,523,424		\$294,738	\$463,749	
14	2016	FY2016/2017	\$70,121,790	54.97%	\$38,545,948	21.11	\$813,705	\$813,705	\$666,565	\$2,582,137		\$349,899	\$463,806	
15	2017	FY2017/2018	\$82,037,690	58.27%	\$47,803,362	21.65	\$1,034,943	\$1,034,943	\$741,173	\$2,648,189		\$571,631	\$463,312	
16	2018	FY2018/2019	\$80,301,620	63.27%	\$50,806,835	22.48	\$1,142,138	\$1,142,138	\$663,043	\$2,749,713		\$817,138	\$325,000	
17	2019	FY2019/2020	\$82,327,818	100.00%	\$82,327,818	22.93	\$1,887,744	\$1,887,744	\$0	\$2,804,707		\$1,562,744	\$325,000	
18	2020	FY2020/2021	\$84,374,278	100.00%	\$84,374,278	23.39	\$1,973,362	\$1,973,362	\$0	\$2,860,801		\$1,648,362	\$325,000	
19	2021	FY2021/2022	\$86,441,203	100.00%	\$86,441,203	23.86	\$2,062,138	\$2,062,138	\$0	\$2,918,017		\$1,737,138	\$325,000	
20	2022	FY2022/2023	\$88,528,796	100.00%	\$88,528,796	24.33	\$2,154,178	\$2,154,178	\$0	\$2,976,377		\$1,829,178	\$325,000	
21	2023	FY2023/2024	\$90,637,266	100.00%	\$90,637,266	24.82	\$2,249,593	\$2,249,593	\$0	\$3,035,905		\$2,249,593		
22	2024	FY2024/2025	\$92,766,821	100.00%	\$92,766,821	25.32	\$2,348,497	\$2,348,497	\$0	\$3,096,623		\$2,348,497		
23	2025	FY2025/2026	\$94,917,671	100.00%	\$94,917,671	25.82	\$2,451,007	\$2,451,007	\$0	\$3,158,556		\$2,451,007		
24	2026	FY2026/2027	\$97,090,029	100.00%	\$97,090,029	26.34	\$2,557,245	\$2,557,245	\$0	\$3,221,727		\$2,557,245		
25	2027	FY2027/2028	\$99,284,111	100.00%	\$99,284,111	26.87	\$2,667,335	\$2,667,335	\$0	\$3,286,161		\$2,667,335		
26	2028	FY2028/2029	\$101,500,134	100.00%	\$101,500,134	27.40	\$2,781,408	\$2,781,408	\$0	\$3,351,884		\$2,781,408		
27	2029	FY2029/2030	\$103,738,317	100.00%	\$103,738,317	27.95	\$2,899,595	\$2,899,595	\$0	\$3,418,922		\$2,899,595		
28	2030	FY2030/2031	\$105,998,882	100.00%	\$105,998,882	28.51	\$3,022,036	\$3,022,036	\$0	\$3,487,301		\$3,022,036		
29	2031	FY2031/2032	\$108,282,053	100.00%	\$108,282,053	29.08	\$3,148,872	\$3,148,872	\$0	\$3,557,047		\$3,148,872		
30	2032	FY2032/2033	\$110,588,055	100.00%	\$110,588,055	29.66	\$3,280,250	\$3,280,250	\$0	\$3,628,187		\$3,280,250		
<b>30 Year TIF Total</b>			<b>\$2,150,149,224</b>		<b>\$1,876,186,426</b>		<b>\$45,849,352</b>	<b>\$45,849,352</b>	<b>\$5,503,077</b>	<b>\$62,620,736</b>		<b>\$39,884,153</b>	<b>\$5,965,199</b>	
<b>30 Year Average</b>			<b>\$71,671,641</b>		<b>\$62,539,548</b>		<b>\$1,528,312</b>	<b>\$1,528,312</b>	<b>\$183,436</b>	<b>\$2,087,358</b>		<b>\$1,329,472</b>	<b>\$198,840</b>	

City of Portland Bayside TIF Model  
9/7/2018

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- Bayside TIF Model									
TIF Years 1 (FY2004) through 16 (FY2019) Actual Numbers with Varying Percentage Captures; Years 17 (FY2020) through 30 (FY2033) Estimates at 100% Capture									
TIF Year	Tax Year- April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation				
					Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts	
1	2003	FY2003/2004	\$5,468,950	\$54,690	\$0	\$32	\$30	\$62	
2	2004	FY2004/2005	\$7,295,740	\$72,957	\$0	\$43	\$40	\$83	
3	2005	FY2005/2006	\$9,171,480	\$4,967,274	\$0	\$2,906	\$2,742	\$5,649	
4	2006	FY2006/2007	\$11,052,960	\$3,066,091	\$13,046	\$1,794	\$1,693	\$16,533	
5	2007	FY2007/2008	\$23,657,250	\$236,573	\$2,013	\$138	\$131	\$2,282	
6	2008	FY2008/2009	\$49,496,900	\$49,496,900	\$421,219	\$28,959	\$27,300	\$477,478	
7	2009	FY2009/2010	\$69,217,260	\$53,989,463	\$459,450	\$31,587	\$29,775	\$520,813	
8	2010	FY2010/2011	\$68,355,920	\$48,532,703	\$413,013	\$28,395	\$26,769	\$468,177	
9	2011	FY2011/2012	\$62,808,110	\$45,849,920	\$390,183	\$26,825	\$25,291	\$442,299	
10	2012	FY2012/2013	\$66,477,790	\$31,244,561	\$265,891	\$18,280	\$17,240	\$301,412	
11	2013	FY2013/2014	\$65,716,350	\$64,218,017	\$546,495	\$37,572	\$35,408	\$619,475	
12	2014	FY2014/2015	\$65,131,890	\$54,059,469	\$460,046	\$31,628	\$29,814	\$521,488	
13	2015	FY2015/2016	\$67,362,090	\$36,766,229	\$312,881	\$21,511	\$20,284	\$354,676	
14	2016	FY2016/2017	\$70,121,790	\$38,545,948	\$328,026	\$22,552	\$21,266	\$371,843	
15	2017	FY2017/2018	\$82,037,690	\$47,803,362	\$406,807	\$27,968	\$26,367	\$461,142	
16	2018	FY2018/2019	\$80,301,620	\$50,806,835	\$432,366	\$29,725	\$28,022	\$490,113	
17	2019	FY2019/2020	\$82,327,818	\$82,327,818	\$700,610	\$48,167	\$45,375	\$794,152	
18	2020	FY2020/2021	\$84,374,278	\$84,374,278	\$718,025	\$49,365	\$46,500	\$813,890	
19	2021	FY2021/2022	\$86,441,203	\$86,441,203	\$735,615	\$49,365	\$47,637	\$832,616	
20	2022	FY2022/2023	\$88,528,796	\$88,528,796	\$753,380	\$51,795	\$48,785	\$853,961	
21	2023	FY2023/2024	\$90,637,266	\$90,637,266	\$771,323	\$53,029	\$49,945	\$874,297	
22	2024	FY2024/2025	\$92,766,821	\$92,766,821	\$789,446	\$54,275	\$51,116	\$894,836	
23	2025	FY2025/2026	\$94,917,671	\$94,917,671	\$807,749	\$55,533	\$52,298	\$915,581	
24	2026	FY2026/2027	\$97,090,029	\$97,090,029	\$826,236	\$56,804	\$53,493	\$936,533	
25	2027	FY2027/2028	\$99,284,111	\$99,284,111	\$844,908	\$58,088	\$54,699	\$957,695	
26	2028	FY2028/2029	\$101,500,134	\$101,500,134	\$863,766	\$59,384	\$55,917	\$979,067	
27	2029	FY2029/2030	\$103,738,317	\$103,738,317	\$882,813	\$60,694	\$57,147	\$1,000,654	
28	2030	FY2030/2031	\$105,998,882	\$105,998,882	\$902,050	\$62,016	\$58,389	\$1,022,456	
29	2031	FY2031/2032	\$108,282,053	\$108,282,053	\$921,480	\$63,352	\$59,644	\$1,044,476	
30	2032	FY2032/2033	\$110,588,055	\$110,588,055	\$941,104	\$64,701	\$60,911	\$1,066,717	
<b>30 Year TIF Total</b>			<b>\$2,150,149,224</b>	<b>\$1,876,186,426</b>	<b>\$15,909,942</b>	<b>\$1,096,484</b>	<b>\$1,034,030</b>	<b>\$18,040,457</b>	
<b>30 Year Average</b>			<b>\$71,671,641</b>	<b>\$62,539,548</b>	<b>\$530,331</b>	<b>\$36,549</b>	<b>\$34,468</b>	<b>\$601,349</b>	

Order 78-18/19  
Tab 11 10-1-1

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 AMENDING  
THE DOWNTOWN TRANSIT ORIENTED DEVELOPMENT AND OMNIBUS  
TAX INCREMENT FINANCING DISTRICT TO ADD MORE PUBLIC INVESTMENT  
OPTIONS AND TO INCREASE THE CAPTURE RATE**

**ORDERED**, that the Downtown Transit Oriented Development and Omnibus Tax Increment Financing (TIF) District, as adopted by Order 139-14/15 and amended by Order 99-17/18, is hereby amended to increase public investment options in substantially the form attached hereto as Exhibit A; and

**BE IT FURTHER ORDERED**, that the Downtown Transit Oriented Development and Omnibus TIF District is further amended to increase the allowable district annual capture rate from up to Twenty-Two Percent (22%) to up to One Hundred Percent (100%); and

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



Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**City Council Agenda Item**

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

**FROM:** Greg Mitchell, Economic Development Director  
Brendan O'Connell, Finance Director

**DATE:** September 19, 2018

**SUBJECT:** **Proposed Amendments to City Downtown Transit Oriented Development Area-wide Tax Increment Financing District**

**SPONSOR:** Economic Development Committee, Councilor Costa/Chair;  
Meeting held on September 18, 2018, and the vote was 3 – 0 to forward to the City Council for approval.

**COUNCIL MEETING DATE ACTION IS REQUESTED:**

**1<sup>st</sup> reading:** October 1, 2018    **2<sup>nd</sup> Reading/Public Hearing/Final Action:** October 15, 2018

**Can action be taken at a later date:**  Yes     No (If no why not?) Public Notice has been advertised in the Portland Press Herald for the public hearing on this for October 15, 2018.

**PRESENTATION: (List the presenter(s), type and length of presentation):** Greg Mitchell/  
5 Minutes

**I. ONE SENTENCE SUMMARY**

City Council action is being requested to approve the proposed amendments to the Downtown Transit Oriented Development TIF District.

**II. AGENDA DESCRIPTION**

Amendments to the Downtown Transit Oriented Development Tax Increment Financing (TIF) District are proposed to maximize utilization of the TIF District revenue by adding more public investment options for use of TIF revenue, including, but not limited to shuttle service to downtown business; professional service costs; pro-rated salaries of the City Manager, Finance Director, and Planning staff; workforce training funds; and public investment in

multi-modal surface and structured parking. A further amendment would increase the TIF District Annual Capture Rate from 22% to 100%.

### III. BACKGROUND

#### Downtown Transit (Existing and Proposed Amendments)

**Geography.** 421.52 acres generally bounded by State Street, Bayside TIF District and I-295, Washington Avenue, and the Waterfront TIF District.

**TIF Term.** Fiscal Years 2016-2045

#### *Overview of TIF District Expenditures to Date.*

<b>Downtown TOD TIF Expenditures from FY2016 thru FY2018</b>	
<b>Uses</b>	<b>Expenditures</b>
Public Infrastructure	\$346,595
Creative Portland	\$300,000
Staff	\$20,000
<b>Total Invested:</b>	<b>\$666,595</b>

**Existing and Proposed Amendments to Uses of Revenue.** See attached Downtown Transit TIF District Program which shows existing and proposed amendments to allowable uses of TIF District revenue in a strike through and underline format.

#### *Capture Rates*

>Existing, 22%

>Proposed, 100%. City staff's recommendation is to increase the "allowable" capture to enable maximum use of TIF revenue. It is noted that increasing the "allowable" capture rate does not require the City to annually capture the full amount. Final decisions related to use of TIF revenue are made annually through the City budget process.

There are no proposed changes to the geography of the Downtown Transit TIF District.

### IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

City Council approval of the proposed amendments to the Downtown Transit Oriented Development TIF District to support increased private sector investment and associated job creation.

### V. FINANCIAL IMPACT

**TIF District Estimates.** See attached spreadsheets for estimates of property tax revenue and funds available to the General Fund. Tax projections are provided for 22% and 100% TIF capture rates for the remainder of the Downtown Transit TIF District term.

**Tax Shelter (Financial Benefits).** Probably the most important, but least understood public benefit associated with TIF districts, is the tax shelter or local financial benefits.

Municipalities realize “savings” from the tax sheltering effect of TIF Districts. The following direct financial impacts occur when municipal valuation increases:

- A. State Education Aid is reduced,
- B. State Municipal Revenue Sharing is reduced, and
- C. A municipality pays a higher percentage of the County budget.

***This amount of “savings” is significant and one of the most important benefits of establishing TIF Districts.***

For Portland, tax shelter savings is conservatively estimated at 30%, meaning that for every new tax dollar, Portland saves 30 cents which would otherwise be lost for property tax value not included in a TIF District. The estimated tax shelter savings for the remainder of the Downtown Transit TIF District term (FY2020 through FY2045) is as follows:

22% - \$18,600,000, or \$715,000 Annually  
100% - \$84,500,000 or \$3,250,000 Annually

***Net Impact to the General Fund***

The savings referenced above is a direct benefit to the general fund – both to the City and the School Department via an increase in revenue from the State of Maine for education, increased revenues for the City from municipal revenue sharing, and decreased expenses for county tax. It is important to note that whenever the TIF capture rate is adjusted upward there will change in how property tax revenue flows between the general fund and the area TIFs. Via careful TIF budgeting, subject to annual budget approval by City Council, certain types of approved expenditures can be moved from the general fund into area TIFs. If the impact of the revenue shift is able to be fully offset the end result is the 30 cent savings on the dollar. A good example is what was done in the FY19 budget. TIF capture rates were adjusted upward by approximately 5% in the Waterfront and Bayside TIF. Although this resulted in slightly less revenue to the general fund, expenses related to Economic Development Department staff, in an amount approximately equal to the revenue shift, were shifted into the TIF. The net result was an increased capture rate in both TIFs, more sheltering savings (approximately 30% in benefits) and no other negative impact on the City or School budgets. It is this type of calculated TIF budgeting which is expected to continue to be utilized moving forward to increase capture rates, maximize sheltering, and ensure only positive impacts to the City and School budgets.

**VI. STAFF ANALYSIS**

Based on the above, staff recommends that the City Council vote to approve the proposed amendments to the Downtown Transit Oriented Development and TIF District.

**VII. RECOMMENDATION**

The Economic Development Committee recommended in a vote of 3-0 on September 18, 2018, that this item be forwarded to the City Council for approval of the Amendments to the Downtown Transit Oriented Development and TIF District.

**VII. LIST ATTACHMENTS**

- Updated Spreadsheets for Actual and Estimated TIF Revenue and Tax Shelter Savings
- Marked Revision and Clean Version of TIF Narrative and updated Spreadsheets; additional attachments noted in the Narrative are available upon request.

Revised Downtown TOD TIF Exhibit D-1

City of Portland - Downtown TOD TIF Model  
 Actual IAV FY2016 through FY2019  
 Estimates FY2020 through FY2045

Annual mill rate increase FY2020 through FY2045: 2%  
 Annual valuation increase FY2020 through FY2045: 1%

Original Assessed Value as of 4/1/2013: \$968,136,850

9/6/2018

City of Portland - Downtown TOD TIF Projection Table

TIF Year	Tax Year - April 1	City Fiscal Year	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues	OAV General Fund Revenue
1	2015	FY2015/2016	\$72,245,340	12.00%	\$8,669,441	20.63	\$178,851	\$0	\$178,851	\$1,311,571	\$19,972,663
2	2016	FY2016/2017	\$84,092,870	22.00%	\$18,500,431	21.11	\$390,544	\$0	\$390,544	\$1,384,656	\$20,437,369
3	2017	FY2017/2018	\$126,688,910	22.00%	\$27,871,560	21.65	\$603,419	\$0	\$603,419	\$2,139,396	\$20,960,163
4	2018	FY2018/2019	\$169,840,880	22.00%	\$37,364,994	22.48	\$839,965	\$0	\$839,965	\$2,978,058	\$21,763,716
5	2019	FY2019/2020	\$181,220,655	22.00%	\$39,868,544	22.93	\$914,170	\$0	\$914,170	\$3,241,147	\$22,198,991
6	2020	FY2020/2021	\$192,714,227	22.00%	\$42,397,130	23.39	\$991,592	\$0	\$991,592	\$3,515,645	\$22,642,971
7	2021	FY2021/2022	\$204,322,735	22.00%	\$44,951,002	23.86	\$1,072,349	\$0	\$1,072,349	\$3,801,965	\$23,095,830
8	2022	FY2022/2023	\$216,047,328	22.00%	\$47,530,412	24.33	\$1,156,561	\$0	\$1,156,561	\$4,100,535	\$23,557,747
9	2023	FY2023/2024	\$227,889,167	22.00%	\$50,135,617	24.82	\$1,244,353	\$0	\$1,244,353	\$4,411,796	\$24,028,901
10	2024	FY2024/2025	\$239,849,425	22.00%	\$52,766,873	25.32	\$1,335,853	\$0	\$1,335,853	\$4,736,206	\$24,509,479
11	2025	FY2025/2026	\$251,929,285	22.00%	\$55,424,443	25.82	\$1,431,195	\$0	\$1,431,195	\$5,074,237	\$24,999,669
12	2026	FY2026/2027	\$264,129,943	22.00%	\$58,108,588	26.34	\$1,530,516	\$0	\$1,530,516	\$5,426,376	\$25,499,662
13	2027	FY2027/2028	\$276,452,609	22.00%	\$60,819,574	26.87	\$1,633,959	\$0	\$1,633,959	\$5,793,128	\$26,009,656
14	2028	FY2028/2029	\$288,898,501	22.00%	\$63,557,670	27.40	\$1,741,670	\$0	\$1,741,670	\$6,175,014	\$26,529,849
15	2029	FY2029/2030	\$301,468,851	22.00%	\$66,323,147	27.95	\$1,853,802	\$0	\$1,853,802	\$6,572,570	\$27,060,446
16	2030	FY2030/2031	\$314,164,906	22.00%	\$69,116,279	28.51	\$1,970,510	\$0	\$1,970,510	\$6,986,355	\$27,601,655
17	2031	FY2031/2032	\$326,987,921	22.00%	\$71,937,343	29.08	\$2,091,958	\$0	\$2,091,958	\$7,416,941	\$28,153,888
18	2032	FY2032/2033	\$339,939,166	22.00%	\$74,786,616	29.66	\$2,218,312	\$0	\$2,218,312	\$7,864,924	\$28,716,762
19	2033	FY2033/2034	\$353,019,923	22.00%	\$77,664,383	30.26	\$2,349,745	\$0	\$2,349,745	\$8,330,915	\$29,291,097
20	2034	FY2034/2035	\$366,231,488	22.00%	\$80,570,927	30.86	\$2,486,437	\$0	\$2,486,437	\$8,815,549	\$29,876,919
21	2035	FY2035/2036	\$379,575,169	22.00%	\$83,506,537	31.48	\$2,628,571	\$0	\$2,628,571	\$9,319,479	\$30,474,457
22	2036	FY2036/2037	\$393,052,286	22.00%	\$86,471,503	32.11	\$2,776,338	\$0	\$2,776,338	\$9,843,382	\$31,083,946
23	2037	FY2037/2038	\$406,664,175	22.00%	\$89,466,118	32.75	\$2,929,936	\$0	\$2,929,936	\$10,387,956	\$31,705,625
24	2038	FY2038/2039	\$420,412,182	22.00%	\$92,490,680	33.40	\$3,089,568	\$0	\$3,089,568	\$10,953,922	\$32,339,738
25	2039	FY2039/2040	\$434,297,670	22.00%	\$95,545,487	34.07	\$3,255,443	\$0	\$3,255,443	\$11,542,025	\$32,986,532
26	2040	FY2040/2041	\$448,322,013	22.00%	\$98,630,843	34.75	\$3,427,779	\$0	\$3,427,779	\$12,153,035	\$33,646,263
27	2041	FY2041/2042	\$462,486,598	22.00%	\$101,747,052	35.45	\$3,606,800	\$0	\$3,606,800	\$12,787,746	\$34,319,188
28	2042	FY2042/2043	\$476,792,830	22.00%	\$104,894,423	36.16	\$3,792,738	\$0	\$3,792,738	\$13,446,980	\$35,005,572
29	2043	FY2043/2044	\$491,242,124	22.00%	\$108,073,267	36.88	\$3,985,831	\$0	\$3,985,831	\$14,131,583	\$35,705,684
30	2044	FY2044/2045	\$505,835,911	22.00%	\$111,283,900	37.62	\$4,186,327	\$0	\$4,186,327	\$14,842,431	\$36,419,797
<b>30 Year TIF Total</b>			<b>\$9,216,815,087</b>		<b>\$2,020,474,785</b>		<b>\$61,715,093</b>	<b>\$0</b>	<b>\$61,715,093</b>	<b>\$219,485,523</b>	<b>\$830,594,035</b>
<b>30 Year TIF Average</b>			<b>\$307,227,170</b>		<b>\$67,349,160</b>		<b>\$2,057,170</b>	<b>\$0</b>	<b>\$2,057,170</b>	<b>\$7,316,184</b>	<b>\$27,686,468</b>

Actuals Above  
 Estimates Below

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- TIF Model								
30 years: Year 1 - 12% to Municipal Project Account, 88% to City General Fund; Years 2 through 30: 22% to Municipal Project Account, 78% to City General Fund								
TIF Year	Tax Year- April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
					Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2015	FY2015/2016	\$72,245,340	\$8,669,441	\$0	\$5,072	\$4,786	\$9,858
2	2016	FY2016/2017	\$84,092,870	\$18,500,431	\$0	\$10,824	\$10,211	\$21,035
3	2017	FY2017/2018	\$126,688,910	\$27,871,560	\$0	\$16,307	\$15,380	\$31,687
4	2018	FY2018/2019	\$169,840,880	\$37,364,994	\$158,988	\$21,861	\$20,615	\$201,464
5	2019	FY2019/2020	\$181,220,655	\$39,868,544	\$339,281	\$23,326	\$21,995	\$384,602
6	2020	FY2020/2021	\$192,714,227	\$42,397,130	\$360,800	\$24,805	\$23,388	\$408,993
7	2021	FY2021/2022	\$204,322,735	\$44,951,002	\$382,533	\$26,299	\$24,796	\$433,628
8	2022	FY2022/2023	\$216,047,328	\$47,530,412	\$404,484	\$27,808	\$26,217	\$458,509
9	2023	FY2023/2024	\$227,889,167	\$50,135,617	\$426,654	\$29,333	\$27,652	\$483,639
10	2024	FY2024/2025	\$239,849,425	\$52,766,873	\$449,046	\$30,872	\$29,102	\$509,020
11	2025	FY2025/2026	\$251,929,285	\$55,424,443	\$471,662	\$32,427	\$30,566	\$534,655
12	2026	FY2026/2027	\$264,129,943	\$58,108,588	\$494,504	\$33,997	\$32,044	\$560,545
13	2027	FY2027/2028	\$276,452,609	\$60,819,574	\$517,575	\$35,583	\$33,537	\$586,695
14	2028	FY2028/2029	\$288,898,501	\$63,557,670	\$540,876	\$37,185	\$35,044	\$613,106
15	2029	FY2029/2030	\$301,468,851	\$66,323,147	\$564,410	\$38,803	\$36,567	\$639,780
16	2030	FY2030/2031	\$314,164,906	\$69,116,279	\$588,180	\$40,438	\$38,104	\$666,722
17	2031	FY2031/2032	\$326,987,921	\$71,937,343	\$612,187	\$42,088	\$39,657	\$693,932
18	2032	FY2032/2033	\$339,939,166	\$74,786,616	\$636,434	\$43,755	\$41,225	\$721,415
19	2033	FY2033/2034	\$353,019,923	\$77,664,383	\$660,924	\$43,755	\$42,809	\$747,488
20	2034	FY2034/2035	\$366,231,488	\$80,570,927	\$685,659	\$47,139	\$44,408	\$777,206
21	2035	FY2035/2036	\$379,575,169	\$83,506,537	\$710,641	\$48,857	\$46,023	\$805,520
22	2036	FY2036/2037	\$393,052,286	\$86,471,503	\$735,872	\$50,592	\$47,654	\$834,118
23	2037	FY2037/2038	\$406,664,175	\$89,466,118	\$761,357	\$52,344	\$49,301	\$863,001
24	2038	FY2038/2039	\$420,412,182	\$92,490,680	\$787,096	\$54,113	\$50,964	\$892,173
25	2039	FY2039/2040	\$434,297,670	\$95,545,487	\$813,092	\$55,900	\$52,644	\$921,636
26	2040	FY2040/2041	\$448,322,013	\$98,630,843	\$839,348	\$57,706	\$54,340	\$951,394
27	2041	FY2041/2042	\$462,486,598	\$101,747,052	\$865,867	\$59,529	\$56,053	\$981,449
28	2042	FY2042/2043	\$476,792,830	\$104,894,423	\$892,652	\$61,370	\$57,782	\$1,011,804
29	2043	FY2043/2044	\$491,242,124	\$108,073,267	\$919,704	\$63,230	\$59,529	\$1,042,463
30	2044	FY2044/2045	\$505,835,911	\$111,283,900	\$947,026	\$65,108	\$61,293	\$1,073,428
<b>30 Year TIF Total</b>			<b>\$9,216,815,087</b>	<b>\$2,020,474,785</b>	<b>\$16,566,850</b>	<b>\$1,180,428</b>	<b>\$1,113,685</b>	<b>\$18,860,963</b>
<b>30 Year TIF Avg.</b>			<b>\$307,227,170</b>	<b>\$67,349,160</b>	<b>\$552,228</b>	<b>\$39,348</b>	<b>\$37,123</b>	<b>\$628,699</b>

Revised Downtown TOD TIF Exhibit D-1

City of Portland - Downtown TOD TIF Model  
 Actual IAV FY2016 through FY2019  
 Estimates FY2020 through FY2045

Annual mil rate increase FY2020 through FY2045: 2%  
 Annual valuation increase FY2020 through FY2045: 1%

Original Assessed Value as of 4/1/2013: \$968,136,850

9/6/2018

City of Portland - Downtown TOD TIF Projection Table

TIF Year	Tax Year- April 1	City Fiscal Year	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues	OAV General Fund Revenue
1	2015	FY2015/2016	\$72,245,340	12.00%	\$8,669,441	20.63	\$178,851	\$0	\$178,851	\$1,311,571	\$19,972,663
2	2016	FY2016/2017	\$84,092,870	22.00%	\$18,500,431	21.11	\$390,544	\$0	\$390,544	\$1,384,656	\$20,437,369
3	2017	FY2017/2018	\$126,688,910	22.00%	\$27,871,560	21.65	\$603,419	\$0	\$603,419	\$2,139,396	\$20,960,163
4	2018	FY2018/2019	\$169,840,880	22.00%	\$37,364,994	22.48	\$839,965	\$0	\$839,965	\$2,978,058	\$21,763,716
5	2019	FY2019/2020	\$181,220,655	100.00%	\$181,220,655	22.93	\$4,155,317	\$0	\$4,155,317	\$0	\$22,198,991
6	2020	FY2020/2021	\$192,714,227	100.00%	\$192,714,227	23.39	\$4,507,237	\$0	\$4,507,237	\$0	\$22,642,971
7	2021	FY2021/2022	\$204,322,735	100.00%	\$204,322,735	23.86	\$4,874,314	\$0	\$4,874,314	\$0	\$23,095,830
8	2022	FY2022/2023	\$216,047,328	100.00%	\$216,047,328	24.33	\$5,257,096	\$0	\$5,257,096	\$0	\$23,557,747
9	2023	FY2023/2024	\$227,889,167	100.00%	\$227,889,167	24.82	\$5,656,149	\$0	\$5,656,149	\$0	\$24,028,901
10	2024	FY2024/2025	\$239,849,425	100.00%	\$239,849,425	25.32	\$6,072,060	\$0	\$6,072,060	\$0	\$24,509,479
11	2025	FY2025/2026	\$251,929,285	100.00%	\$251,929,285	25.82	\$6,505,432	\$0	\$6,505,432	\$0	\$24,999,669
12	2026	FY2026/2027	\$264,129,943	100.00%	\$264,129,943	26.34	\$6,956,893	\$0	\$6,956,893	\$0	\$25,499,662
13	2027	FY2027/2028	\$276,452,609	100.00%	\$276,452,609	26.87	\$7,427,088	\$0	\$7,427,088	\$0	\$26,009,656
14	2028	FY2028/2029	\$288,898,501	100.00%	\$288,898,501	27.40	\$7,916,684	\$0	\$7,916,684	\$0	\$26,529,849
15	2029	FY2029/2030	\$301,468,851	100.00%	\$301,468,851	27.95	\$8,426,372	\$0	\$8,426,372	\$0	\$27,060,446
16	2030	FY2030/2031	\$314,164,906	100.00%	\$314,164,906	28.51	\$8,956,865	\$0	\$8,956,865	\$0	\$27,601,655
17	2031	FY2031/2032	\$326,987,921	100.00%	\$326,987,921	29.08	\$9,508,899	\$0	\$9,508,899	\$0	\$28,153,688
18	2032	FY2032/2033	\$339,939,166	100.00%	\$339,939,166	29.66	\$10,083,236	\$0	\$10,083,236	\$0	\$28,716,762
19	2033	FY2033/2034	\$353,019,923	100.00%	\$353,019,923	30.26	\$10,680,660	\$0	\$10,680,660	\$0	\$29,291,097
20	2034	FY2034/2035	\$366,231,488	100.00%	\$366,231,488	30.86	\$11,301,985	\$0	\$11,301,985	\$0	\$29,876,919
21	2035	FY2035/2036	\$379,575,169	100.00%	\$379,575,169	31.48	\$11,948,050	\$0	\$11,948,050	\$0	\$30,474,457
22	2036	FY2036/2037	\$393,052,286	100.00%	\$393,052,286	32.11	\$12,619,720	\$0	\$12,619,720	\$0	\$31,083,946
23	2037	FY2037/2038	\$406,664,175	100.00%	\$406,664,175	32.75	\$13,317,892	\$0	\$13,317,892	\$0	\$31,705,625
24	2038	FY2038/2039	\$420,412,182	100.00%	\$420,412,182	33.40	\$14,043,490	\$0	\$14,043,490	\$0	\$32,339,738
25	2039	FY2039/2040	\$434,297,670	100.00%	\$434,297,670	34.07	\$14,797,468	\$0	\$14,797,468	\$0	\$32,986,532
26	2040	FY2040/2041	\$448,322,013	100.00%	\$448,322,013	34.75	\$15,580,814	\$0	\$15,580,814	\$0	\$33,646,263
27	2041	FY2041/2042	\$462,486,598	100.00%	\$462,486,598	35.45	\$16,394,547	\$0	\$16,394,547	\$0	\$34,319,188
28	2042	FY2042/2043	\$476,792,830	100.00%	\$476,792,830	36.16	\$17,239,718	\$0	\$17,239,718	\$0	\$35,005,572
29	2043	FY2043/2044	\$491,242,124	100.00%	\$491,242,124	36.88	\$18,117,414	\$0	\$18,117,414	\$0	\$35,705,684
30	2044	FY2044/2045	\$505,835,911	100.00%	\$505,835,911	37.62	\$19,028,757	\$0	\$19,028,757	\$0	\$36,419,797
<b>30 Year TIF Total</b>			<b>\$9,216,815,087</b>		<b>\$8,856,353,513</b>		<b>\$273,386,936</b>	<b>\$0</b>	<b>\$273,386,936</b>	<b>\$7,813,681</b>	<b>\$830,594,035</b>
<b>30 Year TIF Average</b>			<b>\$307,227,170</b>		<b>\$295,211,784</b>		<b>\$9,112,898</b>	<b>\$0</b>	<b>\$9,112,898</b>	<b>\$260,456</b>	<b>\$27,686,468</b>

Actuals Above  
 Estimates Below

Revised Downtown TOD TIF Exhibit D-2

City of Portland - Downtown TOD TIF Model

Actual FY2016 through FY2019

Estimates FY2020 through FY2045

Annual mil rate increase FY2020 through FY2045: 2%

Annual valuation increase FY2020 through FY2045: 1%

Original Assessed Value as of 4/1/2013:

\$968,136,850

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- TIF Model								
30 years: Year 1 - 12% to Municipal Project Account, 88% to City General Fund; Years 2 through 4: 12% to Municipal Project Account, 78% to City General Fund; Years 5 through 30: 100% to Municipal Project Account								
TIF Year	Tax Year- April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
					Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2015	FY2015/2016	\$72,245,340	\$8,669,441	\$0	\$5,072	\$4,786	\$9,858
2	2016	FY2016/2017	\$84,092,870	\$18,500,431	\$0	\$10,824	\$10,211	\$21,035
3	2017	FY2017/2018	\$126,688,910	\$27,871,560	\$0	\$16,307	\$15,380	\$31,687
4	2018	FY2018/2019	\$169,840,880	\$37,364,994	\$158,988	\$21,861	\$20,615	\$201,464
5	2019	FY2019/2020	\$181,220,655	\$181,220,655	\$1,542,188	\$106,026	\$99,656	\$1,747,869
6	2020	FY2020/2021	\$192,714,227	\$192,714,227	\$1,639,998	\$112,751	\$105,948	\$1,858,697
7	2021	FY2021/2022	\$204,322,735	\$204,322,735	\$1,738,786	\$119,542	\$112,301	\$1,970,630
8	2022	FY2022/2023	\$216,047,328	\$216,047,328	\$1,838,563	\$126,402	\$118,714	\$2,083,679
9	2023	FY2023/2024	\$227,889,167	\$227,889,167	\$1,939,337	\$133,330	\$125,187	\$2,197,854
10	2024	FY2024/2025	\$239,849,425	\$239,849,425	\$2,041,119	\$140,328	\$131,722	\$2,313,168
11	2025	FY2025/2026	\$251,929,285	\$251,929,285	\$2,143,918	\$147,395	\$138,318	\$2,429,632
12	2026	FY2026/2027	\$264,129,943	\$264,129,943	\$2,247,746	\$154,534	\$144,977	\$2,547,256
13	2027	FY2027/2028	\$276,452,609	\$276,452,609	\$2,352,612	\$161,743	\$151,698	\$2,666,053
14	2028	FY2028/2029	\$288,898,501	\$288,898,501	\$2,458,526	\$169,025	\$158,483	\$2,786,034
15	2029	FY2029/2030	\$301,468,851	\$301,468,851	\$2,565,500	\$176,379	\$165,332	\$2,907,211
16	2030	FY2030/2031	\$314,164,906	\$314,164,906	\$2,673,543	\$183,807	\$172,246	\$3,029,596
17	2031	FY2031/2032	\$326,987,921	\$326,987,921	\$2,782,667	\$191,310	\$179,224	\$3,153,201
18	2032	FY2032/2033	\$339,939,166	\$339,939,166	\$2,892,882	\$198,887	\$186,268	\$3,278,038
19	2033	FY2033/2034	\$353,019,923	\$353,019,923	\$3,004,200	\$198,887	\$193,379	\$3,396,466
20	2034	FY2034/2035	\$366,231,488	\$366,231,488	\$3,116,630	\$214,270	\$200,556	\$3,531,456
21	2035	FY2035/2036	\$379,575,169	\$379,575,169	\$3,230,185	\$222,077	\$207,801	\$3,660,063
22	2036	FY2036/2037	\$393,052,286	\$393,052,286	\$3,344,875	\$229,962	\$215,114	\$3,789,951
23	2037	FY2037/2038	\$406,664,175	\$406,664,175	\$3,460,712	\$237,926	\$222,496	\$3,921,133
24	2038	FY2038/2039	\$420,412,182	\$420,412,182	\$3,577,708	\$245,969	\$229,947	\$4,053,623
25	2039	FY2039/2040	\$434,297,670	\$434,297,670	\$3,695,873	\$254,093	\$237,467	\$4,187,433
26	2040	FY2040/2041	\$448,322,013	\$448,322,013	\$3,815,220	\$262,298	\$245,058	\$4,322,577
27	2041	FY2041/2042	\$462,486,598	\$462,486,598	\$3,935,761	\$270,585	\$252,720	\$4,459,067
28	2042	FY2042/2043	\$476,792,830	\$476,792,830	\$4,057,507	\$278,955	\$260,454	\$4,596,916
29	2043	FY2043/2044	\$491,242,124	\$491,242,124	\$4,180,470	\$287,409	\$268,260	\$4,736,140
30	2044	FY2044/2045	\$505,835,911	\$505,835,911	\$4,304,664	\$295,948	\$276,139	\$4,876,750
30 Year TIF Total			\$9,216,815,087	\$8,856,353,513	\$74,740,178	\$5,173,902	\$4,850,458	\$84,764,538
30 Year TIF Avg.			\$307,227,170	\$295,211,784	\$2,491,339	\$172,463	\$161,682	\$2,825,485

9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS

**I. Introduction – Portland Downtown Transit Oriented Municipal Development and Omnibus Tax Increment Financing District Amendment #2**

On February 19, 2015, the City of Portland (the “City”) designated the Portland Downtown Transit Oriented Municipal Development and Omnibus Tax Increment Financing District (the “District”) and adopted this Development Program (the “Development Program”) for the District in an effort to fully realize the visions and goals of the City of Portland Downtown Revitalization Investment Plan (“Downtown Plan”); the Downtown Plan is attached as Exhibit A. The duration of this District will be 30 years beginning July 1, 2015 (Tax Year 4/1/2015; FY2015-16) ending June 30, 2045 (Tax Year 4/1/2044; FY2044-45).

**a. District Amendment #1 Approved by MDECD February 27, 2018:** The purpose of this District amendment ~~is was~~ to remove the parcel designated by the City Assessor as 22-F-1 at 54 Lancaster – a tax exempt parcel (so no value attributed to the Original Assessed Value) with approximately .48 acres, which will be turned into a free-standing Affordable Housing TIF District. Portland’s amended District ~~remained~~ the same at approximately 422 acres and ~~is~~ bounded by Washington Avenue to the east, State Street to the west, following the edges of the adjacent Bayside and Waterfront Capital Improvement TIF Districts to the north and south. The District encompasses the central business district of Portland and the abutting east and west ends of the District. In creating the District, the outlying residential areas of the Eastern and Western Promenades have been purposely excluded.

**b. Proposed District Amendment #2: District Amendment #2 is to increase the allowable uses for Municipal TIF Revenue and increase the percentage capture from 22% to 100%, all as more detailed in Section II below.**

The Downtown Plan includes a listing of current projects and categories of future investment. It is recognized that meeting the infrastructure needs of Portland’s downtown will be a dynamic process that will be updated locally on an annual basis or as needed. Though the specific public projects prioritized and undertaken from year to year will change, with the exception of this District funding up to \$100,000 annually for the Creative Portland Corporation, categories of investment for the purpose of eligible uses of the TIF Revenues will remain consistent. Actual project selections and prioritization for funding will continue to be made on an annual basis during the City budget and Capital Improvements Plan (CIP) process, based on categories contained in Table 1 hereinbelow. The CIP is the document that presents the City’s capital needs in the current year and plans for capital needs in future years. As a five year plan that is annually updated, the CIP is a dynamic planning document; the FY2015 to 2019 CIP document is included in the Downtown Plan as an appendice.

**II. Development Program Narrative**

**A. The Development Program as Amended with Amendment #2**

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

The Amended Development Program for the Downtown Transit Oriented Municipal Development and Omnibus TIF District is structured and proposed pursuant to Chapter 206 of Title 30-A of the Maine Revised TIF Statutes, as amended (the "TIF Statute"), ~~and remains the same.~~ The City's designation of the District, combined with the adoption of this Amended Development Program, creates a single municipal TIF district in order to capture the value of the real property improvements made within the District and enable the use of TIF revenues for various municipal and other development projects.

Under this Amended Development Program, the City ~~may capture up to~~ 12% in year one, ~~and up to and~~ 22% in years 2 through ~~30~~. This Amended Development Program would now allow for the City to capture up to 100%, of the new real property value located in the District for remainder of the term of the District, or through Tax Year April 1, 2044/City Fiscal Year 2044/2045, a total of thirty (30) years. The City may retain those tax revenues generated by the captured assessed value (the "TIF Revenues") to fund infrastructure improvements and other administrative costs, all as further described in Table 1 hereinbelow. The City reserves the right to capture less than the full ~~100~~12% in ~~year one and less than the 22% in~~ years ~~25~~ through 30, depending on the then-current needs of the City with respect to the approved project costs. Any reduction in the captured value percentage shall adjust the amount of assessed value eligible for sheltering with respect to the tax shift benefit correspondingly. Although all TIF Revenues will be retained by the City at this time, the City reserves the right in the future to negotiate and execute commercial credit enhancement agreements pursuant to City Council approved TIF Policy as may be amended from time to time. CEAs would be limited, however, to the of up to twenty years, or limited to the balance of District term at that time, ~~and up to sixty five percent (65%) of the TIF Revenues, within sole Council discretion.~~ Such future credit enhancement agreements would require a public hearing and City Council approval.

~~Proposed Amendments to City TIF Policy is attached as Exhibit B, and they were approved by the City Council on November 20, 2017. Amendments include allowing Affordable Housing TIF District credit enhancement agreements to have a maximum term allowed as 30 years (or if in this District limited to balance of District term at that time), and also allowing up to 75% capture for the term.~~

In designating the District and adopting this Amended Development Program, the City can accomplish the following goals:

- Maintain existing tax revenues;
- Invest in the Downtown public infrastructure;
- Invest in the Creative Portland Corporation annually;
- Invest in new and enhanced transit services;
- Enjoy enhanced future tax revenues generated by new development within the District; and
- Create long-term, stable employment opportunities for area residents because of these TIF investments.

## 9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS

In addition, by creating the District, the City will “shelter” the increase in municipal valuation that development in the District will bring about. This tax shift benefit mitigates the adverse effect that the District’s increased assessed property value has upon the City’s share of state aid to education, municipal revenue sharing, and its county tax assessment. An estimate of the tax shift benefits is shown in Revised Exhibit D-2 attached hereto.

The City’s designation of the District and pursuit of this Amended Development Program constitute a good and valid public purpose pursuant to Chapter 206 of Title 30-A because it represents a substantial contribution to the economic well-being of both the City and the region by providing jobs, contributing to property taxes, and diversifying the region’s economic base.

### **B. The Projects**

Development within the District will provide a revenue source for the City’s economic development projects. The City intends to use TIF Revenues to further its overall plan to attract and retain businesses that want to take advantage of Portland’s business-friendly location, while offering their employees a rich, dynamic, and high quality of life. This includes funding of Creative Portland Corporation, of which the City of Portland is the Corporator, of up to \$100,000 annually, as well as City plans to invest in its public infrastructure in these investment focus areas:

- Sidewalk and Other Pedestrian Enhancements
- Streetscape
- Lighting
- Street Alignment
- Utilities
- Bicycle Improvements
- Public Transit
- Wayfinding
- Multi-modal surface and structured parking
- Work force training
- Professional service costs
- Economic Development Department administrative costs and staff salaries, and prorated salaries of the City Manager, Finance Director, and Planning and Urban Development Director, and Planning staff.

9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS

The District projects at this time are highlighted in Table 1 below:

**TABLE 1**

**NOTE 1:** All Citations refer to Title 30-A, Chapter 206, Section 5225

**NOTE 2:** While this Amended Development Program lists particular projects, the Amended Development Program shall not serve as an appropriation of TIF Revenues for any of these specific purposes, nor shall it commit the City to completing any particular project. The projects will only be undertaken following proper appropriation through the annual budget process and any other applicable required approvals.

Project	Downtown Revitalization Plan Reference by page no.	Statutory Citation	Estimated Cost
<p><b>In District: Capital Infrastructure <u>Design and Investments, including Financing Costs, for example:</u></b></p> <ul style="list-style-type: none"> <li>- <u>Multi-modal surface and structured parking</u></li> <li>- Sidewalk and Other Pedestrian Enhancements</li> <li>- Roadway Realignments/Paving</li> <li>- <u>Crosswalks</u></li> <li>- <u>Traffic Signals</u></li> <li>- Intersection Redesigns</li> <li>- Bicycle <u>lanes, racks, and stations</u> Infrastructure</li> <li>- Stormwater Management, including water and sewer upgrades</li> <li>- <u>Telecommunications, lighting, and electrical distribution upgrades;</u> Infrastructure improvements/enhancements</li> <li>- Wayfinding (signage)</li> <li>- Public plaza intersection improvements</li> </ul>	<p><u>19, 47</u></p> <p><u>19, 205, 6, 7, 9, 34, 35, 48</u></p> <p><u>19, 205, 6, 34, 35</u></p> <p><u>19, 46</u></p> <p><u>34, 46</u></p> <p><u>19, 20, 34, 35, 5, 6</u></p> <p><u>195, 9, 11, 34, 47</u></p> <p><u>195, 334</u></p> <p><u>195, 363</u></p> <p><u>195, 9, 23, 35, 3, 47</u></p> <p><u>228, 46</u></p>	<p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(a)(i)</u></p> <p><u>(1)(A)(1)(2)(3)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(a)(i)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(2)(3)(7)</u></p> <p><u>(1)(A)(1)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u></p>	<p><u>\$150 Million over the life of the District for these Capital Infrastructure Items.</u></p> <p><u>\$200K annually; \$6 Million over life of District</u></p>
<p><b>In and out of District: New and Enhanced Transit Services, including</b></p>			

9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS

<p><b>operational costs, for example (see Exhibit K – Transit Map):</b></p> <ul style="list-style-type: none"> <li>- Creation of high frequency bus service on Congress Street at 15-minute intervals between the Portland Transportation Center (PTC) and Washington Avenue;</li> <li>- Enhancing Stevens Avenue-Allen Avenue- Congress Street bus service areas;</li> <li>- Corresponding costs for these enhancements, including transit operator salaries; transit vehicle fuel, and transit vehicle parts replacements.</li> <li>- Transit capital costs including transit vehicles and related equipment; bus shelters and other related structures; benches; signs, and other transit-related infrastructure.</li> <li>- <u>Shuttle service to downtown businesses.</u></li> </ul>	<p><del>317, 20, 21, 6, 32, 33</del></p> <p><u>20</u></p> <p><u>20</u></p> <p><u>20</u></p> <p><u>17, 20</u></p>	<p>(1)(A) and (1)(C)(7)</p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p>	<p><del>\$110K annually; \$3.3 Million over life of District \$15 Million for Transit in this category.</del></p>
<p><b>In and out of District: City Marketing and Promotion through Creative Portland Corporation (CPC), for example (see Exhibit M Arts District Map within Downtown TOD TIF District):</b></p> <ul style="list-style-type: none"> <li>- In District: Center for the Arts, including rental residential space;</li> <li>- In District: capital, financing, real property assembly and professional service costs;</li> <li>- <b>In and out of District:</b> CPC staffing, administrative and</li> </ul>	<p><u>20, 21, 47, 7</u></p> <p><u>20, 21, 47</u></p> <p><u>20, 21, 47</u></p>	<p><u>(1)(C)(1)(2)</u></p> <p><u>(1)(C)(1)(2)</u></p> <p><u>(1)(C)(1)(2)</u></p>	<p>Up to \$100K annually; \$3 Million over life of District</p>

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

marketing expenses; revolving loan or investment fund.			
<b>In and out of District:</b> - Economic Dev. Dept. administrative costs and staff salaries at 100%, and prorated salaries of City Manager, <u>Finance Director</u> , and Planning Urban Development Director, <u>and Planning staff</u> *, <u>including</u> - <u>Professional services costs;</u> - <u>Workforce training funds.</u> <u>Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained.</u>	<u>217, Also TIF App. P. 3</u>  <u>See TIF App. P.3</u> <u>See TIF App. P. 3</u>	(1)(A)(5) and (1)(C)(1)  <u>(1)(A)(4);(1)(C)(1)</u> <u>(1)(C)(4)</u>	<u>\$250K annually;</u> <u>\$7.5 Million over life of District</u> <u>\$15 Million over life of the District.</u>
<b>In District: Small Public Capital Infrastructure and Equipment, for example (Downtown Plan pp. 6 and 7)</b> - Parking meters - Vehicles for <del>Public Services Dept. (formerly</del> Public Works Dept.), and Fire Dept., including ambulances	<u>197</u> <u>21, 36 to 44</u>	(1)(A)(1)(a) <u>(1)(A)(1)(a)</u>	\$10 <u>Million over life of the District</u> <del>OK</del>
<b>In District: Relocation of Displaced Persons (TIF Application, p. 6)</b>	(see TIF application, p. 6)	1(A)(6)	Not budgeted/not anticipated at time of TIF application
<b>In District: CEAs as Approved by City Council (TIF application p. 2)</b>	(see TIF application p. 2)	(1)(A) <u>(1)(2)(3)(6)(7)</u>	Unknown at time of TIF application
<b>Total Estimate of TIF Revenue Expenditure over 30 year term:</b>			<u>\$1932019,900,000</u>

\*This item is not unique to this TIF District, it is also included in the Bayside TIF District, Waterfront TIF District, and partially included Riverwalk TIF District.

**C. Strategic Growth and Development**

This Amended Development Program and the Downtown Plan meld various studies and plans for the District into one document, thereby promoting those studies and plans and making

## 9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS

investments at the appropriate time. The studies and plans noted in the Downtown Plan represent a series of community initiatives, both completed and underway, or in planning process. The Amended Development Program and Project List (Table 1) noted hereinabove represents the best thinking of City staff about current opportunities for realizing the City's longstanding, evolving vision for its Downtown.

### D. Improvements to the Public Infrastructure

As further set forth in Table 1 hereinabove, the City may use certain TIF Revenues for sidewalk and other pedestrian improvements including crosswalks, roadway realignments/paving, intersection redesigns, traffic signals, bicycle infrastructure, stormwater management improvements (including water and sewer maintenance), communications infrastructure improvements/enhancements, wayfinding, multi-modal surface and structured parking, and public plaza intersection improvements that are directly related and made necessary by development in the District.

### E. Operational Components

#### 1. Public Facilities

The City may use a portion of the TIF Revenues to fund certain projects approved within the District, outlined in Table 1 hereinabove.

#### 2. Commercial Improvements Financed through the Development Program

At this time, no commercial improvements will be financed through the Development Program. The City may, in the future, reimburse a percentage of the TIF Revenues from any particular lot within the District to future developers through a credit enhancement agreement. Future credit enhancement agreements are authorized only if the City Council meets and holds a public hearing and votes to authorize, negotiate, and execute the credit enhancement agreement pursuant to City Council approved TIF Policy. Such credit enhancement agreements would be approved under the City's TIF Policy, as may be amended from time to time may provide a reimbursement of up to sixty five percent (65%) of the TIF Revenue for up to twenty (20) years in the District, but limited to the balance of the term of this District.

#### 3. Relocation of Displaced Persons

It is not anticipated that any persons will be relocated; however, the City has provided that if, in the future, relocation of persons is necessary to accommodate future redevelopment within the District, the one-time relocation costs of such displaced persons can be paid for with TIF Revenues, exclusive of rent.

#### 4. Transportation Improvements

The City may fund road/transportation improvements made necessary by the increased traffic to the District. Please see Table 1 hereinabove for more details.

#### 5. Environmental Controls

## 9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS

The improvements made under this Development Program will meet or exceed all federal, state, and local environmental laws, regulations, and ordinances and will comply with all applicable land use requirements for the City.

### 6. Plan of Operation

During the term of the District, the City Manager or his designee will be responsible for all administrative matters within the purview of the City concerning the implementation and operation of the District.

### III. Physical Description

The 422-acre District is bounded by Washington Avenue to the east, State Street to the west, following the edges of the adjacent Bayside and Waterfront Capital Improvement TIF Districts to the north and south. The District encompasses the central business district of Portland and the abutting east and west ends of the District. In creating the District, the outlying residential areas of the Eastern and Western Promenades have been purposely excluded. The ~~amended~~ District is shown on Exhibit C. The statutory threshold limits addressing the conditions for approval mandated by 30-A M.R.S.A. Section 5223(3) are set forth in Exhibit E.

### IV. Financial Plan

#### A. Amended Financial Characteristics

The collective original assessed value of the real property in the District is \$968,136,850 as of March 31, 2014 (Tax Year April 1, 2013) remains unchanged. Please see the Assessor's certificate of the original assessed value attached as Exhibit F. It is noted that Downtown TOD/TIF acreage and value calculations are exempt from State TIF law limits.

The City ~~may captured up to~~ 12% in year 1, and ~~up to~~ 22% in years 2 through ~~430~~, of the increased assessed value of the real property located within the District. This Amendment would provide for the City to capture up to 100% for the duration of the 30-year term of the District. Personal property tax value will not be captured within the District. The TIF Revenues so collected will fund and/or contribute to the funding of the approved projects, including each of the projects described on Table 1 hereinabove, which collectively increase the City's ability to stand out in a competitive marketplace as a dynamic municipality in which to grow a business. All assessed real property value captured in the District will be added to the general tax rolls at the end of the District's term. Please note that at any time during the term of the District, the municipality can vote to reduce the captured value percentage and instead deposit the tax revenues into the General Fund so long as the municipality does not receive the tax shift benefit associated with the tax revenues so deposited.

Upon each payment of real property taxes for property located inside the District, the City will deposit into a development program fund (the "Development Program Fund") the entirety of the property tax payments constituting TIF Revenues. The percentage of increased assessed value of real property within the District that will be captured shall be determined annually during the municipal budget process; however, the City may capture up to 100% in

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

~~Years 5 through 30~~ ~~12% in year one, and up to 22% in years 2 through 30,~~ of the increased assessed value of real property as captured assessed value. The Development Program Fund is pledged to and charged with the payment of the project costs in the manner and in the order provided in 30-A M.R.S.A. Section 5227(3). The Development Program Fund will consist of a development sinking fund account (the "Sinking Fund Account") to the extent municipal bonded indebtedness is used to pay for projects costs, and a project cost account (the "Project Cost Account"). From the Development Program Fund, the City will deposit the TIF Revenues into the City's Sinking Fund Account and/or the Project Cost Account to be used to fund projects listed in Table 1 hereinabove. If future credit enhancement agreements are approved by the City Council, then a subaccount within the Project Cost Account shall be created for any payments required to be made by the City pursuant to such credit enhancement agreement, dedicated to each credit enhancement agreement.

Estimates of the increased assessed property values of the Amended District, the anticipated TIF Revenues generated by the District, and the estimated tax shifts are shown in Revised Exhibit D-1 and Revised Exhibit D-2.

**B. Costs and Sources of Revenues**

The current and future developers owning or leasing properties located within the Districted are intended to pay for and/or finance all private improvements located in the District through private sources. Table 1 hereinabove provides estimated costs of the municipal projects costs to be undertaken with TIF Revenues.

**C. Indebtedness**

The City reserves the option to fund the project costs through public indebtedness.

**V. Statutory Requirements and Thresholds**

The statutory requirements and thresholds for approval required by Section 5223(3) of the TIF Statute are set forth in Exhibit E.

**VI. Municipal Approvals**

**A. Notice of Public Hearing**

Attached as Exhibit G hereto is a copy of the Notice of Public Hearing regarding amending the Development Program for the District, published in the *Portland Press Herald*, a newspaper of general circulation in the City, on November 9, 2017, a date at least ten (10) days prior to the public hearing. The public hearing on the amended District was held on November 20, 2017, in accordance with the requirements of 30-A M.R.S.A. Section 5226(1).

**B. Minutes of Public Hearing Held by City Council**

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

Attached as Exhibit H hereto is a certified copy of the minutes of the public hearing held on November 20, 2017, at which time this amended District was discussed by the public.

**C. Authorizing Votes**

Attached as Exhibit I hereto is an attested copy of the City of Portland Order approving this amended District with the results of the vote noted on this Order duly called and held on November 20, 2017.

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

**I. Introduction – Portland Downtown Transit Oriented Municipal Development and Omnibus Tax Increment Financing District Amendment #2**

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The Amended Development Program for the Downtown Transit Oriented Municipal Development and Omnibus TIF District is structured and proposed pursuant to Chapter 206 of Title 30-A of the Maine Revised TIF Statutes, as amended (the "TIF Statute"). The City's designation of the District, combined with the adoption of this Amended Development Program, creates a single municipal TIF district in order to capture the value of the real property improvements made within the District and enable the use of TIF revenues for various municipal and other development projects.

Under this Amended Development Program, the City captured 12% in year one, and 22% in years 2 through 4. This Amended Development Program would now allow for the City to capture up to 100% of the new real property value located in the District for remainder of the term of the District, or through Tax Year April 1, 2044/City Fiscal Year 2044/2045.. The City may retain those tax revenues generated by the captured assessed value (the "TIF Revenues") to fund infrastructure improvements and other administrative costs, all as further described in Table 1 hereinbelow. The City reserves the right to capture less than the full 100% in years 5 through 30, depending on the then-current needs of the City with respect to the approved project costs. Any reduction in the captured value percentage shall adjust the amount of assessed value eligible for sheltering with respect to the tax shift benefit correspondingly. Although all TIF Revenues will be retained by the City at this time, the City reserves the right in the future to negotiate and execute commercial credit enhancement agreements pursuant to City Council approved TIF Policy as may be amended from time to time. CEAs would be limited, however, to the balance of District term at that time. Such future credit enhancement agreements would require a public hearing and City Council approval.

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**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

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- Bicycle Improvements
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- Work force training
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- Economic Development Department administrative costs and staff salaries, and prorated salaries of the City Manager, Finance Director, Planning and Urban Development Director, and Planning staff.

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

The District projects at this time are highlighted in Table 1 below:

**TABLE 1**

**NOTE 1:** All Citations refer to Title 30-A, Chapter 206, Section 5225

**NOTE 2:** While this Amended Development Program lists particular projects, the Amended Development Program shall not serve as an appropriation of TIF Revenues for any of these specific purposes, nor shall it commit the City to completing any particular project. The projects will only be undertaken following proper appropriation through the annual budget process and any other applicable required approvals.

<b>Project</b>	<b>Downtown Revitalization Plan Reference by page no.</b>	<b>Statutory Citation</b>	<b>Estimated Cost</b>
<b>In District: Capital Infrastructure Design and Investments, including Financing Costs, for example:</b> - Multi-modal surface and structured parking - Sidewalk and Other Pedestrian Enhancements  - Roadway Realignments/Paving - Crosswalks - Traffic Signals - Intersection Redesigns - Bicycle lanes, racks, and stations Infrastructure - Stormwater Management, including water and sewer upgrades - Telecommunications, lighting, and electrical distribution upgrades; Infrastructure improvements/enhancements - Wayfinding (signage) - Public plaza intersection improvements	19, 47  19, 20, 34,35, 48  19,20,34,35 19, 46 34, 46 19,20,34,35 19, 34,47  19, 33  19, 36  19,23, 35,47 22, 46	(1)(A)(1)(2)(3)(6)(7)  (1)(A)(1)(2)(3)(6)(7)  (1)(A)(1)(2)(3)(6)(7) (1)(A)(1)(a)(i) (1)(A)(1)(2)(3) (1)(A)(1)(2)(3)(6)(7) (1)(A)(1)(a)(i)  (1)(A)(1)(2)(3)(6)(7)  (1)(A)(1)(2)(3)(7)  (1)(A)(1) (1)(A)(1)(2)(3)(6)(7)	\$150 Million over the life of the District for these Capital Infrastructure Items.



**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

- <b>In and out of District:</b> CPC staffing, administrative and marketing expenses; revolving loan or investment fund.			
<b>In and out of District:</b> - Economic Dev. Dept. administrative costs and staff salaries at 100%, and prorated salaries of City Manager, Finance Director, and Planning Urban Development Director, and Planning staff*; - Professional services costs; - Workforce training funds. Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained.	21, Also TIF App. P. 3  See TIF App. P.3 See TIF App. P. 3	(1)(A)(5) and (1)(C)(1)  (1)(A)(4);(1)(C)(1) (1)(C)(4)	\$15 Million over life of the District.
<b>In District: Small Public Capital Infrastructure and Equipment, for example (Downtown Plan pp. 6 and 7)</b> - Parking meters - Vehicles for Public Works Dept., and Fire Dept., including ambulances	19 21, 36 to 44	(1)(A)(1)(a) (1)(A)(1)(a)	\$10 Million over life of the District
<b>In District: Relocation of Displaced Persons (TIF Application, p. 6)</b>	(see TIF application, p. 6)	1(A)(6)	Not budgeted/not anticipated at time of TIF application
<b>In District: CEAs as Approved by City Council (TIF application p. 2)</b>	(see TIF application p. 2)	(1)(A)(1)(2)(3)(6)(7)	Unknown at time of TIF application
<b>Total Estimate of TIF Revenue Expenditure over 30 year term:</b>			<b>\$193,000,000</b>

\*This item is not unique to this TIF District, it is also included in the Bayside TIF District, Waterfront TIF District, and partially included Riverwalk TIF District.

### **C. Strategic Growth and Development**

This Amended Development Program and the Downtown Plan meld various studies and plans for the District into one document, thereby promoting those studies and plans and making investments at the appropriate time. The studies and plans noted in the Downtown Plan represent a series of community initiatives, both completed and underway, or in planning process. The Amended Development Program and Project List (Table 1) noted hereinabove represents the best thinking of City staff about current opportunities for realizing the City's longstanding, evolving vision for its Downtown.

### **D. Improvements to the Public Infrastructure**

As further set forth in Table 1 hereinabove, the City may use certain TIF Revenues for sidewalk and other pedestrian improvements including crosswalks, roadway realignments/paving, intersection redesigns, traffic signals, bicycle infrastructure, stormwater management improvements (including water and sewer maintenance), communications infrastructure improvements/enhancements, wayfinding, multi-modal surface and structured parking, and public plaza intersection improvements that are directly related and made necessary by development in the District.

### **E. Operational Components**

#### **1. Public Facilities**

The City may use a portion of the TIF Revenues to fund certain projects approved within the District, outlined in Table 1 hereinabove.

#### **2. Commercial Improvements Financed through the Development Program**

At this time, no commercial improvements will be financed through the Development Program. The City may, in the future, reimburse a percentage of the TIF Revenues from any particular lot within the District to future developers through a credit enhancement agreement. Future credit enhancement agreements are authorized only if the City Council meets and holds a public hearing and votes to authorize, negotiate, and execute the credit enhancement agreement pursuant to City Council approved TIF Policy. Such credit enhancement agreements would be approved under the City's TIF Policy, as may be amended from time to time, but limited to the balance of the term of this District.

#### **3. Relocation of Displaced Persons**

It is not anticipated that any persons will be relocated; however, the City has provided that if, in the future, relocation of persons is necessary to accommodate future redevelopment within the District, the one-time relocation costs of such displaced persons can be paid for with TIF Revenues, exclusive of rent.

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

**4. Transportation Improvements**

The City may fund road/transportation improvements made necessary by the increased traffic to the District. Please see Table 1 hereinabove for more details.

**5. Environmental Controls**

The improvements made under this Development Program will meet or exceed all federal, state, and local environmental laws, regulations, and ordinances and will comply with all applicable land use requirements for the City.

**6. Plan of Operation**

During the term of the District, the City Manager or his designee will be responsible for all administrative matters within the purview of the City concerning the implementation and operation of the District.

**III. Physical Description**

The 422-acre District is bounded by Washington Avenue to the east, State Street to the west, following the edges of the adjacent Bayside and Waterfront Capital Improvement TIF Districts to the north and south. The District encompasses the central business district of Portland and the abutting east and west ends of the District. In creating the District, the outlying residential areas of the Eastern and Western Promenades have been purposely excluded. The District is shown on Exhibit C. The statutory threshold limits addressing the conditions for approval mandated by 30-A M.R.S.A. Section 5223(3) are set forth in Exhibit E.

**IV. Financial Plan**

**A. Amended Financial Characteristics**

The collective original assessed value of the real property in the District is \$968,136,850 as of March 31, 2014 (Tax Year April 1, 2013) remains unchanged. Please see the Assessor's certificate of the original assessed value attached as Exhibit F. It is noted that Downtown TOD/TIF acreage and value calculations are exempt from State TIF law limits.

The City captured 12% in year 1, and 22% in years 2 through 4, of the increased assessed value of the real property located within the District. This Amendment would provide for the City to capture up to 100% for the duration of the 30-year term of the District. Personal property tax value will not be captured within the District. The TIF Revenues so collected will fund and/or contribute to the funding of the approved projects, including each of the projects described on Table 1 hereinabove, which collectively increase the City's ability to stand out in a competitive marketplace as a dynamic municipality in which to grow a business. All assessed real property value captured in the District will be added to the general tax rolls at the end of the District's term. Please note that at any time during the term of the District, the municipality can vote to reduce the captured value percentage and instead deposit the tax revenues into the

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

General Fund so long as the municipality does not receive the tax shift benefit associated with the tax revenues so deposited.

Upon each payment of real property taxes for property located inside the District, the City will deposit into a development program fund (the “Development Program Fund”) the entirety of the property tax payments constituting TIF Revenues. The percentage of increased assessed value of real property within the District that will be captured shall be determined annually during the municipal budget process; however, the City may capture up to 100% in Years 5 through 30 of the increased assessed value of real property as captured assessed value. The Development Program Fund is pledged to and charged with the payment of the project costs in the manner and in the order provided in 30-A M.R.S.A. Section 5227(3). The Development Program Fund will consist of a development sinking fund account (the “Sinking Fund Account”) to the extent municipal bonded indebtedness is used to pay for projects costs, and a project cost account (the “Project Cost Account”). From the Development Program Fund, the City will deposit the TIF Revenues into the City’s Sinking Fund Account and/or the Project Cost Account to be used to fund projects listed in Table 1 hereinabove. If future credit enhancement agreements are approved by the City Council, then a subaccount within the Project Cost Account shall be created for any payments required to be made by the City pursuant to such credit enhancement agreement, dedicated to each credit enhancement agreement.

Estimates of the increased assessed property values of the Amended District, the anticipated TIF Revenues generated by the District, and the estimated tax shifts are shown in Revised Exhibit D-1 and Revised Exhibit D-2.

**B. Costs and Sources of Revenues**

The current and future developers owning or leasing properties located within the Districted are intended to pay for and/or finance all private improvements located in the District through private sources. Table 1 hereinabove provides estimated costs of the municipal projects costs to be undertaken with TIF Revenues.

**C. Indebtedness**

The City reserves the option to fund the project costs through public indebtedness.

**V. Statutory Requirements and Thresholds**

The statutory requirements and thresholds for approval required by Section 5223(3) of the TIF Statute are set forth in Exhibit E.

**VI. Municipal Approvals**

**A. Notice of Public Hearing**

Attached as Exhibit G hereto is a copy of the Notice of Public Hearing regarding amending the Development Program for the District, published in the *Portland Press Herald*, a newspaper

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

of general circulation in the City, on \_\_\_\_\_, a date at least ten (10) days prior to the public hearing. The public hearing on the amended District was held on \_\_\_\_\_, in accordance with the requirements of 30-A M.R.S.A. Section 5226(1).

**B. Minutes of Public Hearing Held by City Council**

Attached as Exhibit H hereto is a certified copy of the minutes of the public hearing held on \_\_\_\_\_, at which time this amended District was discussed by the public.

**C. Authorizing Votes**

Attached as Exhibit I hereto is an attested copy of the City of Portland Order approving this amended District with the results of the vote noted on this Order duly called and held on \_\_\_\_\_.

City of Portland - Downtown TOD TIF Model  
Actual IAV FY2016 through FY2019  
Estimates FY2020 through FY2045

Annual mill rate increase FY2020 through FY2045: 2%  
Annual valuation increase FY2020 through FY2045: 1%

Original Assessed Value as of 4/1/2013: \$968,136,850

9/6/2018

City of Portland - Downtown TOD TIF Projection Table

TIF Year	Tax Year- April 1	City Fiscal Year	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Business Project Account	Captured Revenue to Municipal Project Account	City Non-Captured General Fund Revenues	OAV General Fund Revenue
1	2015	FY2015/2016	\$72,245,340	12.00%	\$8,669,441	20.63	\$178,851	\$0	\$178,851	\$1,311,571	\$19,972,663
2	2016	FY2016/2017	\$84,092,870	22.00%	\$18,500,431	21.11	\$390,544	\$0	\$390,544	\$1,384,656	\$20,437,369
3	2017	FY2017/2018	\$126,688,910	22.00%	\$27,871,560	21.65	\$603,419	\$0	\$603,419	\$2,139,396	\$20,960,163
4	2018	FY2018/2019	\$169,840,880	22.00%	\$37,364,994	22.48	\$839,965	\$0	\$839,965	\$2,978,058	\$21,763,716
5	2019	FY2019/2020	\$181,220,655	100.00%	\$181,220,655	22.93	\$4,155,317	\$0	\$4,155,317	\$0	\$22,198,991
6	2020	FY2020/2021	\$192,714,227	100.00%	\$192,714,227	23.39	\$4,507,237	\$0	\$4,507,237	\$0	\$22,642,971
7	2021	FY2021/2022	\$204,322,735	100.00%	\$204,322,735	23.86	\$4,874,314	\$0	\$4,874,314	\$0	\$23,095,830
8	2022	FY2022/2023	\$216,047,328	100.00%	\$216,047,328	24.33	\$5,257,096	\$0	\$5,257,096	\$0	\$23,557,747
9	2023	FY2023/2024	\$227,889,167	100.00%	\$227,889,167	24.82	\$5,656,149	\$0	\$5,656,149	\$0	\$24,028,901
10	2024	FY2024/2025	\$239,849,425	100.00%	\$239,849,425	25.32	\$6,072,060	\$0	\$6,072,060	\$0	\$24,509,479
11	2025	FY2025/2026	\$251,929,285	100.00%	\$251,929,285	25.82	\$6,505,432	\$0	\$6,505,432	\$0	\$24,999,669
12	2026	FY2026/2027	\$264,129,943	100.00%	\$264,129,943	26.34	\$6,956,893	\$0	\$6,956,893	\$0	\$25,499,662
13	2027	FY2027/2028	\$276,452,609	100.00%	\$276,452,609	26.87	\$7,427,088	\$0	\$7,427,088	\$0	\$26,009,656
14	2028	FY2028/2029	\$288,898,501	100.00%	\$288,898,501	27.40	\$7,916,684	\$0	\$7,916,684	\$0	\$26,529,849
15	2029	FY2029/2030	\$301,468,851	100.00%	\$301,468,851	27.95	\$8,426,372	\$0	\$8,426,372	\$0	\$27,060,446
16	2030	FY2030/2031	\$314,164,906	100.00%	\$314,164,906	28.51	\$8,956,865	\$0	\$8,956,865	\$0	\$27,601,655
17	2031	FY2031/2032	\$326,987,921	100.00%	\$326,987,921	29.08	\$9,508,899	\$0	\$9,508,899	\$0	\$28,153,688
18	2032	FY2032/2033	\$339,939,166	100.00%	\$339,939,166	29.66	\$10,083,236	\$0	\$10,083,236	\$0	\$28,716,762
19	2033	FY2033/2034	\$353,019,923	100.00%	\$353,019,923	30.26	\$10,680,660	\$0	\$10,680,660	\$0	\$29,291,097
20	2034	FY2034/2035	\$366,231,488	100.00%	\$366,231,488	30.86	\$11,301,985	\$0	\$11,301,985	\$0	\$29,876,919
21	2035	FY2035/2036	\$379,575,169	100.00%	\$379,575,169	31.48	\$11,948,050	\$0	\$11,948,050	\$0	\$30,474,457
22	2036	FY2036/2037	\$393,052,286	100.00%	\$393,052,286	32.11	\$12,619,720	\$0	\$12,619,720	\$0	\$31,083,946
23	2037	FY2037/2038	\$406,664,175	100.00%	\$406,664,175	32.75	\$13,317,892	\$0	\$13,317,892	\$0	\$31,705,625
24	2038	FY2038/2039	\$420,412,182	100.00%	\$420,412,182	33.40	\$14,043,490	\$0	\$14,043,490	\$0	\$32,339,738
25	2039	FY2039/2040	\$434,297,670	100.00%	\$434,297,670	34.07	\$14,797,468	\$0	\$14,797,468	\$0	\$32,986,532
26	2040	FY2040/2041	\$448,322,013	100.00%	\$448,322,013	34.75	\$15,580,814	\$0	\$15,580,814	\$0	\$33,646,263
27	2041	FY2041/2042	\$462,486,598	100.00%	\$462,486,598	35.45	\$16,394,547	\$0	\$16,394,547	\$0	\$34,319,188
28	2042	FY2042/2043	\$476,792,830	100.00%	\$476,792,830	36.16	\$17,239,718	\$0	\$17,239,718	\$0	\$35,005,572
29	2043	FY2043/2044	\$491,242,124	100.00%	\$491,242,124	36.88	\$18,117,414	\$0	\$18,117,414	\$0	\$35,705,684
30	2044	FY2044/2045	\$505,835,911	100.00%	\$505,835,911	37.62	\$19,028,757	\$0	\$19,028,757	\$0	\$36,419,797
30 Year TIF Total			\$9,216,815,087		\$8,856,353,513		\$273,386,936	\$0	\$273,386,936	\$7,813,681	\$830,594,035
30 Year TIF Average			\$307,227,170		\$295,211,784		\$9,112,898	\$0	\$9,112,898	\$260,456	\$27,686,468

Actuals Above  
Estimates Below

City of Portland - Downtown TOD TIF Model

Actual FY2016 through FY2019

Estimates FY2020 through FY2045

Annual mil rate increase FY2020 through FY2045:

2%

Annual valuation increase FY2020 through FY2045:

1%

Original Assessed Value as of 4/1/2013:

\$968,136,850

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- TIF Model								
30 years: Year 1 - 12% to Municipal Project Account, 88% to City General Fund; Years 2 through 4: 12% to Municipal Project Account, 78% to City General Fund; Years 5 through 30: 100% to Municipal Project Account								
TIF Year	Tax Year- April 1	City Fiscal Year	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
					Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2015	FY2015/2016	\$72,245,340	\$8,669,441	\$0	\$5,072	\$4,786	\$9,858
2	2016	FY2016/2017	\$84,092,870	\$18,500,431	\$0	\$10,824	\$10,211	\$21,035
3	2017	FY2017/2018	\$126,688,910	\$27,871,560	\$0	\$16,307	\$15,380	\$31,687
4	2018	FY2018/2019	\$169,840,880	\$37,364,994	\$158,988	\$21,861	\$20,615	\$201,464
5	2019	FY2019/2020	\$181,220,655	\$181,220,655	\$1,542,188	\$106,026	\$99,656	\$1,747,869
6	2020	FY2020/2021	\$192,714,227	\$192,714,227	\$1,639,998	\$112,751	\$105,948	\$1,858,697
7	2021	FY2021/2022	\$204,322,735	\$204,322,735	\$1,738,786	\$119,542	\$112,301	\$1,970,630
8	2022	FY2022/2023	\$216,047,328	\$216,047,328	\$1,838,563	\$126,402	\$118,714	\$2,083,679
9	2023	FY2023/2024	\$227,889,167	\$227,889,167	\$1,939,337	\$133,330	\$125,187	\$2,197,854
10	2024	FY2024/2025	\$239,849,425	\$239,849,425	\$2,041,119	\$140,328	\$131,722	\$2,313,168
11	2025	FY2025/2026	\$251,929,285	\$251,929,285	\$2,143,918	\$147,395	\$138,318	\$2,429,632
12	2026	FY2026/2027	\$264,129,943	\$264,129,943	\$2,247,746	\$154,534	\$144,977	\$2,547,256
13	2027	FY2027/2028	\$276,452,609	\$276,452,609	\$2,352,612	\$161,743	\$151,698	\$2,666,053
14	2028	FY2028/2029	\$288,898,501	\$288,898,501	\$2,458,526	\$169,025	\$158,483	\$2,786,034
15	2029	FY2029/2030	\$301,468,851	\$301,468,851	\$2,565,500	\$176,379	\$165,332	\$2,907,211
16	2030	FY2030/2031	\$314,164,906	\$314,164,906	\$2,673,543	\$183,807	\$172,246	\$3,029,596
17	2031	FY2031/2032	\$326,987,921	\$326,987,921	\$2,782,667	\$191,310	\$179,224	\$3,153,201
18	2032	FY2032/2033	\$339,939,166	\$339,939,166	\$2,892,882	\$198,887	\$186,268	\$3,278,038
19	2033	FY2033/2034	\$353,019,923	\$353,019,923	\$3,004,200	\$198,887	\$193,379	\$3,396,466
20	2034	FY2034/2035	\$366,231,488	\$366,231,488	\$3,116,630	\$214,270	\$200,556	\$3,531,456
21	2035	FY2035/2036	\$379,575,169	\$379,575,169	\$3,230,185	\$222,077	\$207,801	\$3,660,063
22	2036	FY2036/2037	\$393,052,286	\$393,052,286	\$3,344,875	\$229,962	\$215,114	\$3,789,951
23	2037	FY2037/2038	\$406,664,175	\$406,664,175	\$3,460,712	\$237,926	\$222,496	\$3,921,133
24	2038	FY2038/2039	\$420,412,182	\$420,412,182	\$3,577,708	\$245,969	\$229,947	\$4,053,623
25	2039	FY2039/2040	\$434,297,670	\$434,297,670	\$3,695,873	\$254,093	\$237,467	\$4,187,433
26	2040	FY2040/2041	\$448,322,013	\$448,322,013	\$3,815,220	\$262,298	\$245,058	\$4,322,577
27	2041	FY2041/2042	\$462,486,598	\$462,486,598	\$3,935,761	\$270,585	\$252,720	\$4,459,067
28	2042	FY2042/2043	\$476,792,830	\$476,792,830	\$4,057,507	\$278,955	\$260,454	\$4,596,916
29	2043	FY2043/2044	\$491,242,124	\$491,242,124	\$4,180,470	\$287,409	\$268,260	\$4,736,140
30	2044	FY2044/2045	\$505,835,911	\$505,835,911	\$4,304,664	\$295,948	\$276,139	\$4,876,750
<b>30 Year TIF Total</b>			<b>\$9,216,815,087</b>	<b>\$8,856,353,513</b>	<b>\$74,740,178</b>	<b>\$5,173,902</b>	<b>\$4,850,458</b>	<b>\$84,764,538</b>
<b>30 Year TIF Avg.</b>			<b>\$307,227,170</b>	<b>\$295,211,784</b>	<b>\$2,491,339</b>	<b>\$172,463</b>	<b>\$161,682</b>	<b>\$2,825,485</b>

Order 49-18/19  
Tab 12 10-1-18

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 AMENDING THE 2002 WATERFRONT TAX INCREMENT  
FINANCING DISTRICT TO INCREASE PUBLIC INVESTMENT OPTIONS  
AND TO ADD NEW PROPERTIES**

**ORDERED,** that the 2002 Waterfront Tax Increment Financing District as adopted by Order 185-01/02, and amended by Orders 173-02/03, 254-04/05, 238-05/06, 223-06/07; 241-07/08, 261-08/09, 216-09/10, 237-09/10, 222-10/11, 182-11/12 and 161-17/18, is hereby further amended to increase public investment options in substantially the form attached hereto as Exhibit A; and

**BE IT FURTHER ORDERED,** that the 2002 Waterfront Tax Increment Financing District is further amended to include properties numbered One (1) to Sixteen (16) as shown on the map attached hereto as Exhibit B; and

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



Economic Development Department  
Gregory A. Mitchell, Director

**MEMORANDUM**

**City Council Agenda Item**

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

**FROM:** Greg Mitchell, Economic Development Director  
Brendan O'Connell, Finance Director

**DATE:** September 19, 2018

**SUBJECT:** **Proposed Amendments to City Waterfront Tax Increment Financing District, including Proposed Amendments to the Waterfront Capital Improvement and Economic Redevelopment Zone and Ordinance**

**SPONSOR:** Economic Development Committee, Councilor Costa/Chair;  
Meeting held on September 18, 2018, and the vote was 3-0 to forward to the City Council for approval.

**COUNCIL MEETING DATE ACTION IS REQUESTED:**

**1<sup>st</sup> reading:** October 1, 2018    **2<sup>nd</sup> Reading/Public Hearing/Final Action:** October 15, 2018

**Can action be taken at a later date:** \_\_\_ Yes     X  No (If no why not?) Public Notice has been advertised in the Portland Press Herald for the public hearing on this for October 15, 2018.

**I. ONE SENTENCE SUMMARY**

City Council action is requested to approve the Proposed Amendments to the Waterfront Tax Increment Financing (TIF) District, including the Waterfront Capital Improvement and Economic Redevelopment Zone and Ordinance.

**II. AGENDA DESCRIPTION**

Amendments to the Waterfront TIF District and Growth areas are proposed to maximize utilization of the TIF District revenue by adding more public investment options for use of TIF revenue, along with adding additional properties to expand the Waterfront TIF District, which properties can be seen on the map included in the Council packet. Additional investment options include, but are not limited to public investment in multi-modal surface and structured parking; new publicly owned pier; pro-rated salaries of the City Manager,

Finance Director, Planning and Urban Development Director, and Planning staff; economic development programs or events; environmental improvement projects; professional service costs; and dredge sediment disposal and CAD Cell Development.

Also, Amendments to the Waterfront Capital Improvement and Economic Redevelopment Zone and Ordinance are proposed to expand the future “growth” area for the Waterfront TIF District from the Casco Bay Bridge to include Sprague Energy.

Housekeeping and clarifying amendments to the ordinance are also proposed to align the ordinance with current practice and avoid confusion with other sections of the Land Use Code. To promote clarity within the ordinance and to avoid confusion with other sections of the Land Use Code, the amendments include changing the title of the program from the *Waterfront Capital Improvement and Economic Redevelopment Zone and Ordinance* to **WATERFRONT DEVELOPMENT GROWTH AREA ORDINANCE**

Lastly, it is noted that the City staff proposed amendments do not involve credit enhancement agreements.

### III. BACKGROUND

#### Waterfront TIF District Overview (Existing and Proposed Amendments)

**Geography.** 6.62 acres. This District includes seven non-contiguous properties. It is noted the Waterfront Capital Improvement and Economic Redevelopment Zone (WREZ) and Ordinance establishes the area on Portland’s waterfront which is “reserved” for future expansion of the Waterfront TIF District. If the attached amendments are adopted, this area will be referred to as the *Waterfront Development Growth Area*. Individual properties selected within the *Growth Area* that are included within the TIF program will continue to be referred to as parcels within the *Waterfront TIF District*.

**TIF Term.** Fiscal Years 2003-2032.

**Capture Rate.** 100%

#### *Overview of TIF District Expenditures to Date:*

<b>Waterfront TIF Expenditures from FY2016 thru FY2018</b>	
<b>Uses</b>	<b>Revenue</b>
Public Infrastructure	\$46,100
Credit Enhancement Agreement	\$574,646
Debt Service	\$549,650
Staff	\$319,467
<b>Total Invested:</b>	<b>\$1,489,863</b>

**Existing and Proposed Amendments to Uses of Revenue.** See attached Waterfront TIF District Program which shows existing and proposed amendments to allowable uses of TIF District revenue in a strike through and underline format.

***Proposed Amendments - New Geography.*** See attached map for additional properties to expand the Waterfront TIF District to increase the amount of TIF funds to support waterfront public infrastructure needs.

***No change is proposed to the capture rate***

**Waterfront Capital Improvement and Economic Redevelopment Zone and Ordinance (Existing and Proposed Amendments)**

The existing Waterfront Capital Improvement and Economic Redevelopment Zone and Ordinance was adopted in 2001 to implement those provisions of the Waterfront Economic Development Task Force Report entitled “Investing in Our Working Waterfront: Final Report to the Mayor’s Waterfront Task Force on Economic Development,” dated September 2000, as adopted by the City Council on June 4, 2001 and as amended by the City Council on December 1, 2008.

Proposed Amendments include:

**Area.** Expanding the growth area for the Waterfront TIF District to add the entire western waterfront from the Casco Bay Bridge to include Sprague Energy.

**Individual Parcels.** Within the existing and expanded *Waterfront Development Growth Area* (currently the *WREZ*), staff is recommending individual parcels for inclusion within the Waterfront TIF District. Each of these highlighted parcels has an anticipated development program. Private parcels and developments would be subject to new tax value capture. City parcels and infrastructure highlighted would be eligible for “in district” use of funds as outlined in the development program improvements.

**Reporting Amendments.** The current ordinance requires that an extensive set of reports be prepared. Multiple City departments are active in the areas listed providing input to the Council on a project-by-project basis. Staff recommends that the Waterfront TIF ordinance limit reporting requirements to the financial activity of the program, as is provided in the Annual TIF District Activity Report.

**Housekeeping Revisions.** Title changes and terminology consistency is applied to create a more unified document and avoid duplicative uses of terms such as “zone” within the ordinance. The metes and bounds description of the Growth Area is replaced with a map within the ordinance.

**Note:** At the request of the Planning and Urban Development Director, it is proposed that this Ordinance be relocated out of the Land Use Chapter of the City Code.

**IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED**

City Council approval of the proposed amendments to the Waterfront TIF District, including amendments to the Waterfront Capital Improvement and Economic Redevelopment Ordinance, to support increased public and private sector investment and associated job creation.

## V. FINANCIAL IMPACT

***TIF District Estimates.*** See attached spreadsheet for estimates of property tax revenue, funds available to the City General Fund, and one credit enhancement agreement included in the Waterfront TIF District.

***Tax Shelter (Financial Benefits).*** Probably the most important, but least understood public benefit associated with TIF districts, is the tax shelter or local financial benefits.

Municipalities realize “savings” from the tax sheltering effect of TIF Districts. The following direct financial impacts occur when municipal valuation increases:

- A. State Education Aid is reduced,
- B. State Municipal Revenue Sharing is reduced, and
- C. A municipality pays a higher percentage of the County budget.

***This amount of “savings” is significant and one of the most important benefits of establishing TIF Districts.***

For Portland, tax shelter savings is conservatively estimated at 30%, meaning that for every new tax dollar, Portland saves 30 cents which would otherwise be lost for property tax value not included in a TIF District. The estimated tax shelter savings for the remainder of the Waterfront TIF District term – FY2020 through FY2032 - (including all additional properties to expand the Waterfront TIF District) is \$34,485,000, or a yearly average of \$2,652,000.

### ***Net Impact to the General Fund***

The savings referenced above is a direct benefit to the general fund – both to the City and the School Department via an increase in revenue from the State of Maine for education, increased revenues for the City from municipal revenue sharing, and decreased expenses for county tax. It is important to note that whenever the TIF capture rate is adjusted upward there will change in how property tax revenue flows between the general fund and the area TIFs. Via careful TIF budgeting, subject to annual budget approval by City Council, certain types of approved expenditures can be moved from the general fund into area TIFs. If the impact of the revenue shift is able to be fully offset the end result is the 30 cent savings on the dollar. A good example is what was done in the FY19 budget. TIF capture rates were adjusted upward by approximately 5% in the Waterfront and Bayside TIF. Although this resulted in slightly less revenue to the general fund, expenses related to Economic Development Department staff, in an amount approximately equal to the revenue shift, were shifted into the TIF. The net result was an increased capture rate in both TIFs, more sheltering savings (approximately 30% in benefits) and no other negative impact on the City or School budgets. It is this type of calculated TIF budgeting which is expected to continue to be utilized moving forward to increase capture rates, maximize sheltering, and ensure only positive impacts to the City and School budgets.

**VI. STAFF ANALYSIS**

Based on the above, staff recommends that the City Council vote to approve the proposed Waterfront TIF District amendments, including the amendments to the Waterfront Capital Improvement and Economic Redevelopment Ordinance.

**VII. RECOMMENDATION**

The Economic Development Committee recommended, in a vote of 3-0 on September 18, 2018, that this item be forwarded to the City Council for approval of the Amendments to the Waterfront TIF District, including amendments to the Waterfront Capital Improvement and Economic Redevelopment Ordinance.

**VII. LIST ATTACHMENTS**

- Map of Proposed Expansion Area
- Spreadsheet of Proposed Properties to be Added
- Updated Spreadsheets for Actual and Estimated TIF Revenue and Tax Shelter Savings
- Proposed Amendments to WREZ Ordinance
- Marked Revision and Clean Version of TIF Narrative and updated Spreadsheets; additional attachments noted in the Narrative are available upon request.

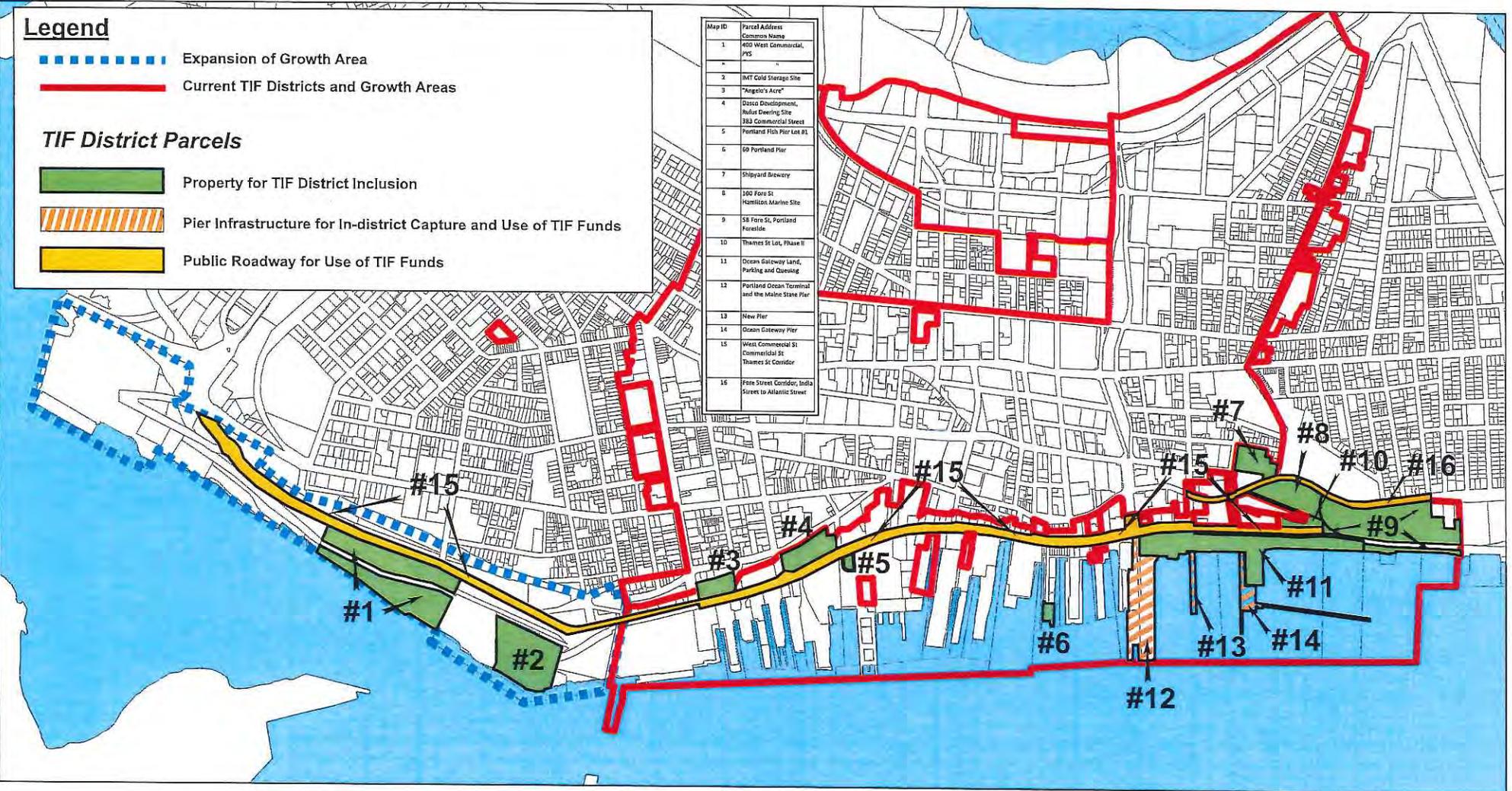
**Legend**

-  Expansion of Growth Area
-  Current TIF Districts and Growth Areas

**TIF District Parcels**

-  Property for TIF District Inclusion
-  Pier Infrastructure for In-district Capture and Use of TIF Funds
-  Public Roadway for Use of TIF Funds

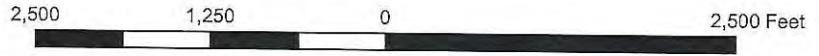
Map ID	Parcel Address	Common Name
1	400 West Commercial, PIS	
2	IMT Cold Storage Site	
3	"Angel's Acre"	
4	Osco Development, Indus Dewatering Site	383 Commercial Street
5	Portland Fish Pier Lot #1	
6	69 Portland Pier	
7	Shipyard Brewery	
8	100 Fore St Hamilton Marine Site	
9	58 Fore St, Portland Foretide	
10	Thames St Lot, Phase II	
11	Ocean Gateway Land, Parking and Queuing	
12	Portland Ocean Terminal and the Maine State Pier	
13	New Pier	
14	Ocean Gateway Pier	
15	West Commercial St Commercial/Ida St Thames St Corridor	
16	Fore Street Corridor, India Street to Atlantic Street	



**Portland Waterfront Development Growth Area  
Waterfront TIF District Expansion**

Council Order \_\_\_\_\_  
Exhibit

Map produced by the City of Portland Economic Development Department. Intended as an exhibit to the City Council Order implementing TIF District expansion. TIF District expansion boundaries are based on the underlying tax parcels where available. Actual parcel boundaries may change by sale or lease and TIF District boundaries may be amended from time to time.  
September 2018



**Waterfront TIF District Expansion: Current and Future Values DRAFT 9-19-18**

Map ID	Parcel Address Common Name	Common	CBL	Land Area +/- SF	Ownership	Assessed Value a/o 4/1/2017	Notes	Development Program Build Out	Total	Phasing Assumption:	Future Year New Value Year 2020	Future Year New Value Year 2025	Future Year New Value Year 2030
1	400 West Commercial, PYS		060 F001	234,384	Private	\$2,314,500	Portions of larger holdings / assessed value based on CBLs 060 F001 and 060 F003. Planning applications under 059-A003	Marine Industrial 81,000sq ft Marine Retail 31,000sq ft Development potential on site	More	2 phases	\$ 5,000,000	\$ 7,500,000	Same
"	"		060 F003	258,772	Private	\$1,956,300					\$ 4,000,000	\$ 6,000,000	Same
2	IMT Cold Storage Site		Multiple, including: 059 A002, 059 A005	270,500	State of Maine	\$0	Lot to be divided by lease. Area may change	Marine Industrial 60,000sq ft Marine Office 10,000sq ft		1 phase	\$ -	\$ 10,000,000	Same
3	"Angelo's Acre"		043 C009, plus others	60,175	City of Portland	\$0	Currently used for pay parking and recycling	No current plans		NA	\$ -	\$ -	\$ -
4	Dasco Development, Rufus Deering Site 383 Commercial Street		042 A001	106,331	Private	\$2,336,860	Development pending/may not use entire sf of CBL/assessed value based on entire holdings.	469,000 gross sq ft Residential, Hotel, Retail, Office, Parking		3 phases	\$ 30,000,000	\$ 57,000,000	\$ 85,000,000
5	Portland Fish Pier Lot #1		041 A013	15,000	City of Portland	\$0	Active interest by multiple parties	Marine Industrial 8,000 sq ft Restaurant/Retail 2000 sq ft		1 phase	\$ 1,200,000	Same	Same
6	60 Portland Pier		030 B004, plus others	19,220	Private	\$1,273,400	Area includes addition of to be discontinued ROW/assessed value based on CBL 030 B004 only.	Marine Industrial Restaurant		1 phase	\$ 1,775,000	Same	Same
7	Shipyard Brewery		020 C009, plus others	93,786	Private	\$4,283,010	Development pending/assessed value based on CBL 020 C009.	258,000 gross sq ft Retail, brewery, office, pharmacy, tech, hotel, residential		3 phases	\$ 16,000,000	\$ 28,000,000	\$ 40,000,000
8	100 Fore St Marine Site	Hamilton	019 A010	130,232	Private	\$2,820,600	Development pending/assessed value based on CBL 019 A010.	290,000 gross sq ft Parking Garage, Office		2 phases	\$ 20,000,000	\$ 38,000,000	Same
9	58 Fore St, Portland Foreside		018 A001, plus others	394,014	Private	\$5,065,200	Development pending. Hashed "triangle" of City land to be added/assessed value based on CBL 018 A001	960,000 gross sq ft Residential, Retail/Restaurant, Office	Hotel,	3 phases	\$ 47,000,000	\$ 88,000,000	\$ 130,000,000
10	Thames St Lot, Phase II		019 A014, Portion	46,209	City of Portland	\$0	Remnant of lot after WEX division and Thames St Expansion	No current plans			\$ -	\$ -	\$ -
11	Ocean Gateway Land, Parking and Queuing		444 A003 445 A001 446 A001	378,349	City of Portland	\$0	Excluding "park" development	No current plans			\$ -	\$ -	\$ -
12	Portland Ocean Terminal and the Maine State Pier		444 A001, plus others	248,488	City of Portland	\$0	Including portions of CBITD Leasehold. Excluding "park" Development	No current plans			\$ -	\$ -	\$ -
13	New Pier		444 A004	30,000	City of Portland	\$0	Including associated dredging. Design and size TBD	Public Facility			\$ -	\$ -	\$ -
14	Ocean Gateway Pier		445 A002	81,748	City of Portland	\$0	Including associated dredging. Image is approximate	Public Facility			\$ -	\$ -	\$ -
15	West Commercial St Commercial St Thames St Corridor		NA	963,091	City of Portland	\$0	ROW and Area are approximate	Public Facility			\$ -	\$ -	\$ -
16	Fore Street Corridor, India Street to Atlantic Street		NA	130,327	City of Portland	\$0	ROW and Area are approximate	Public Facility			\$ -	\$ -	\$ -
				Above is +/-80 Acres.									

NOTES: Current assessed values are taken from April 2017 tax assessments. Future values are broad estimates based on conservative evaluations of publicly reported development programs. Phasing of new value provided to reflect long-term build out of complex developments on larger sites. Phasing is not based on known schedules. Actual assessed value and timing of new development will vary significantly from these estimates depending on market conditions, program evolution, tenant needs, and private developer decisions. Future site-by-site assessments with up to date information on development program and timing will be conducted prior to use of this information for budgeting and tax assessment purposes.

City of Portland - Waterfront TIF Model  
Actual FY03 thru FY19; Estimates FY20 thru FY32

OAV at Beginning as of 4/1/2001: \$6,716,410  
 OAV added FY11 for Subdistrict as of 4/1/2 \$950,930  
 OAV added FY19 for Wex/Union Wharf: \$616,430  
 OAV added FY20 for Additional Parcels as of 4/1/2017: \$20,049,870  
 \$28,333,640

TIF Years 18 through 30 - Annual mil rate increase: 2%  
 TIF Years 18 through 30 - Annual valuation increase: 1%

9/6/2018

Waterfront TIF												
TIF Years 1 (FY2003) through 17 (FY2019) Actual Numbers; Years 18 (FY2020) through 30 (FY2032) Estimates												
TIF Year	Tax Year - April 1	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected Mill Rate	Total Projected New Taxes Captured	Captured Revenue to Municipal & Subdistrict* Project Account	City Non-Captured General Fund Revenues	OAV General Fund Revenue	Captured Revenue to Municipal Project Account	Captured Revenue to Subdistrict Project Account	
1	2002	\$11,533,350	1.00%	\$115,334	25.72	\$2,966	\$2,966	\$293,671	\$172,746	\$2,966		
2	2003	\$8,966,860	1.00%	\$89,669	26.80	\$2,403	\$2,403	\$237,909	\$180,000	\$2,403		
3	2004	\$11,941,350	1.00%	\$119,414	26.53	\$3,168	\$3,168	\$313,636	\$178,186	\$3,168		
4	2005	\$14,041,400	35.38%	\$4,967,847	20.13	\$100,003	\$100,003	\$182,651	\$135,201	\$100,003		
5	2006	\$18,576,750	1.00%	\$185,768	16.31	\$3,030	\$3,030	\$299,957	\$109,545	\$3,030		
6	2007	\$20,681,160	100.00%	\$20,681,160	17.10	\$353,648	\$353,648	\$0	\$114,851	\$353,648		
7	2008	\$20,050,110	62.00%	\$12,431,068	17.74	\$220,527	\$220,527	\$135,162	\$119,149	\$220,527		
8	2009	\$20,010,560	79.00%	\$15,808,342	17.74	\$280,440	\$280,440	\$74,547	\$119,149	\$280,440		
9	2010	\$18,984,350	58.00%	\$11,010,923	17.92	\$197,316	\$197,316	\$142,884	\$137,399	\$197,316		
10	2011	\$24,027,810	74.00%	\$17,780,579	18.28	\$325,001	\$325,001	\$114,189	\$140,159	\$280,783	\$44,218	
11	2012	\$30,830,260	74.00%	\$22,814,392	18.82	\$429,367	\$429,367	\$150,859	\$144,299	\$285,529	\$143,838	
12	2013	\$30,953,530	91.00%	\$28,167,712	19.41	\$546,735	\$546,735	\$54,073	\$148,823	\$397,188	\$149,547	
13	2014	\$32,962,740	73.00%	\$24,062,800	20.00	\$481,256	\$481,256	\$177,999	\$153,347	\$313,301	\$167,955	
14	2015	\$33,758,670	69.00%	\$23,293,482	20.63	\$480,545	\$480,545	\$215,897	\$158,177	\$295,498	\$185,047	
15	2016	\$33,959,500	66.00%	\$22,413,270	21.11	\$473,144	\$473,144	\$243,741	\$161,858	\$280,805	\$192,339	
16	2017	\$34,620,320	66.00%	\$22,849,411	21.65	\$494,690	\$494,690	\$254,840	\$165,998	\$297,431	\$197,259	
17	2018	\$39,176,210	71.48%	\$28,003,155	22.48	\$629,511	\$629,511	\$251,170	\$186,219	\$424,690	\$204,821	Actuals Above
18	2019	\$168,968,680	100.00%	\$168,968,680	22.93	\$3,874,384	\$3,874,384	\$0	\$649,690	\$3,685,463	\$208,922	Estimates Below
19	2020	\$174,052,250	100.00%	\$174,052,250	23.39	\$4,070,767	\$4,070,767	\$0	\$662,724	\$3,657,655	\$213,113	
20	2021	\$176,076,109	100.00%	\$176,076,109	23.86	\$4,200,464	\$4,200,464	\$0	\$676,041	\$4,013,640	\$186,824	
21	2022	\$178,120,206	100.00%	\$178,120,206	24.33	\$4,334,212	\$4,334,212	\$0	\$689,357	\$4,149,708	\$190,504	
22	2023	\$180,184,745	100.00%	\$180,184,745	24.82	\$4,472,138	\$4,472,138	\$0	\$703,241	\$4,277,797	\$194,341	
23	2024	\$294,769,929	100.00%	\$294,769,929	25.32	\$7,462,434	\$7,462,434	\$0	\$717,408	\$7,264,178	\$198,256	
24	2025	\$298,000,964	100.00%	\$298,000,964	25.82	\$7,695,116	\$7,695,116	\$0	\$731,575	\$7,492,945	\$202,171	
25	2026	\$301,264,310	100.00%	\$301,264,310	26.34	\$7,934,971	\$7,934,971	\$0	\$746,308	\$7,766,228	\$168,744	\$2,847,897
26	2027	\$304,560,290	100.00%	\$304,560,290	26.87	\$8,182,220	\$8,182,220	\$0	\$761,325	\$8,180,059	\$22,161	
27	2028	\$307,889,229	100.00%	\$307,889,229	27.40	\$8,437,087	\$8,437,087	\$0	\$776,342	\$8,437,087		
28	2029	\$393,251,458	100.00%	\$393,251,458	27.95	\$10,991,793	\$10,991,793	\$0	\$791,925	\$10,991,793		
29	2030	\$397,467,309	100.00%	\$397,467,309	28.51	\$11,331,823	\$11,331,823	\$0	\$807,792	\$11,331,823		
30	2031	\$401,725,318	100.00%	\$401,725,318	29.08	\$11,682,284	\$11,682,284	\$0	\$823,942	\$11,682,284		
30 Year TIF Total		\$3,981,405,728		\$3,831,125,125		\$99,693,442	\$99,693,442	\$3,143,184	\$12,062,776	\$96,823,384	\$2,870,058	
30 Year Average:		\$132,713,524		\$127,704,171		\$3,323,115	\$3,323,115	\$104,773	\$402,093	\$3,227,446	\$95,669	

\*Subdistrict is Waterfront Maine CEA with maximum cumulative TIF payments set at \$2,870,058.

City of Portland Waterfront TIF Model  
9/6/2018

<b>Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland- TIF Model</b>							
<b>TIF Years 1 (FY2003) through 17 (FY2019) Actual Numbers w Varying Percentage Captures;</b>							
<b>Years 18 (FY2020) through 30 (FY2032) Estimates with 100% Capture Rates.</b>							
TIF Year	Tax Year- April 1	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
				Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2002	\$11,533,350	\$115,334	\$0	\$67	\$64	\$131
2	2003	\$8,966,860	\$89,669	\$0	\$52	\$50	\$102
3	2004	\$11,941,350	\$119,414	\$0	\$70	\$66	\$136
4	2005	\$14,041,400	\$4,967,847	\$21,138	\$2,907	\$2,743	\$26,788
5	2006	\$18,576,750	\$185,768	\$1,581	\$109	\$103	\$1,792
6	2007	\$20,681,160	\$20,681,160	\$175,997	\$12,100	\$11,414	\$199,511
7	2008	\$20,050,110	\$12,431,068	\$105,788	\$7,273	\$6,862	\$119,924
8	2009	\$20,010,560	\$15,808,342	\$134,529	\$9,249	\$8,726	\$152,504
9	2010	\$18,984,350	\$11,010,923	\$93,703	\$6,442	\$6,078	\$106,224
10	2011	\$24,027,810	\$17,780,579	\$151,313	\$10,403	\$9,814	\$171,530
11	2012	\$30,830,260	\$22,814,392	\$194,150	\$13,348	\$12,591	\$220,089
12	2013	\$30,953,530	\$28,167,712	\$239,707	\$16,480	\$15,544	\$271,731
13	2014	\$32,962,740	\$24,062,800	\$204,774	\$14,078	\$13,280	\$232,132
14	2015	\$33,758,670	\$23,293,482	\$198,228	\$13,628	\$12,855	\$224,711
15	2016	\$33,959,500	\$22,413,270	\$190,737	\$13,113	\$12,370	\$216,220
16	2017	\$34,620,320	\$22,849,411	\$194,448	\$13,368	\$12,610	\$220,427
17	2018	\$39,176,210	\$28,003,155	\$238,307	\$16,384	\$15,453	\$270,143
18	2019	\$168,968,680	\$168,968,680	\$1,437,923	\$98,858	\$92,944	\$1,629,725
19	2020	\$174,052,250	\$174,052,250	\$1,481,185	\$98,858	\$95,729	\$1,675,772
20	2021	\$176,076,109	\$176,076,109	\$1,498,408	\$103,016	\$96,838	\$1,698,262
21	2022	\$178,120,206	\$178,120,206	\$1,515,803	\$104,212	\$97,957	\$1,717,973
22	2023	\$180,184,745	\$180,184,745	\$1,533,372	\$105,420	\$99,088	\$1,737,880
23	2024	\$294,769,929	\$294,769,929	\$2,508,492	\$172,460	\$161,683	\$2,842,635
24	2025	\$298,000,964	\$298,000,964	\$2,535,988	\$174,350	\$163,443	\$2,873,782
25	2026	\$301,264,310	\$301,264,310	\$2,563,759	\$176,260	\$165,221	\$2,905,240
26	2027	\$304,560,290	\$304,560,290	\$2,591,808	\$178,188	\$167,016	\$2,937,012
27	2028	\$307,889,229	\$307,889,229	\$2,620,137	\$180,136	\$168,829	\$2,969,102
28	2029	\$393,251,458	\$393,251,458	\$3,346,570	\$230,078	\$215,222	\$3,791,870
29	2030	\$397,467,309	\$397,467,309	\$3,382,447	\$232,545	\$217,509	\$3,832,501
30	2031	\$401,725,318	\$401,725,318	\$3,418,682	\$235,036	\$219,818	\$3,873,536
<b>30 Year TIF Total</b>		<b>\$3,981,405,728</b>	<b>\$3,831,125,125</b>	<b>\$32,578,976</b>	<b>\$2,238,488</b>	<b>\$2,101,918</b>	<b>\$36,919,383</b>
<b>30 Year Average</b>		<b>\$132,713,524</b>	<b>\$127,704,171</b>	<b>\$1,085,966</b>	<b>\$74,616</b>	<b>\$70,064</b>	<b>\$1,230,646</b>

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

CITY OF PORTLAND  
IN THE CITY COUNCIL

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

AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 14 AND CHAPTER 8  
Re: WATERFRONT DEVELOPMENT GROWTH AREA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Chapter 14, Article XV, Sections 14-906 to 14-908 is hereby amended as follows:

~~ARTICLE XV. WATERFRONT CAPITAL IMPROVEMENT AND ECONOMIC  
REDEVELOPMENT ZONE AND ORDINANCE~~

~~Sec. 14-905. Title.~~

~~This ordinance shall be known as the Waterfront Capital Improvement and Economic Redevelopment Ordinance.~~

~~Sec. 14-906. Purposes.~~

~~The purpose of this ordinance is to implement those provisions of the Waterfront Economic Development Task Force Report, (Waterfront II) entitled "Investing in Our Working Waterfront: Final Report of the Mayor's Waterfront Task Force on Economic Development," dated September 2000, as adopted by the Portland City Council on June 4, 2001 which create a capital improvement plan for redevelopment on the Portland Waterfront. That plan includes funding the loan fund described in that report, the financing and installation of infrastructure to support the economy of that area of the City of Portland, such as parking facilities, utilities, traffic and congestion management installations, operating facilities for the cargo, fishing and other water dependent, marine related industries, environmental protection and improvement, including the management and abatement of combined sewer overflows, appropriate assistance in the permitting and completion of dredging of siltation at piers, wharfs and weirs, and such other matters as the City Council shall approve from time to time. These activities shall be collectively known as the redevelopment program.~~

~~Sec. 14-907. Creation of the Waterfront Redevelopment Economic Zone (WREZ).~~

~~The Waterfront Redevelopment Economic Zone is hereby created.~~

~~Beginning at a point on the southerly side of the Eastern Promenade at the intersection of the Westerly side of the Portland House Condominium and the Easterly sideline of land now or formerly of Dan Haley.~~

~~Thence Southwesterly along the Southerly side of Eastern Promenade to Fore Street.~~

~~Thence Westerly along the Southerly side of Fore Street to the intersection of Fore Street and Mountfort Street.~~

~~Thence Northerly along Mountfort Street to the Southeast corner of the lot referenced as 20-C-2 on City of Portland Tax maps as of April first, 2001.~~

~~Thence Westerly along lot 20-C-2 about 72 feet.~~

~~Thence Northerly along 20-C-2 to 20-C-5.~~

~~Thence Westerly along 20-C-5 to the south corner of 20-C-5.~~

~~Thence Northwesterly along 20-C-5 to Newbury Street.~~

~~Thence Southwesterly along Newbury Street to Hancock Street.~~

~~Thence Southeasterly along Hancock Street to Middle Street.~~

~~Thence Southwesterly along Middle Street to 20-C-27.~~

~~Thence Southeasterly along the Northeast sideline of 20-C-27 about 99.99 feet.~~

~~Thence Southwesterly along the Southeast sideline of 20-C-27 to India Street.~~

~~Thence South along India Street to the Northern corner of 29-N-26.~~

~~Thence Westerly along the Northern side of lot 26 to lot 24.~~

~~Thence Westerly, Northerly, Westerly, and Southerly along 29-N-24 to Bradbury Court.~~

~~Thence Westerly along Bradbury Court to the Franklin Street Arterial.~~

~~Thence Northerly along Franklin Street Arterial to Fore Street.~~

~~Thence Westerly along Fore Street to Pearl Street.~~

~~Thence Southerly along Pearl Street to Gold Street.~~

~~Thence Westerly along Gold Street to Silver Street.~~

~~Thence Northerly along Silver Street to Fore Street.~~

~~Thence Westerly along Fore Street to Market Street.~~

~~Thence Southerly along Market to the dividing line between 32-S-3 and 32-S-4 & 5.~~

~~Thence Northerly along Moulton Street to Wharf Street.~~

~~Thence Westerly along Wharf Street to a passage between Assessor's map 32 blocks "T" and "U" leading to Commercial Street.~~

~~Thence Southerly along said passage about 28 feet to the dividing line between lots 32-U-3 and 32-U-5.~~

~~Thence Westerly, Southerly, and Westerly along the Southerly line of lot 5 to Dana Street.~~

~~Thence Westerly across Dana Street and following the Northern boundary of lots 32-V-2, 4, 5, 8, and 12 to Union Street.~~

~~Thence Northerly on Union Street to Fore Street.~~

~~Thence Westerly on Fore Street to parcel 38-F-8.~~

~~Thence Southerly along the Easterly sideline of 38-F-8.~~

~~Thence Westerly along the Southerly sideline of 38-F-8 to Cross Street.~~

~~Thence Northerly to Fore Street~~

~~Thence Westerly along Fore Street to 38-G-7.~~

~~Thence Southerly along the Easterly sideline of 38-G-7.~~

~~Thence Westerly along the Southerly sideline of 38-G-7 to the Easterly sideline of Center Street.~~

~~Thence Northerly along Center Street to the Southerly sideline of 40-F-11.~~

~~Thence Southwesterly along the Southerly sideline of 40-F-11 and 40-E-1.~~

~~Thence Westerly along the South side of 42-A-8.~~

~~Thence Northerly along the Westerly line of 42-A-7 to York Street.~~

~~Thence Westerly along the Southerly side of York Street to High Street.~~

~~Thence Southerly along High Street 44 feet + to Southern sideline of 42-B-7.~~

~~Thence Westerly along the Southerly sideline of 44-B-2 to Park Street.~~

~~Thence Westerly across Park Street to the Southerly sideline of 43-C-7.~~

~~Thence Westerly along the Southern sideline of 43-C-7 to the edge of proposed State Street.~~

~~Thence Westerly across proposed State Street to the Southerly sideline of 43-E-8.~~

~~Thence Westerly along the Southerly sideline of 43-E-8 to the Casco Bay Bridge.~~

~~Thence Southeasterly along the Casco Bay Bridge to the Harbor Commissioner's Line.~~

~~Thence Northeasterly along the Harbor Commissioner's line to a point which is the intersection of the Harbor Commissioner's line and a line which is the extension of the lot line between the Southeasterly line of land now or formerly of Dan Haley and the Southwesterly line of the Portland House Condominium.~~

~~Thence Northwesterly along said line to the Southerly side of the Eastern Promenade at the point of beginning.~~

~~All as shown on a map dated April 13, 2001 entitled "Proposed Waterfront Redevelopment Area" on file in the Planning Office.~~

~~Any inconsistencies between this description and the map shall be controlled by the map.~~

~~**Sec. 14-908. Financing Activities.**~~

~~The following financing activities are authorized for the creation of funds to be used for the activities approved for funding by this ordinance:~~

~~(a) Tax Increment Financing Districts Revenues.~~

- ~~1. Within the Waterfront Redevelopment Economic Zone (WREZ) all activity except minor changes as defined below, which results in an increase in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses, including acquisition of equipment, shall be subject to designation as a Tax Increment Finance (TIF) District to support redevelopment activities within the WREZ pursuant to 30-A M.R.S.A. §§ 251-526, as amended.~~

~~Minor changes shall mean those physical changes, minimal in scope or purpose, which when accumulated with previous and anticipated other changes, over a period of two years, increase the assessed value of the affected property by a cumulative total of \$400,000 or less.~~

- ~~2. Affected properties shall mean those properties within the zone which undertake activity, except minor changes as defined above, which results in a change in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses, including acquisition of equipment.~~

~~Affected properties within the WREZ shall be~~

~~designated for inclusion in this redevelopment program as a TIF District, and the tax increment from the captured assessed value shall be applied to the redevelopment program purposes, subject to approval by the City Council on a TIF-by-TIF basis.~~

~~A property is an affected property if it otherwise so qualifies, and the total aggregate amount of captured assessment in the TIF Districts devoted to this redevelopment program does not exceed 1.25% (.0125) of the total taxable valuation of the City of Portland, when adjusted as necessary to reflect 100% valuation, as determined by the City Assessor.~~

~~3. Paragraphs (1) and (2) notwithstanding, the Council may by Council order determine that the increases in assessed value that would otherwise be designated for the first time as TIF districts under (1) and (2) above for the next succeeding fiscal year shall not be so designated.~~

~~4. The redevelopment program shall be that series of investments, expenditures, guarantees and supports which are planned for project fund expenditures.~~

~~(b) Program Income and Other Revenues.~~

~~The City Manager will budget the program activities, including the program income and expense, of the redevelopment program annually for approval and implementation by the City Council. The redevelopment program is authorized to receive program income, grants, participations, joint ventures, investments and other revenues for the purposes of the redevelopment program as approved by the City of Portland from time to time.~~

~~(c) Updates to development plan.~~

~~Periodically, the city manager shall evaluate and propose updates to the Development Plan, and identify properties developed in the redevelopment zone which qualify as TIF District properties. The city manager shall report to the council on conditions and changes~~

~~in conditions addressing the economic circumstances of the waterfront economy, and shall include in said report detail on at least the following issues:~~

- ~~1. The utilization, adequacy and capital and operating position of the enterprise loan fund designed to assist water dependant, marine-related properties and businesses;~~
- ~~2. The state of the fishing industry, the adequacy and demand for berthing space and operating facilities, financing, local markets and opportunities, and the operations of public operations pertaining to the fishing industry;~~
- ~~3. The status of other water dependant industries and operations along the Portland waterfront, including opportunities to develop or promote water dependent and marine resource dependant economic opportunities;~~
- ~~4. The status of dredge operations and needs at public and private piers, the nature of impediments to maintaining full depths at all working Portland piers;~~
- ~~5. The status of cargo operations in the Port of Portland, including analysis of surface transportation capacities serving the Port cargo operations, whether public or private;~~
- ~~6. The status of parking availability, public access to the waterfront and to water dependent recreational activities and pursuits;~~
- ~~7. The status of environmental concerns, programs and issues along the Portland waterfront, and particularly in the inner harbor; and~~
- ~~8. Such other information, data or findings concerning conditions as affects the economic and environmental health of the waterfront area, or recommendations concerning the operations of the loan fund or the capital improvement program.~~

~~(d) Recommendations.~~

~~As often as he or she deems prudent, the city manager shall submit to the city council a recommended capital improvement plan, utilizing the revenues of the WREZ. The finance 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.~~

~~(c) Adoption.~~

~~The City Council shall adopt amendments to the WREZ, designate TIF Districts and authorize expenditures and take such other actions as are necessary each year to implement this redevelopment plan and administer its revenues and expenses.~~

2. *That the Portland City Code is hereby amended by adding sections to be numbered 8-1 to 8-4, which said sections reads as follows:*

**ARTICLE I. WATERFRONT DEVELOPMENT GROWTH AREA  
ORDINANCE**

**Sec. 8-1. Title.**

This ordinance shall be known as the Waterfront Development Growth Area Ordinance.

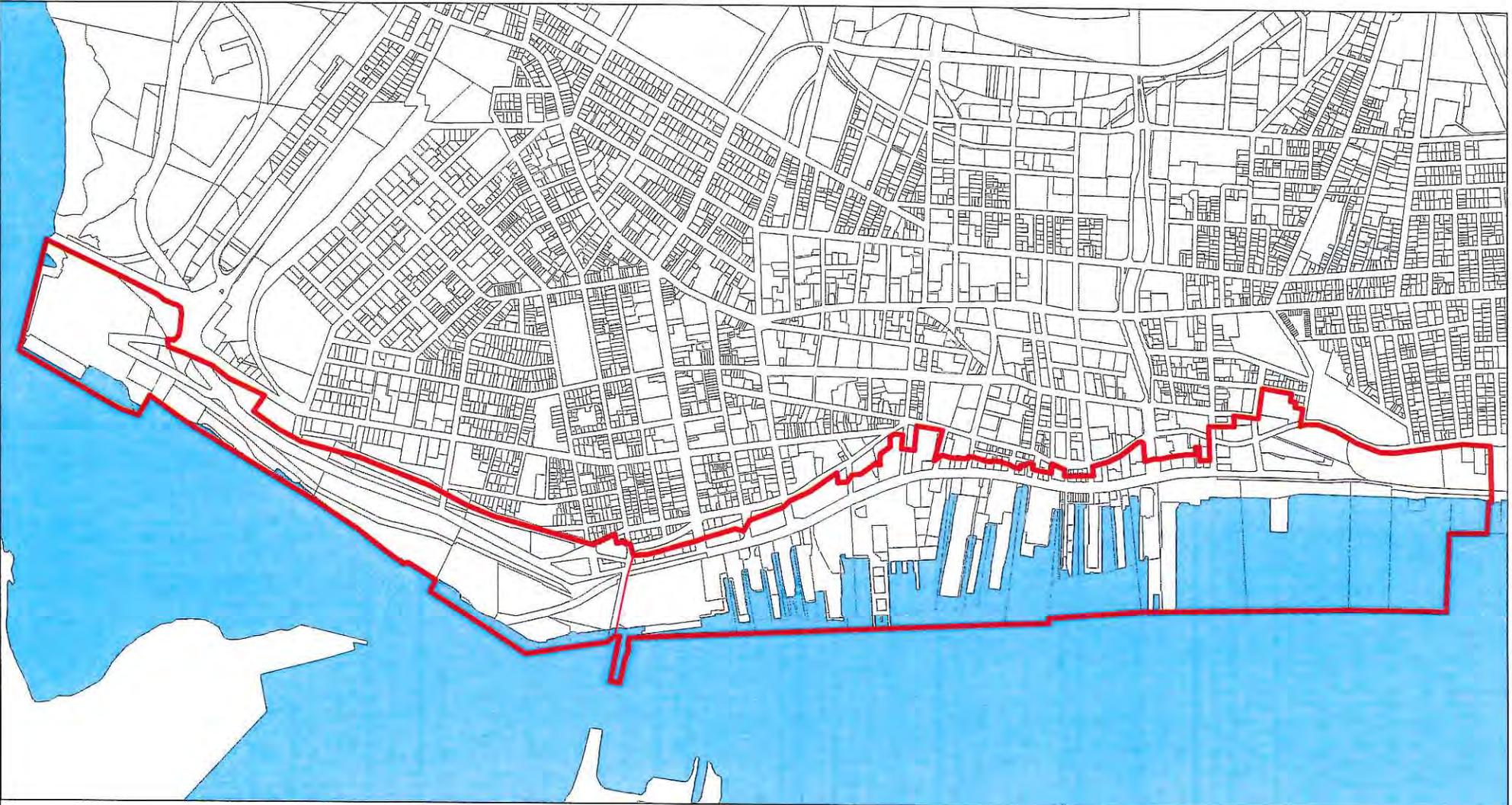
**Sec. 8-2. Purposes.**

The purpose of this ordinance is to implement those provisions of the Waterfront Economic Development Task Force Report, (Waterfront II) entitled "Investing in Our Working Waterfront: Final Report of the Mayor's Waterfront Task Force on Economic Development," dated September 2000, as adopted by the Portland City Council on June 4, 2001 which create a capital improvement plan for redevelopment on the Portland Waterfront. That plan includes funding the loan fund described in that report, the financing and installation of infrastructure to support the economy of that area of the City of Portland, such as parking facilities, utilities, traffic and congestion management installations, operating facilities for the cargo, fishing and other water-dependent, marine related industries, environmental protection and improvement, including the management and abatement of combined sewer overflows, appropriate

assistance in the permitting and completion of dredging of siltation at piers, wharfs and weirs, and such other matters, such as climate change adaptation, as the City Council shall approve from time to time. These activities shall be collectively known as the redevelopment program.

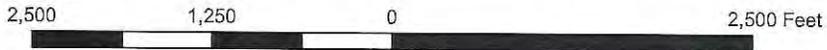
**Sec. 8-3. Creation of the Waterfront Development Growth Area**

The Waterfront Development Growth Area (WDGA) is hereby created and shown on the map below, titled the Portland Waterfront Development Growth Area, which is incorporated as a component of this ordinance, as may be amended from time to time.



# Portland Waterfront Development Growth Area

— Waterfront Development Growth Area



Map produced by the City of Portland Economic Development Department. Intended as an exhibit to the City ordinance expanding and replacing the Waterfront Redevelopment Economic Zone. October 2018



Sec. 8-4. Financing Activities.

The following financing activities are authorized for the creation of funds to be used for the activities approved for funding by this ordinance:

(a) Tax Increment Financing (TIF) Districts Revenues.

1. Within the Waterfront Development Growth Area (WDGA) all activity except minor changes as defined below, which results in an increase in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses shall be subject to designation as a Tax Increment Finance (TIF) District to support redevelopment activities within the WDGA pursuant to 30-A M.R.S. §§ 251-526, as amended.

Minor changes shall mean those physical changes, minimal in scope or purpose, which when accumulated with previous and anticipated other changes, over a period of two years, increase the assessed value of the affected property by a cumulative total of \$400,000 or less.

2. Affected properties shall mean those properties within the WGDA which through revaluation or by undertaking activity, except minor changes as defined above, which results in a change in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses, including acquisition of equipment.

Affected properties within the WDGA shall be designated for inclusion in this redevelopment program as a TIF District, and the tax increment from the captured assessed value shall be applied to the redevelopment program purposes, subject to approval by the City Council on a TIF-by-TIF basis.

A property is an affected property if it otherwise so qualifies, and the total aggregate amount of captured assessment in the TIF Districts devoted to this redevelopment program does not exceed 1.25% (.0125) of the total taxable valuation of the City of Portland,

when adjusted as necessary to reflect 100% valuation, as determined by the City Assessor.

3. Paragraphs (1) and (2) notwithstanding, the Council may by Council order determine that the increases in assessed value that would otherwise be designated for the first time as TIF districts under (1) and (2) above for the next succeeding fiscal year shall not be so designated.

4. The redevelopment program shall be that series of investments, expenditures, guarantees and supports which are planned for project fund expenditures.

(b) Program Income and Other Revenues. The City Manager will budget and implement the program activities, including the program income and expense, of the redevelopment program annually for approval by the City Council. The redevelopment program is authorized to receive program income, grants, participations, joint ventures, investments and other revenues for the purposes of the redevelopment program as approved by the City of Portland from time to time.

(c) Updates to development plan and annual TIF District reporting. Periodically, the city manager shall evaluate and propose updates to the Development Plan, and identify properties developed in the redevelopment zone which qualify as additional TIF District properties. The city manager shall report to the council on conditions and changes in conditions addressing the economic circumstances of the waterfront economy when proposing the addition of properties for inclusion in the Waterfront TIF District.

Additionally, the City Manager through the Economic Development Department shall report to the City Council on financial activity related to the Development Program within an Annual TIF District Activity Report.

(d) Recommendations. As often as he or she deems prudent, the city manager shall submit to the city council a recommended capital improvement plan, utilizing the revenues of the WDGA. The finance 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.

(e) Adoption. The City Council shall adopt amendments to the WDGA, designate TIF Districts and authorize expenditures and

take such other actions as are necessary each year to implement this redevelopment plan and administer its revenues and expenses.

# City of Portland

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## Waterfront Economic Redevelopment Program

*Application for FY02 and FY10 Amended Waterfront Tax Increment Financing Development District Approved by City Council March 18, 2002*

### AMENDMENTS:

1. AMENDED AND RESTATED PER CITY COUNCIL APPROVAL ON JUNE 7, 2010 – INCREASE TERM AND CREATE SUBDISTRICT;
- 1.2. AMENDED AND RESTATED PER CITY COUNCIL APPROVAL ON MARCH 6, 2018 – ADD ADDITIONAL PROPERTIES
- 2.3. AMENDMENTS TO INCREASE INVESTMENT OPTIONS, ADD ADDITIONAL PROPERTIES, AND INCREASE GEOGRAPHICAL BOUNDARY – SEPTEMBER 2018, PER CITY COUNCIL APPROVAL ON \_\_\_\_\_.

*Prepared by:*

The City of Portland Economic Development Department  
March 13, 2002/Amended and Restated as of June 7, 2010; Amended and Restated March 6, 2018; Amended and Restated

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## I. Introduction

The Portland City Council on March 18, 2002, designated five properties as tax increment financing districts (the “Original TIF Districts”) as more specifically described below and adopted the Waterfront Tax Increment Financial Development District Program (the “Original Development Program”). The Original TIF Districts program was designed for the City to capture 100% of the tax increment for specified allowable uses.

Amendment #1: On June 7, 2010, the Portland City Council ~~amended~~ approved the Amended and Restated the Original Development Program (“Amended Development Program”), which was approved by the Maine Department of Economic Development and Community Development (“MDECD”) on June 28, 2010, as follows:

- Extend the term by twenty (20) years;
- Reduce the number of TIF investment options;
- Authorize the use of Credit Enhancement Agreements within the Waterfront Central Zone; and
- Establish a Sub-District (the “Sub-District”) within the District and to authorize a Credit Enhancement Agreement with the Developer with respect to the Sub-District in furtherance of the Cumberland Cold Storage (Merrill’s Wharf) Project.

Amendment #2: On March 6, 2018, the Portland City Council further amended the Original TIF Districts to add three properties with the following Chart, Lot, and Block (CBL) numbers (“Added TIF District Properties of 2018”):

- 019-A-014001;
- 031-K-003001; and,
- 031-K-103001.

The three additional properties include two projects under construction as follows:

WEX Headquarters (019-A-014001)

Union Wharf Mixed Use Development (031-K-003001 and 031-K-103001)

MDECD approved Amendment #2 on May 29, 2018.

### *History:*

The history of the City of Portland is inextricably tied to the waterfront. From tourism to shipbuilding to national defense, the waterfront has been a vital part of the social and economic fabric of Portland. Always, Portland has worked to recognize the unique needs of the harbor, to protect its authentic marine heritage and to provide public access. The product of this commitment comes from the work of a Mayoral Taskforce report entitled “Investing in Our Working Waterfront – Final Report of the Mayor’s Waterfront Task Force on Economic Development”, dated October 2000 (herein referred to as the “Task Force II Report”). An excerpt from its

Executive Summary is included here, and the full Report is attached to this application labeled as Attachment #1.

*“Portland is a waterfront city. Its harbor is one of the deepest on the East Coast and served as the staging area for the Atlantic Fleet during World War II. Today, it accommodates the largest petroleum trans-shipment operation on the East Coast. The inner harbor is very limited in geography; it is only about two miles in length from Bath Iron Works to Merrill’s Marine Terminal. The wharves that serve the needs of water-dependent businesses are both publicly and privately owned. Over the course of its long history, the Portland waterfront has served as a center of commerce, shipbuilding, cargo and passenger transport, fishing and defense. It has also supported a range of mixed uses, the character of which has changed over time as the City of Portland and its waterfront have evolved.*

*Portland has a 30-year history of commitment to its working waterfront. The City began planning the future of its waterfront in the early 1970’s, culminating in 1982 with multi-faceted development strategies, including zoning amendments, construction of public facilities, and policies to address berthing and public access. Despite these initiatives, the emergence of the Old Port as a vital retail center and tourist attraction threatened to drive traditional industries from their waterfront locations. A citizen-initiated referendum in 1987 passed by a 2-1 margin, clearly demonstrating the public’s commitment to a working waterfront, and significant limitations were placed on development of the water side of Commercial Street.*

*Before the development moratorium expired in 1992, the City asked waterfront interests to review the zoning and recommend any changes that might provide more flexibility in renting space, while protecting water-dependent and marine-related uses (The Waterfront Alliance Report, 1992). While some may argue otherwise, the existing zoning structure, based on the 1992 Report, -strikes a reasonable balance between preserving the “working waterfront” and allowing property owners necessary flexibility in managing their assets. Since the 1980’s, Portland and the State of Maine have invested significant public dollars in supporting traditional waterfront activities such as ship repair, commercial fishing, and cargo transfer. At the same time, some private property owners have, for a variety of reasons, lacked the revenues to maintain their piers, resulting in a serious infrastructure problem, which threatens the viability of certain piers as elements of the waterfront economy.*

*Despite investments in publicly owned waterfront facilities, the City has done little to assist private owners of waterfront property, the uses of which have been limited by public policy, as noted above. This report is the result of a charge issued by then-Mayor Tom Kane to “focus on economic support for the waterfront...and to make the working waterfront work.” It is the second of a three-phase process for defining the City’s vision for its waterfront.”*

The Task Force II Report was presented to the City Council and the public, and the Council voted to incorporate it into the Comprehensive Plan on June 4, 2001.

The Task Force II Report identified the unique needs of the waterfront from both an infrastructure and a business development perspective, and several recommendations were made. In order to turn these recommendations into waterfront economic development opportunities, a program to create a funding mechanism through Tax Increment Financing (“TIF”) Districts was put in place.

Since the adoption of Waterfront Task Force II report, the City has systematically conducted area specific planning and re-zoning processes for the three waterfront sub-areas identified in the 1992 Waterfront Alliance Report: Eastern Waterfront, Central Waterfront, and Western Waterfront. These processes have resulted in an updated framework of regulation that reflects the industries, infrastructures, water depths, and ownership patterns on the Portland Waterfront. Current regulations continue to prioritize and protect water dependent uses while allowing reasonable flexibility to promote investment. While new zoning promotes waterfront investment, barriers remain. Deferred pier maintenance, shifting industry needs, dredging needs, traffic congestion, and parking shortages continue to challenge public and private piers and the industries that depend on them.

## II. Development Program

### A. Amended Development Program

With the incorporation of the Task Force II Report into the Portland Comprehensive Plan in 2000, with these policies recently reinforced with the redrafted Portland 2030 Plan, the City Council formally recognizes ~~the~~ the unique business development needs of the waterfront. Since a funding mechanism was required to implement the recommendations of the Report, the City began crafting what ultimately became the Waterfront Capital Improvement and Economic Redevelopment Zone (“WREZ”) Ordinance (see Attachment #2 as passed June 4, 2001, and Attachment #3 as amended December 1, 2008; and Attachment 3(A) as amended and renamed “Waterfront Growth Area Ordinance” [WGA, as referred to from now on within this document];) whereby any property within the WGAREZGA geographic area, delineated on the attached map (see Revised Attachment #4), that increased in value by an amount greater than \$400,000 over a two-year period would be subject to inclusion in a TIF application.

By adopting the WREZGA Ordinance, the City Council recognized that the non-marine commercial development that has occurred in the Old Port and the surrounding area has benefited through the years from the authenticity of the working waterfront. Said another way, Portland’s downtown became a desirable destination for tourists, retailers, restaurants and high-end office users in part because of the vibrant business of those that depend upon the water for their living. Portland blends a perfect-vibrant mix of fishing vessels, shipbuildingvessel repair, chandlery, cargo operations and the like with ~~the~~ lawyers, bankers, ~~dot-com~~ technology entrepreneurs and tourists. So when Given that non-marine uses place strains on the working waterfront, and that a revenue stream was required to maintain and improve the economic vibrancy of the Portland waterfront area, the City Council acted ~~in such a way as~~ to nurture this symbiotic relationship by directing the incremental revenues of the new

commercial development back to the working waterfront. The result of that action was the adoption of the WREZGA Ordinance.

The WREZGA Ordinance is intended to be in effect for several years. As such, the designation of the five Original TIF Districts described in the Original Development Program were the first in what the City hoped to be a multiple year program where several additional TIF Districts will be created. The common theme underlying the Original Development Program, this Amended Development Program, and future TIF applications is the implementation of the Task Force II Report findings. As such, the projects described in the Original Development Program and this Amended Development Program are intended to be greater in scope than the five Original TIF Districts could support by themselves.

1. Amendment #2 – Three Added Parcels Approved by City Council March 16, 2018

~~Therefore,~~ the Original Development Program -and the three Added TIF District Properties of March 2018 (CBLs 019-A-014001, 031-K003001, and 031-K-103001) will serve as the model for future amendments to the Original Development Program, as amended, as properties become eligible through the WREZGA Ordinance.

2. Amendment #3 – Additional Parcels to be Added – September 2018

Additional Parcels to be added include those listed in Section II(D)(4).

In addition, this proposed Amendment increases City TIF revenue investment options, as well as increases the geographic area by amending and renaming the WREZ to the “Waterfront Development Growth Area Ordinance”. See proposed amendments to the WREZ as noted on Attachment #3(A).

The activities to be funded through the Original Development Program and, this Amended Development Program, ~~and the three Added TIF District Properties of 2018~~ will be specifically determined on an annual basis upon recommendation by the City Manager for action by the City Council. Therefore, the City of Portland seeks authorization to fund all the activities described in this Amended Development Program so that each year the City Council could prioritize which specific activities to fund.

*B. The Projects*

The projects to be undertaken are derived from the recommendations of the Task Force II Report which are:

1. Encourage private and public waterfront investments;
2. Provide support to maintain a working waterfront;
3. Support a clean, working harbor.

Generally, the activities to be undertaken and the approximate cost associated with each activity are described in Table 1 below.

**TABLE 1**

**Note 1:** All citations refer to Title 30-A, Chapter 206, Section 5225

Project	Statutory Citation	Estimated Cost
<b>In District: Capital Infrastructure <u>Design and Investments, including financing costs</u>, for example:</b>		
Pier and Wharf Structural Repair	(1)(A)(1)(2)(3)(6)(7)	\$ <u>15,3,200,000</u>
Local Match for Ocean Gateway Project	(1)(A)(2)	\$1,000,000
Street <u>Studies and Improvements (Remedy Traffic Congestion)</u>	(1)(A)(1)(2)(3)(6)(7)	\$ <u>205,000,000</u>
Pedestrian <u>and Multi-Modal</u> Circulation and Amenity Improvements	(1)(A)(1)(2)(3)(6)(7)	\$ <u>2,00750,000</u>
<u>Dredging</u>	(1)(A)(1)(2)(6)(7)	\$ <u>10,000,000</u>
<u>New Publicly Owned Pier</u>	(1)(A)(1)(2)(3)(6)(7)	\$ <u>3,000,000</u>
<u>Multi-Modal Surface and Structured Parking</u>	(1)(A)(1)(2)(3)(6)(7)	\$ <u>10,000,000</u>
<u>Utilities Infrastructure</u>	(1)(A)(1)(2)(3)(6)(7)	\$ <u>15,000,000</u>
Credit Enhancement Agreements	(1)(A)	\$ <u>4,000,000</u>
<b>In and out of District:</b>		Per Each Individual
<u>(a) Funding the</u>	(1)(A)(5) and (C)(1)	CEA Project
<u>City-Economic Development Department, including prorated salaries of City Manager, Finance, and Planning Urban Development Director and Planning staff; Staff</u>		\$50,000 Annually
<u>(b) Workforce training funds. Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained, of value to marine industry;</u>	(1)(C)(4)	<u>effective 7/1/2010 for 22 years, or \$1,100,000 total.</u>
<u>(c) Costs of funding economic development programs or events; and,</u>	(1)(C)(1)	\$ <u>250,000</u>
<u>(d) Costs of funding environmental improvements projects for commercial use, including sea level adaptation studies and infrastructure improvements; and</u>	(1)(C)(2)	\$ <u>5,000,000</u>
<u>(e) Professional services costs.;</u>	(1)(A)(4); 1(C)(1)	\$ <u>1,000,000</u>
<u>(f) Dredging of commercial vessel berthing; and,</u>	(1)(A)(1)(2)(6)(7)	\$ <u>5,000,000</u>
<u>(g) Dredge sediment disposal and CAD Cell development.</u>	(1)(A) and (1)(C)(2)	\$ <u>5,000,000</u>
<b>Total Estimate of TIF Revenue Expenditure over 30-year term:</b>		<b>\$<u>88,1021,050,000</u> –</b>
		<b>excluding CEA</b>
		<b>Projects</b>

The City recognizes that the full scope of the needs of the Waterfront Economic Redevelopment Program is beyond the funds anticipated to be generated through this e-five Original TIF Districts described in the Original Amended Development Program and the three Added TIF District Properties of 2018. Since the Original Development Program, this Amended Development Program, and the three Added TIF District Properties of 2018 will serve as the template for future TIF District applications, however, the City again seeks authorization for the full “menu” of economic development activities described above. This is necessary to maintain flexibility and adaptability as the needs of the waterfront are prioritized throughout the life of this Amended Development Program.

### **In District Use of Funds**

#### *Pier and Wharf Structural Repair*

The waterfront infrastructure needs are considerable. The Task Force II Report estimates the need for \$1.4 million in repairs to 14 wharves within three years, with an additional \$1.8 million needed over the next 20 years. Over the last 18 years, these costs have grown considerably and the Task Force II Report estimates should be considered woefully inadequate. Working pier space and commercial berthing are the foundational resources promoting water-dependent industries. Piling replacement, deck repair, structural repair, seawall maintenance, and berthing improvements are constant necessities in any marine environment. See Dredging below.

#### *Local Match for Ocean Gateway Project*

The voters of the State of Maine approved an allocation of roughly \$15 million for the construction of a marine passenger facility, requiring a local match of nearly \$1 million.

#### *Street Studies and Improvements (Remedy Traffic Congestion)*

With the development of the Ocean Gateway facility For more than the last 10 years, the Portland Waterfront has experienced a historic development cycle that continues to this day. ; To keep pace with development and to retain and grow marine industry, significant transportation improvements will be required to accommodate the increased traffic, on the street network along and around the waterfront, wWith particular emphasis on Commercial Street, Franklin Arterial Street, Commercial Street and the India Street neighborhood, street system improvements are and will continue to be studied and improved.

#### *Pedestrian Circulation and Multi-modal Transportation, ~~and Amenity~~ Improvements*

With the growth of tourism, cruise ships, and non-marine development, waterfront industries increasingly share roadway capacity with, pedestrians, bicycles, tour vehicles, and non-marine delivery trucks. To both accommodate these new users and

protect existing marine industries, the City will need to invest in pedestrian infrastructure, bicycle infrastructure (lanes, racks and stations,) public transit, and other multi-modal transportation improvements to promote a safe and functional transportation network. Multi-modal investments provide the additional opportunity to remove single occupancy vehicles from the network, reducing traffic, and to promote public access to the water.

~~Invest in pedestrian and multi-modal infrastructure to support the working waterfront and improve public access to the waterfront.~~

### *Dredging*

~~This recommendation recognizes the environmental and financial burdens caused by combined sewer overflows and storm water pipes that discharge into the harbor. The cost associated with disposing the contaminated dredge material jumps to more than \$100 per cubic yard vs. as little as \$12 per cubic yard for uncontaminated dredge disposal costs. Placing an additional financial burden on the marine industry, the significant cost of the disposal of the contaminated dredged material allows only a limited ability to recover those costs through increased berthing fees. Since there are public health and ecological benefits associated with removing contaminated sediment, the Report recommends that the City devise a strategy to dispose of contaminated sediments and to subsidize a portion of the costs of the dredging. See CAD Cell Development discussion below.~~

### *New Publicly Owned Pier*

Located between the Portland Ocean Terminal and Ocean Gateway, a new deep-water pier will offer expanded berthing supporting cruise ship, home porting, tug boat, and transient berthing for current and future marine transportation industries.

### *Multimodal Surface and Structured Parking*

Existing and future waterfront industries and developments require shared parking resources to promote continued growth and opportunities for transportation choice.

### *Economic Development Staffing, and prorated salaries of the City Manager, Finance Director, Planning and Urban Development Director, and Planning Staff*

Fund a portion of the cost of City economic development staff involved in supporting waterfront business development activities and administration of the Original Development Program and this Amended Development Program, and prorated salaries of the City Manager, Finance Director, Planning and Urban Development Director, and Planning staff.

### *Utilities Infrastructure*

The design, upgrades, and construction of utility infrastructure including, but not limited to, lighting, water, stormwater and sewer systems, telecommunication, and electrical distribution upgrades.

#### *Credit Enhancement Agreements*

The City Council may approve credit enhancement agreements within the WGAterfront Central Zone (as depicted on Attachment #45) within the remaining term of the Amended Development Program to support important private sector projects in compliance with adopted City TIF Policy and where the City Council determines that the public benefits associated with individual projects meet or exceed the current or net present value of the project's share of the TIF proceeds for activities consistent with State law. City Council approved City TIF Policy limits the commercial Credit Enhancement Agreements to not exceed 65% of the incremental taxes up to a 20-year term; for Affordable Housing TIF District, the TIF Policy limits Credit Enhancement Agreements to not exceed 75% of the incremental taxes up to a 30-year term.

### **In and Out of District Use of Funds**

#### *Workforce Training Funds*

Marine Industries are increasingly challenged to find qualified workers to fill open positions and to capitalize on opportunities for growth. TIF funding can help expand the pool of applicants for current and future employment while improving employment options.

#### *Economic Development Programs and Events*

Job fairs, technology conferences, industry open houses, and other such events to market and promote the waterfront and its industries.

#### *Environmental Improvement Projects*

Waterfront industries, such as fisheries and tourism benefit from water quality improvement studies and projects. Likewise, sea level rise and other climate change related stresses on industries will increasingly require studies and infrastructure improvements to adapt to changing conditions and promote resiliency.

#### *Professional Services Costs*

Waterfront TIF funds may be used to support consulting and professional services needed for special projects and to conduct the everyday ongoing work implementing the development program.

## Dredging

Urban harbors require periodic dredging to retain access to and utility of commercial berthing. Typically located on state-owned submerged lands controlled by a submerged lands lease, berthing is the foundation resource supporting water-dependent employment and development. Un-dredged pier edges continually lose their value to marine industry through natural sedimentation and urban storm water runoff. The costs of dredging these public lands are prohibitive, with costs escalating due to contamination resulting from legacy industries, combined sewer overflows, and street runoff. With the support of the Maine Department of Transportation and the Portland Harbor Commission, the City of Portland has worked for the last several years to quantify volumes, sediment contamination, and sediment disposal options. TIF funding will promote dredging of public and private berthing and provide local match for additional state and federal funds.

~~This recommendation recognizes the environmental and financial burdens caused by combined sewer overflows and storm water pipes that discharge into the harbor. The cost associated with disposing the contaminated dredge material jumps to more than \$100 per cubic yard vs. as little as \$12 per cubic yard for uncontaminated dredge disposal costs. Placing an additional financial burden on the marine industry, the significant cost of the disposal of the contaminated dredged material allows only a limited ability to recover those costs through increased berthing fees. Since there are public health and ecological benefits associated with removing contaminated sediment, the Report recommends that the City devise a strategy to dispose of contaminated sediments and to subsidize a portion of the costs of the dredging. See CAD Cell Development discussion below.~~

### Dredged Sediment Disposal Costs and CAD Cell Development

The City is working with State and local partners to construct a Contained Aquatic Disposal (CAD) cell in Portland Harbor to address the needs of pier dredging for both public and private piers. Typical urban sediments are not suitable for open water disposal, necessitating creation of a local disposal option. On-land disposal is prohibitively expensive. A CAD cell location has been identified and TIF funding will provide local match to state and federal funds needed for final design and construction of the CAD cell.

### *C. Sub-District Development Program*

The twenty (20) year Sub-District Development Program supports the redevelopment of the Cumberland Cold Storage 100,000+ square foot building into a Class A office building. A twenty (20) year Credit Enhancement Agreement with the property owner and developer assists with project costs.

### *D. The Development District Property*

The City Council created the WREZGA Ordinance (see Attachments #2, ~~and #3, and #3A~~) whereby any property within the geographic area, delineated on the attached map (see Revised Attachment #4), that increased in value by an amount greater than \$400,000 over a two-year period would be considered for inclusion in a TIF application subject to the City Council approval.

NOTE: This Amendment #3 also proposes to amend the WREZGA Ordinance to expand the geographic area and rename the Ordinance the “Waterfront Development Growth Area Ordinance”, as noted on Attachment #3(A).

1. Original Development District Property

Five such properties were given a TIF District designation by the City Council in 2002 as part of the Original Development Program.

MAP	BLOCK	LOT
019	A	008
029	K	001
029	S	001
030	D	001
041	A	005

2. Sub-District Property

Properties 041-A-016 (0.17 acres) and 041-A-17-18 (1.38 acres) are the Sub-District for the purposes of establishing the original assessed value and allocating tax increment pursuant to the Credit Enhancement Agreement with the Developer.

The TIF Districts will apply to only new value generated within the Districts and will not affect the current property tax base.

3. Three Added TIF District Properties of March 2018

MAP	BLOCK	LOT
019	A	014001
031	K	003001
031	K	103001

4. Added TIF District Properties of September-Fall 2018

Additional Parcels to be added include: NOTE: a/o 9/14/2018, City is confirming the various parcels sizes, assessed values, and CBLs. A map, however, is attached showing the location of the subject properties.

*E. Municipal Use of TIF Revenues*

The City of Portland seeks authorization to utilize the revenues generated from this Amended Development Program ~~five Original TIF Districts, the Sub-District, and the three Added TIF District Properties of 2018~~ that are created in the WREZGA in support of the economic development activities called for in described in this Amended Development Program, and specifically, the activities outlined in Section II-A of this application.

*F. Operational Components*

1. Public Facilities

See Section IIA of this application.

2. Uses of Private Property

Subject to the approval of the City Council, the City will consider entering into credit enhancement agreements to support private projects located in the Waterfront Central Zone which meet the criteria set forth in this TIF District Program.

3. Plans for relocation of persons displaced by development activities.

No displacement or relocation of persons is associated with this TIF District.

4. Transportation Improvements

See Section IIA of this application.

5. Environmental Controls

~~This Original Development Program and this~~ Amended Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements.

6. Plan of Operation

During the life of this Amended District ~~five Original Districts, the Sub-District, and the three Added TIF District Properties of 2018~~, the City of Portland, City Council, or their designee, will be responsible for the administration of the Districts.

**III. Original Development Program Physical Description**

A. Total acreage of the municipality: 12,386 (taxable acres)

B. Total acreage of five Original TIF Districts: 3.4 acres

- C. Percent of line B of line A (line B divided by line A cannot exceed 2%): 0.03%
- D. Total acreage of all existing and Original TIF Districts in the municipality: 77.6 acres
- E. Percent line D of line A (cannot exceed 5%): 0.63%
- F. Not less than 25%, by area, of the real property within a development district shall meet at least one of the following criteria:
  - 1. Blighted acres N/A. Line F1 divided by line B = \_\_\_\_\_.
  - 2. Acreage in need of rehabilitation, redevelopment or conservation N/A. Line F2 divided by line B = \_\_\_\_\_.
  - 3. Acreage suitable for commercial siting = 3.4. Line F3 divided by line B = 100%.
- G. Enclosed municipal maps:
  - 1. Area map showing site location of the five Original TIF Districts in relation to geographic location of municipality (Attachment #6).
  - 2. Site map showing tax map locations and the five Original TIF Districts (Attachments #7A through 7E).

**III-A. Sub-District Physical Description**

- A. Total acreage of the municipality: 12,386 (taxable acres)
- B. Total acreage proposed for Sub-District: 1.55
- C. Percent of line B of line A (line B divided by line A cannot exceed 2%): 0.01%
- D. Total acreage of all existing and proposed TIF Districts in the municipality: 189.92
- E. Percent line D of line A (cannot exceed 5%): 1.53%
- F. Not less than 25%, by area, of the real property within a development district shall meet at least one of the following criteria:
  - 1. Blighted acres N/A. Line F1 divided by line B = \_\_\_\_\_.
  - 2. Acreage in need of rehabilitation, redevelopment or conservation N/A. Line F2 divided by line B = \_\_\_\_\_.
  - 3. Acreage suitable for commercial siting =    . Line F3 divided by line B = 100%.

### **III-B. Added TIF District Properties of March 2018 Physical Description**

The total acreage of the three Added TIF District Properties of March 2018 is 1.675 acres. Exhibit 16 contains financial and statistical information relating to this Amendment required as a prerequisite to designation of the Amended District by the City and approval by MDECD.

Enclosed municipal maps:

1. Area map showing site location of the Sub-District, and the three Added TIF District Properties of March 2018, in relation to geographic location of municipality (Attachment #8)
2. Tax maps showing locations of the three Added TIF District Properties of March 2018 (Attachment #9).

### **III-C. Added TIF District Properties of September 2018 Physical Description**

The total acreage of the added September 2018 TIF District Properties is estimated at 80 acres. Exhibit 16 contains financial and statistical information relating to this Amendment required as a prerequisite to designation of the Amended District by the City and approval by MDECD.

Enclosed municipal maps:

1. Area map showing site location of the Added September 2018 TIF District Properties, in relation to geographic location of municipality (Attachment #9(C)).
2. Tax maps showing locations of the added September 2018 TIF District Properties (Attachments #9(D) through ( )).

## **IV. Original Development Program Financial Plan**

### *A. Costs and Sources of Revenues*

The five Original TIF Districts comprise an area of approximately 3.4 acres of taxable real and personal property with an original assessed value of \$6,716,410 as of March 31, 2001. The development within the Original TIF Districts is estimated to add an additional \$26,221,692 of new assessed value to the City over the 30 years.

The Original Development Program and this Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the Original TIF Districts to be captured and designated as TIF Revenues. The City will apply the portion of retained revenues to the economic development activities described in the Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity that is allowable under the Amended Development Program.

Attachment #10 details the projections and proposed TIF revenue allocation based upon the anticipated assessed value increases within the AmendedOriginal TIF Districts. Attachment #10 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

*B. Development Program Account*

The Original Development Program and this Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Waterfront TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses and Developer Cost Subaccount (the “Developer Cost Subaccount”) pledged to, and charged with, payment by the City under any credit enhancement agreement.

*C. Financing Plan*

The developments within the described Original TIF Districts will add approximately \$26.2 million of new taxable value in the City of Portland over 30 years. TIF revenues will be allocated as described on Attachment #10 to finance the costs of this Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained and the actual annual assessed value within the Districts.

**IV-A. Sub-District Financial Plan**

*A. Cost and Sources of Revenue*

The one TIF Sub-District comprises an area of 1.55 acres of taxable real property with an original assessed value of \$950,900 as of March 31, 2010. The development within the sub-district is estimated to add an additional \$12,000,000 of new assessed value to the City.

This Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the Sub-District to be captured and designated as TIF Revenues. The City will apply the portion of retained revenues to a credit enhancement agreement with the Developer and the balance of retained revenues to the economic development activities described in this Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity with its allocable share of retained revenues that is allowable under the Amended Development Program.

Attachment #11 details the projections and TIF revenue allocation schedule based upon the anticipated assessed value increases within the Sub-District. Attachment #11 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

*B. Development Program Account*

This Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Cumberland Cold Storage TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses and a Developer Cost Subaccount (the “Developer Cost Subaccount”) pledged to, and charged with, payment by the City under the credit enhancement agreement to be entered into with the Developer.

*C. Financing Plan*

The developments within the Sub-District will add approximately \$12 million of new taxable value in the City of Portland. TIF revenues will be allocated as described on Attachment #11 to finance the costs of this Amended Development Program and to fund the City’s payment obligations to the Developer pursuant to the credit enhancement agreement to be entered into with the Developer. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained and the actual annual assessed value within the Districts.

**IV-B Added TIF District Properties of March 2018 Financial Plan**

*A. Costs and Sources of Revenues*

The three Added TIF District Properties of March 2018 comprise an area of approximately 1.675 acres of taxable real property with an original assessed value of \$616,430 as of March 31, 2017. The development within the three Added TIF District Properties of March 2018 is estimated to add an additional \$20.7 Million of new assessed value to the City over the remainder of the term through June 30, 2032.

The Original Development Program and this Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the Original TIF Districts to be

captured and designated as TIF Revenues. The City will apply the portion of retained revenues to the economic development activities described in the Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity that is allowable under the Amended Development Program.

Attachment #12 details the projections and proposed TIF revenue allocation based upon the anticipated assessed value increases within the three Added TIF District Properties of March 2018. Attachment #12 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

#### *B. Development Program Account*

The Original Development Program and this Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Waterfront TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses and Developer Cost Subaccount (the “Developer Cost Subaccount”) pledged to, and charged with, payment by the City under any credit enhancement agreement.

#### *C. Financing Plan*

The developments within the three Added TIF District Properties of March 2018 will add approximately \$20.7 Million of new taxable value in the City of Portland over the remainder of the term through June 30, 2032. TIF revenues will be allocated as described on Attachment #12 to finance the costs of this Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained and the actual annual assessed value within the Districts.

### **IV-C Added TIF District Properties of September 2018 Financial Plan**

#### *A. Costs and Sources of Revenues*

The Added TIF District Properties of September 2018 comprise an area of approximately 80 acres of taxable real property with an original assessed value of \$20,049,870 as of March 31, 2018. The development within the Added TIF District Properties of September 2018 is estimated to add an additional \$300 Million of new assessed value to the City over the remainder of the term through June 30, 2032.

The Original Development Program and this Amended Development Program provide for the new tax revenues generated by the increase in assessed value of the Original TIF and Amended Districts to be captured and designated as TIF Revenues. The City will apply the portion of retained revenues to the economic development activities described in the Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity that is allowable under the Amended Development Program.

Attachment #12(A) details the projections and proposed TIF revenue allocation based upon the anticipated assessed value increases within the Added TIF District Properties of September 2018. Attachment #12(A) is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

B. *Development Program Account*

The Original Development Program and this Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Waterfront TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses and Developer Cost Subaccount (the “Developer Cost Subaccount”) pledged to, and charged with, payment by the City under any credit enhancement agreement.

C. *Financing Plan*

The developments within the Added TIF District Properties of September 2018 will add approximately \$300 Million of new taxable value in the City of Portland over the remainder of the term through June 30, 2032. TIF revenues will be allocated as described on Attachment #12(A) to finance the costs of this Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained and the actual annual assessed value within the Districts.

**V. Original TIF Districts Financial Data**

- A. Total 2001 value of equalized property in the municipality: \$3,873,900,000.
- B. Original assessed value of all properties in all existing and proposed Original TIF districts:
  - Existing        \$20,961,460

Proposed	\$6,716,410
Total	\$27,677,870

Line B divided by line A = 0.71% (cannot exceed 5%).

- C. Estimate of increased assessed value by year after implementation of the Original Development Program: See Attachment #10
- D. Percentage of increased assessed value to be applied to the Original Development Program fund: See Attachment #10
- E. Estimated annual tax increment: \$400,113 (Average)
- F. Total average annual value of development program fund: \$400,113 (Average)
- G. Annual principal and interest payment of bonded indebtedness: N/A
- H. Financial assumptions and safeguards: Under the Original Development Program, the City of Portland only sought to implement its own Waterfront Economic Redevelopment Program and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.
- I. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #13.

**V-A. Sub-District Financial Data**

- A. Total 2010 value of property in the municipality: \$8,196,900,000.
- B. Original assessed value of all properties in all existing TIF Districts and proposed sub-district:

Existing	\$305,455,220
<u>Proposed</u>	<u>\$950,900</u>
Total	\$306,406,120

Line B divided by line A = 3.73% (cannot exceed 5%).

- C. Estimate of increased assessed value by year after implementation of the development program: See Attachment #11
- D. Percentage of increased assessed value to be applied to the development program fund: See Attachment #11
- E. Estimated annual tax increment: \$143,503 (Average)

- F. Total average annual value of development program fund: \$143,503 (Average)
- G. Annual principal and interest payment of bonded indebtedness: N/A
- H. Financial assumptions and safeguards: The City of Portland seeks to implement its own Waterfront Economic Redevelopment Program and to fund its payment obligations to the Developer under the credit enhancement agreement with the Developer and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.
- I. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #14.

**V-B. Added TIF District Properties of March 2018 Financial Data**

- A. Total 2018 value of taxable property in the municipality: \$9,049,500,000.
- B. Original assessed value of all properties in all existing and proposed Amended TIF districts:

Existing	\$1,106,422,670
Proposed	\$616,430
Sub-Total	\$1,107,059,100
Less Exempt	<u>-\$973,107,320</u>
Total	\$133,951,780

Line B divided by line A = 1.48% (cannot exceed 5%).

- C. Estimate of increased assessed value by year after implementation of the three Added TIF District Properties of 2018: See Attachment #12.
- D. Percentage of increased assessed value to be applied to the three Added TIF District Properties of 2018 Development Program fund: See Attachment #12
- E. Estimated annual tax increment: \$491,204 (Average)
- F. Total average annual value of development program fund: \$491,204 (Average)
- G. Annual principal and interest payment of bonded indebtedness: \$200,000-N/A
- H. Financial assumptions and safeguards: Under the Original Development Program, the City of Portland only sought to implement its own Waterfront Economic Redevelopment Program and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.

II. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #15.

**V-C. Added TIF District Properties of September 2018 Financial Data**

A. Total 2018 value of taxable property in the municipality: \$9,049,500,000.

B. Original assessed value of all properties in all existing and proposed Amended TIF districts:

<u>Existing</u>	<u>\$1,107,059,100</u> <del>6,422,670</del>
<u>Proposed</u>	<u>\$20,049,870</u>
<u>Sub-Total</u>	<u>\$1,127,108,970</u>
<u>Less Exempt</u>	<u>-\$973,107,320</u>
<u>Total</u>	<u>\$154,001,650</u> <del>133,951,780</del>
<u>Line B divided by line A = 1.7% (cannot exceed 5%).</u>	

C. Estimate of increased assessed value by year after implementation of the ~~three~~ Added TIF District Properties of September 2018: See Attachment #12(A).

D. Percentage of increased assessed value to be applied to the ~~three~~ Added TIF District Properties of September 2018 Development Program fund: 100%

E. Estimated annual tax increment: \$7,282,000 (Average)

F. Total average annual value of development program fund: \$7,282,000 (Average)

G. Annual principal and interest payment of bonded indebtedness: \$200,000

H. Financial assumptions and safeguards: Under the Original Development Program, the City of Portland only sought to implement its own Waterfront Economic Redevelopment Program and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.

III. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #15(A).

**VI. Original Development Program Tax Shifts (See Attachment #13)**

*A. Average Annual Amount:*

General Purpose Aid to Education Tax Shift: \$137,700

Municipal Revenue Sharing Tax Shift: \$17,004

County Tax Shift: \$7,855

Total Average Annual Savings: \$162,560

**VI-A Sub-District Tax Shifts (See Attachment #14)**

General Purpose Aid to Education Tax Shift: \$49,822

Municipal Revenue Sharing Tax Shift: \$6,183

County Tax Shift: \$2,856

Total Average Annual Savings: \$58,860

**VI-B. Added TIF District Properties of March 2018 Tax Shifts (See Attachment #15)**

*A. Average Annual Amount:*

General Purpose Aid to Education Tax Shift: \$122,721

Municipal Revenue Sharing Tax Shift: \$11,772

County Tax Shift: \$10,522

Total Average Annual Savings: \$145,015

**VI-C. Added TIF District Properties of September 2018 Tax Shifts (See Attachment #15(A))**

*A. Average Annual Amount:*

General Purpose Aid to Education Tax Shift: \$2,341,121

Municipal Revenue Sharing Tax Shift: \$160,724

County Tax Shift: \$150,869

Total Average Annual Savings: \$2,652,714

**VII. Amended Development Program Municipal Approvals**

*A. Public Hearing Notice*

The City of Portland did give proper Notice of Public Hearing in accordance with the requirements of 30-A M.R.S.A. §5226. The notice was published on February 22, 2018 in a newspaper of general circulation (see Attachment #17).

*B. Public Hearing*

A Public Hearing at which the proposed Amended Development Program for adoption was held on March 6, 2018 in the Portland City Council Chambers. A copy of the minutes of that meeting is included as Attachment #18.

*C. Authorizing Votes*

An attested copy of the resolution of the Portland City Council amending the Waterfront Redevelopment Program is included as Attachment #19.

# City of Portland

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## Waterfront Economic Redevelopment Program

*Application for FY02 and FY10 Amended Waterfront Tax Increment Financing Development  
District Approved by City Council March 18, 2002*

### AMENDMENTS:

1. AMENDED AND RESTATED PER CITY COUNCIL APPROVAL  
ON JUNE 7, 2010 – INCREASE TERM AND CREATE SUBDISTRICT;
2. AMENDED AND RESTATED PER CITY COUNCIL APPROVAL ON  
MARCH 6, 2018 – ADD ADDITIONAL PROPERTIES
3. AMENDMENTS TO INCREASE INVESTMENT OPTIONS, ADD  
ADDITIONAL PROPERTIES, AND INCREASE GEOGRAPHICAL BOUNDARY  
– SEPTEMBER 2018, PER CITY COUNCIL APPROVAL ON \_\_\_\_\_.

*Prepared by:*

The City of Portland Economic Development Department  
March 13, 2002/Amended and Restated as of June 7, 2010; Amended and Restated March 6,  
2018; Amended and Restated \_\_\_\_\_

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## **I. Introduction**

The Portland City Council on March 18, 2002, designated five properties as tax increment financing districts (the “Original TIF Districts”) as more specifically described below and adopted the Waterfront Tax Increment Financial Development District Program (the “Original Development Program”). The Original TIF District program was designed for the City to capture 100% of the tax increment for specified allowable uses.

Amendment #1: On June 7, 2010, the Portland City Council approved the Amended and Restated the Original Development Program (“Amended Development Program”), which was approved by the Maine Department of Economic Development and Community Development (“MDECD) on June 28, 2010, as follows:

- Extend the term by twenty (20) years;
- Reduce the number of TIF investment options;
- Authorize the use of Credit Enhancement Agreements within the Waterfront Central Zone; and
- Establish a Sub-District (the “Sub-District”) within the District and to authorize a Credit Enhancement Agreement with the Developer with respect to the Sub-District in furtherance of the Cumberland Cold Storage (Merrill’s Wharf) Project.

Amendment #2: On March 6, 2018, the Portland City Council further amended the Original TIF Districts to add three properties with the following Chart, Lot, and Block (CBL) numbers (“Added TIF District Properties of 2018”):

- 019-A-014001;
- 031-K-003001; and,
- 031-K-103001.

The three additional properties include two projects under construction as follows:

WEX Headquarters (019-A-014001)

Union Wharf Mixed Use Development (031-K-003001 and 031-K103001)

MDECD approved Amendment #2 on May 29, 2018.

### ***History:***

The history of the City of Portland is inextricably tied to the waterfront. From tourism to shipbuilding to national defense, the waterfront has been a vital part of the social and economic fabric of Portland. Always, Portland has worked to recognize the unique needs of the harbor, to protect its authentic marine heritage and to provide public access. The product of this commitment comes from the work of a Mayoral Taskforce report entitled “Investing in Our Working Waterfront – Final Report of the Mayor’s Waterfront Task Force on Economic Development”, dated October 2000 (herein referred to as the “Task Force II Report”). An excerpt from its

Executive Summary is included here, and the full Report is attached to this application labeled as Attachment #1.

*“Portland is a waterfront city. Its harbor is one of the deepest on the East Coast and served as the staging area for the Atlantic Fleet during World War II. Today, it accommodates the largest petroleum trans-shipment operation on the East Coast. The inner harbor is very limited in geography; it is only about two miles in length from Bath Iron Works to Merrill’s Marine Terminal. The wharves that serve the needs of water-dependent businesses are both publicly and privately owned. Over the course of its long history, the Portland waterfront has served as a center of commerce, shipbuilding, cargo and passenger transport, fishing and defense. It has also supported a range of mixed uses, the character of which has changed over time as the City of Portland and its waterfront have evolved.*

*Portland has a 30-year history of commitment to its working waterfront. The City began planning the future of its waterfront in the early 1970’s, culminating in 1982 with multi-faceted development strategies, including zoning amendments, construction of public facilities, and policies to address berthing and public access. Despite these initiatives, the emergence of the Old Port as a vital retail center and tourist attraction threatened to drive traditional industries from their waterfront locations. A citizen-initiated referendum in 1987 passed by a 2-1 margin, clearly demonstrating the public’s commitment to a working waterfront, and significant limitations were placed on development of the water side of Commercial Street.*

*Before the development moratorium expired in 1992, the City asked waterfront interests to review the zoning and recommend any changes that might provide more flexibility in renting space, while protecting water-dependent and marine-related uses (The Waterfront Alliance Report, 1992). While some may argue otherwise, the existing zoning structure, based on the 1992 Report, strikes a reasonable balance between preserving the “working waterfront” and allowing property owners necessary flexibility in managing their assets. Since the 1980’s, Portland and the State of Maine have invested significant public dollars in supporting traditional waterfront activities such as ship repair, commercial fishing, and cargo transfer. At the same time, some private property owners have, for a variety of reasons, lacked the revenues to maintain their piers, resulting in a serious infrastructure problem, which threatens the viability of certain piers as elements of the waterfront economy.*

*Despite investments in publicly owned waterfront facilities, the City has done little to assist private owners of waterfront property, the uses of which have been limited by public policy, as noted above. This report is the result of a charge issued by then-Mayor Tom Kane to “focus on economic support for the waterfront...and to make the working waterfront work.” It is the second of a three-phase process for defining the City’s vision for its waterfront.”*

The Task Force II Report was presented to the City Council and the public, and the Council voted to incorporate it into the Comprehensive Plan on June 4, 2001.

The Task Force II Report identified the unique needs of the waterfront from both an infrastructure and a business development perspective, and several recommendations were made. In order to turn these recommendations into waterfront economic development opportunities, a program to create a funding mechanism through Tax Increment Financing (“TIF”) Districts was put in place.

Since the adoption of Waterfront Task Force II report, the City has systematically conducted area specific planning and re-zoning processes for the three waterfront sub-areas identified in the 1992 Waterfront Alliance Report: Eastern Waterfront, Central Waterfront, and Western Waterfront. These processes have resulted in an updated framework of regulation that reflects the industries, infrastructures, water depths, and ownership patterns on the Portland Waterfront. Current regulations continue to prioritize and protect water dependent uses while allowing reasonable flexibility to promote investment. While new zoning promotes waterfront investment, barriers remain. Deferred pier maintenance, shifting industry needs, dredging needs, traffic congestion, and parking shortages continue to challenge public and private piers and the industries that depend on them.

## **II. Development Program**

### *A. Amended Development Program*

With the incorporation of the Task Force II Report into the Portland Comprehensive Plan in 2000, with these policies recently reinforced with the redrafted Portland 2030 Plan, the City Council formally recognizes the unique business development needs of the waterfront. Since a funding mechanism was required to implement the recommendations of the Report, the City began crafting what ultimately became the Waterfront Capital Improvement and Economic Redevelopment Zone (“WREZ”) Ordinance (see Attachment #2 as passed June 4, 2001, Attachment #3 as amended December 1, 2008; and Attachment 3(A) as amended \_\_\_\_\_ and renamed “Waterfront Growth Area Ordinance” [WGA, as referred to from now on within this document]) whereby any property within the WGAGA geographic area, delineated on the attached map (see Revised Attachment #4), that increased in value by an amount greater than \$400,000 over a two-year period would be subject to inclusion in a TIF application.

By adopting the WGA Ordinance, the City Council recognized that the non-marine commercial development that has occurred in the Old Port and the surrounding area has benefited through the years from the authenticity of the working waterfront. Said another way, Portland’s downtown became a desirable destination for tourists, retailers, restaurants and high-end office users in part because of the vibrant business of those that depend upon the water for their living. Portland blends a vibrant mix of fishing vessels, vessel repair, chandlery, cargo operations and the like with lawyers, bankers, technology entrepreneurs and tourists. Given that non-marine uses place strains on the working waterfront, and that a revenue stream was required to maintain and improve the economic vibrancy of the area, the City Council acted to nurture this symbiotic relationship by directing the incremental revenues of the new commercial development back to the working waterfront. The result of that action was the adoption of the WGA Ordinance.

The WGA Ordinance is intended to be in effect for several years. As such, the designation of the five Original TIF Districts described in the Original Development Program were the first in what the City hoped to be a multiple year program where several additional TIF Districts will be created. The common theme underlying the Original Development Program, this Amended Development Program, and future TIF applications is the implementation of the Task Force II Report findings. As such, the projects described in the Original Development Program and this Amended Development Program are intended to be greater in scope than the five Original TIF Districts could support by themselves.

1. Amendment #2 – Three Added Parcels Approved by City Council March 16, 2018

The Original Development Program and the three Added TIF District Properties of March 2018 (CBLs 019-A-014001, 031-K003001, and 031-K-103001) will serve as the model for future amendments to the Original Development Program, as amended, as properties become eligible through the WGA Ordinance.

2. Amendment #3 – Additional Parcels to be Added – September 2018

Additional Parcels to be added include those listed in Section II(D)(4).

In addition, this proposed Amendment increases City TIF revenue investment options, as well as increases the geographic area by amending and renaming the WREZ to the “Waterfront Development Growth Area Ordinance”. See proposed amendments to the WREZ as noted on Attachment #3(A).

The activities to be funded through the Original Development Program and this Amended Development Program will be specifically determined on an annual basis upon recommendation by the City Manager for action by the City Council. Therefore, the City of Portland seeks authorization to fund all the activities described in this Amended Development Program so that each year the City Council could prioritize which specific activities to fund.

*B. The Projects*

The projects to be undertaken are derived from the recommendations of the Task Force II Report which are:

1. Encourage private and public waterfront investments;
2. Provide support to maintain a working waterfront;
3. Support a clean, working harbor.

Generally, the activities to be undertaken and the approximate cost associated with each activity are described in Table 1 below.

**TABLE 1**

**Note 1:** All citations refer to Title 30-A, Chapter 206, Section 5225

Project	Statutory Citation	Estimated Cost
<b>In District: Capital Infrastructure Design and Investments, including financing costs, for example:</b>		
Pier and Wharf Structural Repair	(1)(A)(1)(2)(3)(6)(7)	\$15,000,000
Local Match for Ocean Gateway Project	(1)(A)(2)	\$1,000,000
Street Studies and Improvements (Remedy Traffic Congestion)	(1)(A)(1)(2)(3)(6)(7)	\$20,000,000
Pedestrian and Multi-Modal Circulation and Amenity Improvements	(1)(A)(1)(2)(3)(6)(7)	\$2,000,000
New Publicly Owned Pier	(1)(A)(1)(2)(3)(6)(7)	\$3,000,000
Multi-Modal Surface and Structured Parking	(1)(A)(1)(2)(3)(6)(7)	\$10,000,000
Utilities Infrastructure	(1)(A)(1)(2)(3)(6)(7)	\$15,000,000
Credit Enhancement Agreements	(1)(A)	\$4,000,000
<b>In and out of District:</b>		
(a) Funding the Economic Development Department, including prorated salaries of City Manager, Finance, and Planning Urban Development Director and Planning staff;	(1)(A)(5) and (C)(1)	Per Each Individual CEA Project \$50,000 Annually effective 7/1/2010 for 22 years, or \$1,100,000 total.
(b) Workforce training funds. Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained, of value to marine industry;	(1)(C)(4)	\$750,000
(c) Costs of funding economic development programs or events;	(1)(C)(1)	\$250,000
(d) Costs of funding environmental improvements projects for commercial use, including sea level adaptation studies and infrastructure improvements;	(1)(C)(2)	\$5,000,000
(e) Professional services costs.	(1)(A)(4); 1(C)(1)	\$1,000,000
(f) Dredging of commercial vessel berthing; and,	(1)(A)(1)(2)(6)(7)	\$5,000,000
(g) Dredge sediment disposal and CAD Cell development.	(1)(A) and (1)(C)(2)	\$5,000,000
<b>Total Estimate of TIF Revenue Expenditure over 30-year term:</b>		<b>\$88,100,000 – excluding CEA Projects</b>

The City recognizes that the full scope of the needs of the Waterfront Economic Redevelopment Program is beyond the funds anticipated to be generated through this Amended Development Program. Since the Original Development Program, this Amended Development Program will serve as the template for future TIF District applications, however, the City again seeks authorization for the full “menu” of economic development activities described above. This is necessary to maintain flexibility and adaptability as the needs of the waterfront are prioritized throughout the life of this Amended Development Program.

### **In District Use of Funds**

#### *Pier and Wharf Structural Repair*

The waterfront infrastructure needs are considerable. The Task Force II Report estimated the need for \$1.4 million in repairs to 14 wharves within three years, with an additional \$1.8 million needed over the next 20 years. Over the last 18 years, these costs have grown considerably and the Task Force II Report estimates should be considered woefully inadequate. Working pier space and commercial berthing are the foundational resources promoting water-dependent industries. Piling replacement, deck repair, structural repair, seawall maintenance, and berthing improvements are constant necessities in any marine environment. See Dredging below.

#### *Local Match for Ocean Gateway Project*

The voters of the State of Maine approved an allocation of roughly \$15 million for the construction of a marine passenger facility, requiring a local match of nearly \$1 million.

#### *Street Studies and Improvements (Remedy Traffic Congestion)*

For more than the last 10 years, the Portland Waterfront has experienced a historic development cycle that continues to this day. To keep pace with development and to retain and grow marine industry, significant transportation improvements will be required to accommodate the increased traffic. With particular emphasis on Commercial Street, Franklin Street, and the India Street neighborhood, street system improvements are and will continue to be studied and improved.

#### *Pedestrian Circulation and Multi-modal Transportation, Improvements*

With the growth of tourism, cruise ships, and non-marine development, waterfront industries increasingly share roadway capacity with, pedestrians, bicycles, tour vehicles, and non-marine delivery trucks. To both accommodate these new users and protect existing marine industries, the City will need to invest in pedestrian infrastructure, bicycle infrastructure (lanes, racks and stations,) public transit, and other multi-modal transportation improvements to promote a safe and functional transportation network. Multi-modal investments provide the additional opportunity to

remove single occupancy vehicles from the network, reducing traffic, and to promote public access to the water.

#### *New Publicly Owned Pier*

Located between the Portland Ocean Terminal and Ocean Gateway, a new deep-water pier will offer expanded berthing supporting cruise ship, home porting, tug boat, and transient berthing for current and future marine transportation industries.

#### *Multimodal Surface and Structured Parking*

Existing and future waterfront industries and developments require shared parking resources to promote continued growth and opportunities for transportation choice.

#### *Economic Development Staffing, and prorated salaries of the City Manager, Finance Director, Planning and Urban Development Director, and Planning Staff*

Fund a portion of the cost of City economic development staff involved in supporting waterfront business development activities and administration of the Original Development Program and this Amended Development Program, and prorated salaries of the City Manager, Finance Director, Planning and Urban Development Director, and Planning staff.

#### *Utilities Infrastructure*

The design, upgrades, and construction of utility infrastructure including, but not limited to, lighting, water, stormwater and sewer systems, telecommunication, and electrical distribution upgrades.

#### *Credit Enhancement Agreements*

The City Council may approve credit enhancement agreements within the WGA(as depicted on Attachment #4) within the remaining term of the Amended Development Program to support important private sector projects in compliance with adopted City TIF Policy and where the City Council determines that the public benefits associated with individual projects meet or exceed the current or net present value of the project's share of the TIF proceeds for activities consistent with State law. City Council approved City TIF Policy limits the commercial Credit Enhancement Agreements to not exceed 65% of the incremental taxes up to a 20-year term; for Affordable Housing TIF District, the TIF Policy limits Credit Enhancement Agreements to not exceed 75% of the incremental taxes up to a 30-year term.

## **In and Out of District Use of Funds**

### *Workforce Training Funds*

Marine Industries are increasingly challenged to find qualified workers to fill open positions and to capitalize on opportunities for growth. TIF funding can help expand the pool of applicants for current and future employment while improving employment options.

### *Economic Development Programs and Events*

Job fairs, technology conferences, industry open houses, and other such events to market and promote the waterfront and its industries.

### *Environmental Improvement Projects*

Waterfront industries, such as fisheries and tourism benefit from water quality improvement studies and projects. Likewise, sea level rise and other climate change related stresses on industries will increasingly require studies and infrastructure improvements to adapt to changing conditions and promote resiliency.

### *Professional Services Costs*

Waterfront TIF funds may be used to support consulting and professional services needed for special projects and to conduct the everyday ongoing work implementing the development program.

### *Dredging*

Urban harbors require periodic dredging to retain access to and utility of commercial berthing. Typically located on state-owned submerged lands controlled by a submerged lands lease, berthing is the foundation resource supporting water-dependent employment and development. Un-dredged pier edges continually lose their value to marine industry through natural sedimentation and urban storm water runoff. The costs of dredging these public lands are prohibitive, with costs escalating due to contamination resulting from legacy industries, combined sewer overflows, and street runoff. With the support of the Maine Department of Transportation and the Portland Harbor Commission, the City of Portland has worked for the last several years to quantify volumes, sediment contamination, and sediment disposal options. TIF funding will promote dredging of public and private berthing and provide local match for additional state and federal funds.

See CAD Cell Development discussion below.

*Dredged Sediment Disposal Costs and CAD Cell Development*

The City is working with State and local partners to construct a Contained Aquatic Disposal (CAD) cell in Portland Harbor to address the needs of pier dredging for both public and private piers. Typical urban sediments are not suitable for open water disposal, necessitating creation of a local disposal option. On-land disposal is prohibitively expensive. A CAD cell location has been identified and TIF funding will provide local match to state and federal funds needed for final design and construction of the CAD cell.

*C. Sub-District Development Program*

The twenty (20) year Sub-District Development Program supports the redevelopment of the Cumberland Cold Storage 100,000± square foot building into a Class A office building. A twenty (20) year Credit Enhancement Agreement with the property owner and developer assists with project costs.

*D. The Development District Property*

The City Council created the WGA Ordinance (see Attachments #2, #3, and #3A) whereby any property within the geographic area, delineated on the attached map (see Revised Attachment #4), that increased in value by an amount greater than \$400,000 over a two-year period would be considered for inclusion in a TIF application subject to the City Council approval.

NOTE: This Amendment #3 also proposes to amend the WGA Ordinance to expand the geographic area and rename the Ordinance the “Waterfront Development Growth Area Ordinance”, as noted on Attachment #3(A).

1. Original Development District Property

Five such properties were given a TIF District designation by the City Council in 2002 as part of the Original Development Program.

MAP	BLOCK	LOT
019	A	008
029	K	001
029	S	001
030	D	001
041	A	005

2. Sub-District Property

Properties 041-A-016 (0.17 acres) and 041-A-17-18 (1.38 acres) are the Sub-District for the purposes of establishing the original assessed value and allocating tax increment pursuant to the Credit Enhancement Agreement with the Developer.

The TIF Districts will apply to only new value generated within the Districts and will not affect the current property tax base.

3. Three Added TIF District Properties of March 2018

MAP	BLOCK	LOT
019	A	014001
031	K	003001
031	K	103001

4. Added TIF District Properties of September 2018

Additional Parcels to be added include: NOTE: a/o 9/14/2018, City is confirming the various parcel sizes, assessed values, and CBLs. A map, however, is attached showing the location of the subject properties.

*E. Municipal Use of TIF Revenues*

The City of Portland seeks authorization to utilize the revenues generated from this Amended Development Program that are created in the WGA in support of the economic development activities called for in described in this Amended Development Program, and specifically, the activities outlined in Section II-A of this application.

*F. Operational Components*

1. Public Facilities

See Section IIA of this application.

2. Uses of Private Property

Subject to the approval of the City Council, the City will consider entering into credit enhancement agreements to support private projects located in the Waterfront Central Zone which meet the criteria set forth in this TIF District Program.

3. Plans for relocation of persons displaced by development activities.

No displacement or relocation of persons is associated with this TIF District.

4. Transportation Improvements

See Section IIA of this application.

5. Environmental Controls

This Amended Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements.

6. Plan of Operation

During the life of this Amended District, the City of Portland, City Council, or their designee, will be responsible for the administration of the Districts.

**III. Original Development Program Physical Description**

- A. Total acreage of the municipality: 12,386 (taxable acres)
- B. Total acreage of five Original TIF Districts: 3.4 acres
- C. Percent of line B of line A (line B divided by line A cannot exceed 2%): 0.03%
- D. Total acreage of all existing and Original TIF Districts in the municipality: 77.6 acres
- E. Percent line D of line A (cannot exceed 5%): 0.63%
- F. Not less than 25%, by area, of the real property within a development district shall meet at least one of the following criteria:
  - 1. Blighted acres N/A. Line F1 divided by line B = \_\_\_\_\_.
  - 2. Acreage in need of rehabilitation, redevelopment or conservation N/A. Line F2 divided by line B = \_\_\_\_\_.
  - 3. Acreage suitable for commercial siting = 3.4. Line F3 divided by line B = 100%.
- G. Enclosed municipal maps:
  - 1. Area map showing site location of the five Original TIF Districts in relation to geographic location of municipality (Attachment #6).
  - 2. Site map showing tax map locations and the five Original TIF Districts (Attachments #7A through 7E).

**III-A. Sub-District Physical Description**

- A. Total acreage of the municipality: 12,386 (taxable acres)
- B. Total acreage proposed for Sub-District: 1.55
- C. Percent of line B of line A (line B divided by line A cannot exceed 2%): 0.01%

- D. Total acreage of all existing and proposed TIF Districts in the municipality: 189.92
- E. Percent line D of line A (cannot exceed 5%): 1.53%
- F. Not less than 25%, by area, of the real property within a development district shall meet at least one of the following criteria:
  - 1. Blighted acres N/A. Line F1 divided by line B = \_\_\_\_\_.
  - 2. Acreage in need of rehabilitation, redevelopment or conservation N/A. Line F2 divided by line B = \_\_\_\_\_.
  - 3. Acreage suitable for commercial siting = \_\_\_\_\_. Line F3 divided by line B = 100%.

**III-B. Added TIF District Properties of March 2018 Physical Description**

The total acreage of the three Added TIF District Properties of March 2018 is 1.675 acres. Exhibit 16 contains financial and statistical information relating to this Amendment required as a prerequisite to designation of the Amended District by the City and approval by MDECD.

Enclosed municipal maps:

- 1. Area map showing site location of the Sub-District, and the three Added TIF District Properties of March 2018, in relation to geographic location of municipality (Attachment #8)
- 2. Tax maps showing locations of the three Added TIF District Properties of March 2018 (Attachment #9).

**III-C. Added TIF District Properties of September 2018 Physical Description**

The total acreage of the added September 2018 TIF District Properties is estimated at 80 acres. Exhibit 16 contains financial and statistical information relating to this Amendment required as a prerequisite to designation of the Amended District by the City and approval by MDECD.

Enclosed municipal maps:

- 1. Area map showing site location of the Added September 2018 TIF District Properties, in relation to geographic location of municipality (Attachment #9(C)).
- 2. Tax maps showing locations of the added September 2018 TIF District Properties (Attachments #9(D) through ( )).

#### **IV. Original Development Program Financial Plan**

##### *A. Costs and Sources of Revenues*

The five Original TIF Districts comprise an area of approximately 3.4 acres of taxable real and personal property with an original assessed value of \$6,716,410 as of March 31, 2001. The development within the Original TIF Districts is estimated to add an additional \$26,221,692 of new assessed value to the City over the 30 years.

The Original Development Program and this Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the Original TIF Districts to be captured and designated as TIF Revenues. The City will apply the portion of retained revenues to the economic development activities described in the Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity that is allowable under the Amended Development Program.

Attachment #10 details the projections and proposed TIF revenue allocation based upon the anticipated assessed value increases within the Amended TIF District. Attachment #10 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

##### *B. Development Program Account*

The Original Development Program and this Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Waterfront TIF Development Program Account is established consisting of a project cost account ("Project Cost Account") pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the "City Cost Subaccount") pledged to, and charged with, payment to the City for the cost of approved economic development expenses and Developer Cost Subaccount (the "Developer Cost Subaccount") pledged to, and charged with, payment by the City under any credit enhancement agreement.

##### *C. Financing Plan*

The developments within the described Original TIF Districts will add approximately \$26.2 million of new taxable value in the City of Portland over 30 years. TIF revenues will be allocated as described on Attachment #10 to finance the costs of this Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained and the actual annual assessed value within the Districts.

#### **IV-A. Sub-District Financial Plan**

##### **A. Cost and Sources of Revenue**

The one TIF Sub-District comprises an area of 1.55 acres of taxable real property with an original assessed value of \$950,900 as of March 31, 2010. The development within the sub-district is estimated to add an additional \$12,000,000 of new assessed value to the City.

This Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the Sub-District to be captured and designated as TIF Revenues. The City will apply the portion of retained revenues to a credit enhancement agreement with the Developer and the balance of retained revenues to the economic development activities described in this Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity with its allocable share of retained revenues that is allowable under the Amended Development Program.

Attachment #11 details the projections and TIF revenue allocation schedule based upon the anticipated assessed value increases within the Sub-District. Attachment #11 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

##### **B. Development Program Account**

This Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Cumberland Cold Storage TIF Development Program Account is established consisting of a project cost account ("Project Cost Account") pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the "City Cost Subaccount") pledged to, and charged with, payment to the City for the cost of approved economic development expenses and a and Developer Cost Subaccount (the "Developer Cost Subaccount") pledged to, and charged with, payment by the City under the credit enhancement agreement to be entered into with the Developer.

##### **C. Financing Plan**

The developments within the Sub-District will add approximately \$12 million of new taxable value in the City of Portland. TIF revenues will be allocated as described on Attachment #11 to finance the costs of this Amended Development Program and to fund the City's payment obligations to the Developer pursuant to the credit enhancement agreement to be entered into with the Developer. Actual payments to the Project Cost Account will be adjusted based upon

the applicable annual percentage retained and the actual annual assessed value within the Districts.

#### **IV-B Added TIF District Properties of March 2018 Financial Plan**

##### *A. Costs and Sources of Revenues*

The three Added TIF District Properties of March 2018 comprise an area of approximately 1.675 acres of taxable real property with an original assessed value of \$616,430 as of March 31, 2017. The development within the three Added TIF District Properties of March 2018 is estimated to add an additional \$20.7 Million of new assessed value to the City over the remainder of the term through June 30, 2032.

The Original Development Program and this Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the Original TIF Districts to be captured and designated as TIF Revenues. The City will apply the portion of retained revenues to the economic development activities described in the Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity that is allowable under the Amended Development Program.

Attachment #12 details the projections and proposed TIF revenue allocation based upon the anticipated assessed value increases within the three Added TIF District Properties of March 2018. Attachment #12 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

##### *B. Development Program Account*

The Original Development Program and this Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Waterfront TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses and Developer Cost Subaccount (the “Developer Cost Subaccount”) pledged to, and charged with, payment by the City under any credit enhancement agreement.

##### *C. Financing Plan*

The developments within the three Added TIF District Properties of March 2018 will add approximately \$20.7 Million of new taxable value in the City of Portland over the remainder of

the term through June 30, 2032. TIF revenues will be allocated as described on Attachment #12 to finance the costs of this Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained and the actual annual assessed value within the Districts.

#### **IV-C Added TIF District Properties of September 2018 Financial Plan**

##### *A. Costs and Sources of Revenues*

The Added TIF District Properties of September 2018 comprise an area of approximately 80 acres of taxable real property with an original assessed value of \$20,049,870 as of March 31, 2018. The development within the Added TIF District Properties of September 2018 is estimated to add an additional \$300 Million of new assessed value to the City over the remainder of the term through June 30, 2032.

The Original Development Program and this Amended Development Program provide for the new tax revenues generated by the increase in assessed value of the Original TIF and Amended Districts to be captured and designated as TIF Revenues. The City will apply the portion of retained revenues to the economic development activities described in the Amended Development Program, with the understanding that the City Council will, on an annual basis, determine which specific projects to undertake that have been outlined in the Amended Development Program.

The City of Portland reserves the right to amend this Financial Plan, subject to DECD approval, to undertake a different activity that is allowable under the Amended Development Program.

Attachment #12(A) details the projections and proposed TIF revenue allocation based upon the anticipated assessed value increases within the Added TIF District Properties of September 2018. Attachment #12(A) is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

##### *B. Development Program Account*

The Original Development Program and this Amended Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5254 (3)(A)(2).

The Waterfront TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses and Developer Cost Subaccount (the “Developer Cost Subaccount”) pledged to, and charged with, payment by the City under any credit enhancement agreement.

C. *Financing Plan*

The developments within the Added TIF District Properties of September 2018 will add approximately \$300 Million of new taxable value in the City of Portland over the remainder of the term through June 30, 2032. TIF revenues will be allocated as described on Attachment #12(A) to finance the costs of this Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained and the actual annual assessed value within the Districts.

V. **Original TIF Districts Financial Data**

- A. Total 2001 value of equalized property in the municipality: \$3,873,900,000.
- B. Original assessed value of all properties in all existing and proposed Original TIF districts:

Existing	\$20,961,460
Proposed	\$6,716,410
Total	\$27,677,870

Line B divided by line A = 0.71% (cannot exceed 5%).

- C. Estimate of increased assessed value by year after implementation of the Original Development Program: See Attachment #10
- D. Percentage of increased assessed value to be applied to the Original Development Program fund: See Attachment #10
- E. Estimated annual tax increment: \$400,113 (Average)
- F. Total average annual value of development program fund: \$400,113 (Average)
- G. Annual principal and interest payment of bonded indebtedness: N/A
- H. Financial assumptions and safeguards: Under the Original Development Program, the City of Portland only sought to implement its own Waterfront Economic Redevelopment Program and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.
- I. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #13.

V-A. **Sub-District Financial Data**

- A. Total 2010 value of property in the municipality: \$8,196,900,000.

B. Original assessed value of all properties in all existing TIF Districts and proposed sub-district:

Existing	\$305,455,220
Proposed	<u>\$950,900</u>
Total	\$306,406,120

Line B divided by line A = 3.73% (cannot exceed 5%).

C. Estimate of increased assessed value by year after implementation of the development program: See Attachment #11

D. Percentage of increased assessed value to be applied to the development program fund: See Attachment #11

E. Estimated annual tax increment: \$143,503 (Average)

F. Total average annual value of development program fund: \$143,503 (Average)

G. Annual principal and interest payment of bonded indebtedness: N/A

H. Financial assumptions and safeguards: The City of Portland seeks to implement its own Waterfront Economic Redevelopment Program and to fund its payment obligations to the Developer under the credit enhancement agreement with the Developer and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.

I. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #14.

**V-B. Added TIF District Properties of March 2018 Financial Data**

A. Total 2018 value of taxable property in the municipality: \$9,049,500,000.

B. Original assessed value of all properties in all existing and proposed Amended TIF districts:

Existing	\$1,106,422,670
Proposed	<u>\$616,430</u>
Sub-Total	\$1,107,059,100
Less Exempt	<u>-\$973,107,320</u>
Total	\$133,951,780

Line B divided by line A = 1.48% (cannot exceed 5%).

C. Estimate of increased assessed value by year after implementation of the three Added TIF District Properties of 2018: See Attachment #12.

- D. Percentage of increased assessed value to be applied to the three Added TIF District Properties of 2018 Development Program fund: See Attachment #12
- E. Estimated annual tax increment: \$491,204 (Average)
- F. Total average annual value of development program fund: \$491,204 (Average)
- G. Annual principal and interest payment of bonded indebtedness: \$200,000
- H. Financial assumptions and safeguards: Under the Original Development Program, the City of Portland only sought to implement its own Waterfront Economic Redevelopment Program and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.
- II. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #15.

**V-C. Added TIF District Properties of September 2018 Financial Data**

- A. Total 2018 value of taxable property in the municipality: \$9,049,500,000.
- B. Original assessed value of all properties in all existing and proposed Amended TIF districts:

Existing	\$1,107,059,100
Proposed	\$20,049,870
Sub-Total	\$1,127,108,970
Less Exempt	<u>-\$973,107,320</u>
Total	\$154,001,650

Line B divided by line A = 1.7% (cannot exceed 5%).

- C. Estimate of increased assessed value by year after implementation of the Added TIF District Properties of September 2018: See Attachment #12(A).
- D. Percentage of increased assessed value to be applied to the Added TIF District Properties of September 2018 Development Program fund: 100%
- E. Estimated annual tax increment: \$7,282,000 (Average)
- F. Total average annual value of development program fund: \$7,282,000 (Average)
- G. Annual principal and interest payment of bonded indebtedness: \$200,000

- H. Financial assumptions and safeguards: Under the Original Development Program, the City of Portland only sought to implement its own Waterfront Economic Redevelopment Program and is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit. The City's participation in this development program is voluntary and notwithstanding any approvals from the appropriate state entity, can revoke its desire to implement the plan.
- III. Statement of impact of TIF on taxing jurisdictions within the county: See Attachment #15(A).

**VI. Original Development Program Tax Shifts (See Attachment #13)**

*A. Average Annual Amount:*

General Purpose Aid to Education Tax Shift: \$137,700

Municipal Revenue Sharing Tax Shift: \$17,004

County Tax Shift: \$7,855

Total Average Annual Savings: \$162,560

**VI-A Sub-District Tax Shifts (See Attachment #14)**

General Purpose Aid to Education Tax Shift: \$49,822

Municipal Revenue Sharing Tax Shift: \$6,183

County Tax Shift: \$2,856

Total Average Annual Savings: \$58,860

**VI-B. Added TIF District Properties of March 2018 Tax Shifts (See Attachment #15)**

*A. Average Annual Amount:*

General Purpose Aid to Education Tax Shift: \$122,721

Municipal Revenue Sharing Tax Shift: \$11,772

County Tax Shift: \$10,522

Total Average Annual Savings: \$145,015

**VI-C. Added TIF District Properties of September 2018 Tax Shifts (See Attachment #15(A))**

*A. Average Annual Amount:*

General Purpose Aid to Education Tax Shift: \$2,341,121

Municipal Revenue Sharing Tax Shift: \$160,724

County Tax Shift: \$150,869

Total Average Annual Savings: \$2,652,714

**VII. Amended Development Program Municipal Approvals**

*A. Public Hearing Notice*

The City of Portland did give proper Notice of Public Hearing in accordance with the requirements of 30-A M.R.S.A. §5226. The notice was published on \_\_\_\_\_, 2018 in a newspaper of general circulation (see Attachment #17).

*B. Public Hearing*

A Public Hearing at which the proposed Amended Development Program for adoption was held on \_\_\_\_\_, 2018 in the Portland City Council Chambers. A copy of the minutes of that meeting is included as Attachment #18.

*C. Authorizing Votes*

An attested copy of the resolution of the Portland City Council amending the Waterfront Redevelopment Program is included as Attachment #19.

City of Portland - Waterfront TIF Model  
Actual FY03 thru FY19; Estimates FY20 thru FY32

OAV at Beginning as of 4/1/2001: \$6,716,410  
 OAV added FY11 for Subdistrict as of 4/1/2: \$950,930  
 OAV added FY19 for Wex/Union Wharf: \$616,430  
 OAV added FY20 for Additional Parcels as of 4/1/2017: \$20,049,870  
 \$28,333,640

TIF Years 18 through 30 - Annual mil rate increase: 2%  
 TIF Years 18 through 30 - Annual valuation increase: 1%

9/6/2018

Waterfront TIF												
TIF Years 1 (FY2003) through 17 (FY2019) Actual Numbers; Years 18 (FY2020) through 30 (FY2032) Estimates												
TIF Year	Tax Year- April 1	Increased Assessed Value Real Prop.	% of Value Captured	Captured Valuation	Projected MIII Rate	Total Projected New Taxes Captured	Captured Revenue to Municipal & Subdistrict* Project Account	City Non-Captured General Fund Revenues	OAV General Fund Revenue	Captured Revenue to Municipal Project Account	Captured Revenue to Subdistrict Project Account	
1	2002	\$11,533,350	1.00%	\$115,334	25.72	\$2,966	\$2,966	\$293,671	\$172,746	\$2,966		
2	2003	\$8,966,860	1.00%	\$89,669	26.80	\$2,403	\$2,403	\$237,909	\$180,000	\$2,403		
3	2004	\$11,941,350	1.00%	\$119,414	26.53	\$3,168	\$3,168	\$313,636	\$178,186	\$3,168		
4	2005	\$14,041,400	35.38%	\$4,967,847	20.13	\$100,003	\$100,003	\$182,651	\$136,201	\$100,003		
5	2006	\$18,576,750	1.00%	\$185,768	16.31	\$3,030	\$3,030	\$299,957	\$109,545	\$3,030		
6	2007	\$20,681,160	100.00%	\$20,681,160	17.10	\$353,648	\$353,648	\$0	\$114,851	\$353,648		
7	2008	\$20,050,110	62.00%	\$12,431,068	17.74	\$220,527	\$220,527	\$135,162	\$119,149	\$220,527		
8	2009	\$20,010,560	79.00%	\$15,808,342	17.74	\$280,440	\$280,440	\$74,547	\$119,149	\$280,440		
9	2010	\$18,984,350	58.00%	\$11,010,923	17.92	\$197,316	\$197,316	\$142,884	\$137,399	\$197,316		
10	2011	\$24,027,810	74.00%	\$17,780,579	18.28	\$325,001	\$325,001	\$114,189	\$140,159	\$280,783	\$44,218	
11	2012	\$30,830,260	74.00%	\$22,814,392	18.82	\$429,367	\$429,367	\$150,859	\$144,299	\$285,529	\$143,838	
12	2013	\$30,953,530	91.00%	\$28,167,712	19.41	\$546,735	\$546,735	\$54,073	\$148,823	\$397,188	\$149,547	
13	2014	\$32,962,740	73.00%	\$24,062,800	20.00	\$481,256	\$481,256	\$177,999	\$153,347	\$313,301	\$167,955	
14	2015	\$33,758,670	69.00%	\$23,293,482	20.63	\$480,545	\$480,545	\$215,897	\$158,177	\$295,498	\$185,047	
15	2016	\$33,959,500	66.00%	\$22,413,270	21.11	\$473,144	\$473,144	\$243,741	\$161,858	\$280,805	\$192,339	
16	2017	\$34,620,320	66.00%	\$22,849,411	21.65	\$494,690	\$494,690	\$254,840	\$165,998	\$297,431	\$197,259	
17	2018	\$39,176,210	71.48%	\$28,003,155	22.48	\$629,511	\$629,511	\$251,170	\$186,219	\$424,690	\$204,821	Actuals Above.
18	2019	\$168,968,680	100.00%	\$168,968,680	22.93	\$3,874,384	\$3,874,384	\$0	\$649,690	\$3,665,463	\$208,922	Estimates Below
19	2020	\$174,052,250	100.00%	\$174,052,250	23.39	\$4,070,767	\$4,070,767	\$0	\$662,724	\$3,857,655	\$213,113	
20	2021	\$176,076,109	100.00%	\$176,076,109	23.86	\$4,200,464	\$4,200,464	\$0	\$676,041	\$4,013,640	\$186,824	
21	2022	\$178,120,206	100.00%	\$178,120,206	24.33	\$4,334,212	\$4,334,212	\$0	\$689,357	\$4,143,708	\$190,504	
22	2023	\$180,184,745	100.00%	\$180,184,745	24.82	\$4,472,138	\$4,472,138	\$0	\$703,241	\$4,277,797	\$194,341	
23	2024	\$294,769,929	100.00%	\$294,769,929	25.32	\$7,462,434	\$7,462,434	\$0	\$717,408	\$7,264,178	\$198,256	
24	2025	\$298,000,964	100.00%	\$298,000,964	25.82	\$7,695,116	\$7,695,116	\$0	\$731,575	\$7,492,945	\$202,171	
25	2026	\$301,264,310	100.00%	\$301,264,310	26.34	\$7,934,971	\$7,934,971	\$0	\$746,308	\$7,766,228	\$168,744	\$2,847,897
26	2027	\$304,560,290	100.00%	\$304,560,290	26.87	\$8,182,220	\$8,182,220	\$0	\$761,325	\$8,160,059	\$22,161	
27	2028	\$307,889,229	100.00%	\$307,889,229	27.40	\$8,437,087	\$8,437,087	\$0	\$776,342	\$8,437,087		
28	2029	\$393,251,458	100.00%	\$393,251,458	27.95	\$10,991,793	\$10,991,793	\$0	\$791,925	\$10,991,793		
29	2030	\$397,467,309	100.00%	\$397,467,309	28.51	\$11,331,823	\$11,331,823	\$0	\$807,792	\$11,331,823		
30	2031	\$401,725,318	100.00%	\$401,725,318	29.08	\$11,682,284	\$11,682,284	\$0	\$823,942	\$11,682,284		
30 Year TIF Total		\$3,981,405,728		\$3,831,125,125		\$99,693,442	\$99,693,442	\$3,143,184	\$12,062,776	\$96,823,384	\$2,870,058	
30 Year Average:		\$132,713,524		\$127,704,171		\$3,323,115	\$3,323,115	\$104,773	\$402,093	\$3,227,446	\$95,669	

\*Subdistrict is Waterfront Maine CEA with maximum cumulative TIF payments set at \$2,870,058.

City of Portland Waterfront TIF Model  
9/6/2018

Tax Shifts-Avoided Formula Impacts from Sheltering of Valuation: City of Portland-TIF Model							
TIF Years 1 (FY2003) through 17 (FY2019) Actual Numbers w Varying Percentage Captures; Years 18 (FY2020) through 30 (FY2032) Estimates with 100% Capture Rates.							
TIF Year	Tax Year- April 1	Total Added Valuation	Sheltered Valuation	Avoided Formula Impacts from Sheltering of Valuation			
				Avoided Loss of State Aid to for Education	Avoided Loss of State Municipal Revenue Sharing	Avoided Increase in County Tax	Total Avoided Impacts
1	2002	\$11,533,350	\$115,334	\$0	\$67	\$64	\$131
2	2003	\$8,966,860	\$89,669	\$0	\$52	\$50	\$102
3	2004	\$11,941,350	\$119,414	\$0	\$70	\$66	\$136
4	2005	\$14,041,400	\$4,967,847	\$21,138	\$2,907	\$2,743	\$26,788
5	2006	\$18,576,750	\$185,768	\$1,581	\$109	\$103	\$1,792
6	2007	\$20,681,160	\$20,681,160	\$175,997	\$12,100	\$11,414	\$199,511
7	2008	\$20,050,110	\$12,431,068	\$105,788	\$7,273	\$6,862	\$119,924
8	2009	\$20,010,560	\$15,808,342	\$134,529	\$9,249	\$8,726	\$152,504
9	2010	\$18,984,350	\$11,010,923	\$93,703	\$6,442	\$6,078	\$106,224
10	2011	\$24,027,810	\$17,780,579	\$151,313	\$10,403	\$9,814	\$171,530
11	2012	\$30,830,260	\$22,814,392	\$194,150	\$13,348	\$12,591	\$220,089
12	2013	\$30,953,530	\$28,167,712	\$239,707	\$16,480	\$15,544	\$271,731
13	2014	\$32,962,740	\$24,062,800	\$204,774	\$14,078	\$13,280	\$232,132
14	2015	\$33,758,670	\$23,293,482	\$198,228	\$13,628	\$12,855	\$224,711
15	2016	\$33,959,500	\$22,413,270	\$190,737	\$13,113	\$12,370	\$216,220
16	2017	\$34,620,320	\$22,849,411	\$194,448	\$13,368	\$12,610	\$220,427
17	2018	\$39,176,210	\$28,003,155	\$238,307	\$16,384	\$15,453	\$270,143
18	2019	\$168,968,680	\$168,968,680	\$1,437,923	\$98,858	\$92,944	\$1,629,725
19	2020	\$174,052,250	\$174,052,250	\$1,481,185	\$98,858	\$95,729	\$1,675,772
20	2021	\$176,076,109	\$176,076,109	\$1,498,408	\$103,016	\$96,838	\$1,698,262
21	2022	\$178,120,206	\$178,120,206	\$1,515,803	\$104,212	\$97,957	\$1,717,973
22	2023	\$180,184,745	\$180,184,745	\$1,533,372	\$105,420	\$99,088	\$1,737,880
23	2024	\$294,769,929	\$294,769,929	\$2,508,492	\$172,460	\$161,683	\$2,842,635
24	2025	\$298,000,964	\$298,000,964	\$2,535,988	\$174,350	\$163,443	\$2,873,782
25	2026	\$301,264,310	\$301,264,310	\$2,563,759	\$176,260	\$165,221	\$2,905,240
26	2027	\$304,560,290	\$304,560,290	\$2,591,808	\$178,188	\$167,016	\$2,937,012
27	2028	\$307,889,229	\$307,889,229	\$2,620,137	\$180,136	\$168,829	\$2,969,102
28	2029	\$393,251,458	\$393,251,458	\$3,346,570	\$230,078	\$215,222	\$3,791,870
29	2030	\$397,467,309	\$397,467,309	\$3,382,447	\$232,545	\$217,509	\$3,832,501
30	2031	\$401,725,318	\$401,725,318	\$3,418,682	\$235,036	\$219,818	\$3,873,536
30 Year TIF Total		\$3,981,405,728	\$3,831,125,125	\$32,578,976	\$2,238,488	\$2,101,918	\$36,919,383
30 Year Average		\$132,713,524	\$127,704,171	\$1,085,966	\$74,616	\$70,064	\$1,230,646

Order 80-18/19  
Tab 13 8-1-18

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  
CHAPTER 14 AND CHAPTER 8  
Re: WATERFRONT DEVELOPMENT GROWTH AREA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 14, Article XV, Sections 14-906 to 14-908 is hereby amended as follows:*

~~**ARTICLE XV. WATERFRONT CAPITAL IMPROVEMENT AND ECONOMIC  
REDEVELOPMENT ZONE AND ORDINANCE**~~

~~**Sec. 14-905. Title.**~~

~~This ordinance shall be known as the Waterfront Capital Improvement and Economic Redevelopment Ordinance.~~

~~**Sec. 14-906. Purposes.**~~

~~The purpose of this ordinance is to implement those provisions of the Waterfront Economic Development Task Force Report, (Waterfront II) entitled "Investing in Our Working Waterfront: Final Report of the Mayor's Waterfront Task Force on Economic Development," dated September 2000, as adopted by the Portland City Council on June 4, 2001 which create a capital improvement plan for redevelopment on the Portland Waterfront. That plan includes funding the loan fund described in that report, the financing and installation of infrastructure to support the economy of that area of the City of Portland, such as parking facilities, utilities, traffic and congestion management installations, operating facilities for the cargo, fishing and other water dependent, marine related industries, environmental protection and improvement, including the management and abatement of combined sewer overflows, appropriate assistance in the permitting and completion of dredging of siltation at piers, wharfs and weirs, and such other matters as the City Council shall approve from time to time. These activities shall be collectively known as the redevelopment program.~~

~~Sec. 14-907. Creation of the Waterfront Redevelopment Economic Zone (WREZ).~~

~~—The Waterfront Redevelopment Economic Zone is hereby created.~~

~~Beginning at a point on the southerly side of the Eastern Promenade at the intersection of the Westerly side of the Portland House Condominium and the Easterly sideline of land now or formerly of Dan Haley.~~

~~Thence Southwesterly along the Southerly side of Eastern Promenade to Fore Street.~~

~~Thence Westerly along the Southerly side of Fore Street to the intersection of Fore Street and Mountfort Street.~~

~~Thence Northerly along Mountfort Street to the Southeast corner of the lot referenced as 20-C-2 on City of Portland Tax maps as of April first, 2001.~~

~~Thence Westerly along lot 20-C-2 about 72 feet.~~

~~Thence Northerly along 20-C-2 to 20-C-5.~~

~~Thence Westerly along 20-C-5 to the south corner of 20-C-5.~~

~~Thence Northwesterly along 20-C-5 to Newbury Street.~~

~~Thence Southwesterly along Newbury Street to Hancock Street.~~

~~Thence Southeasterly along Hancock Street to Middle Street.~~

~~Thence Southwesterly along Middle Street to 20-C-27.~~

~~Thence Southeasterly along the Northeast sideline of 20-C-27 about 99.99 feet.~~

~~Thence Southwesterly along the Southeast sideline of 20-C-27 to India Street.~~

~~Thence South along India Street to the Northern corner of 29-N-26.~~

~~Thence Westerly along the Northern side of lot 26 to lot 24.~~

~~Thence Westerly, Northerly, Westerly, and Southerly along 29-N-24 to Bradbury Court.~~

~~Thence Westerly along Bradbury Court to the Franklin Street Arterial.~~

~~Thence Northerly along Franklin Street Arterial to Fore Street.~~

~~Thence Westerly along Fore Street to Pearl Street.~~

~~Thence Southerly along Pearl Street to Gold Street.~~

~~Thence Westerly along Gold Street to Silver Street.~~

~~Thence Northerly along Silver Street to Fore Street.~~

~~Thence Westerly along Fore Street to Market Street.~~

~~Thence Southerly along Market to the dividing line between 32-S-3 and 32-S-4 & 5.~~

~~Thence Northerly along Moulton Street to Wharf Street.~~

~~Thence Westerly along Wharf Street to a passage between Assessor's map 32 blocks "T" and "U" leading to Commercial Street.~~

~~Thence Southerly along said passage about 28 feet to the dividing line between lots 32-U-3 and 32-U-5.~~

~~Thence Westerly, Southerly, and Westerly along the Southerly line of lot 5 to Dana Street.~~

~~Thence Westerly across Dana Street and following the Northern boundary of lots 32-V-2, 4, 5, 8, and 12 to Union Street.~~

~~Thence Northerly on Union Street to Fore Street.~~

~~Thence Westerly on Fore Street to parcel 38-F-8.~~

~~Thence Southerly along the Easterly sideline of 38-F-8.~~

~~Thence Westerly along the Southerly sideline of 38-F-8 to Cross Street.~~

~~Thence Northerly to Fore Street~~

~~Thence Westerly along Fore Street to 38-G-7.~~

~~Thence Southerly along the Easterly sideline of 38-G-7.~~

~~Thence Westerly along the Southerly sideline of 38-G-7 to the Easterly sideline of Center Street.~~

~~Thence Northerly along Center Street to the Southerly sideline of 40-F-11.~~

~~Thence Southwesterly along the Southerly sideline of 40-F-11 and 40-E-1.~~

~~Thence Westerly along the South side of 42-A-8.~~

~~Thence Northerly along the Westerly line of 42-A-7 to York Street.~~

~~Thence Westerly along the Southerly side of York Street to High Street.~~

~~Thence Southerly along High Street 44 feet + to Southern sideline of 42-B-7.~~

~~Thence Westerly along the Southerly sideline of 44-B-2 to Park Street.~~

~~Thence Westerly across Park Street to the Southerly sideline of 43-C-7.~~

~~Thence Westerly along the Southern sideline of 43-C-7 to the edge of proposed State Street.~~

~~Thence Westerly across proposed State Street to the Southerly sideline of 43-E-8.~~

~~Thence Westerly along the Southerly sideline of 43-E-8 to the Casco Bay Bridge.~~

~~Thence Southeasterly along the Casco Bay Bridge to the Harbor Commissioner's Line.~~

~~Thence Northeasterly along the Harbor Commissioner's line to a point which is the intersection of the Harbor Commissioner's line and a line which is the extension of the lot line between the Southeasterly line of land now or formerly of Dan Haley and the Southwesterly line of the Portland House Condominium.~~

~~Thence Northwesterly along said line to the Southerly side of the Eastern Promenade at the point of beginning.~~

~~All as shown on a map dated April 13, 2001 entitled "Proposed Waterfront Redevelopment Area" on file in the Planning Office.~~

~~Any inconsistencies between this description and the map shall be controlled by the map.~~

~~**Sec. 14-908. Financing Activities.**~~

~~The following financing activities are authorized for the creation of funds to be used for the activities approved for funding by this ordinance:~~

~~(a) Tax Increment Financing Districts Revenues.~~

- ~~1. Within the Waterfront Redevelopment Economic Zone (WREZ) all activity except minor changes as defined below, which results in an increase in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses, including acquisition of equipment, shall be subject to designation as a Tax Increment Finance (TIF) District to support redevelopment activities within the WREZ pursuant to 30-A M.R.S.A. §§ 251-526, as amended.~~

~~Minor changes shall mean those physical changes, minimal in scope or purpose, which when accumulated with previous and anticipated other changes, over a period of two years, increase the assessed value of the affected property by a cumulative total of \$400,000 or less.~~

- ~~2. Affected properties shall mean those properties within the zone which undertake activity, except minor changes as defined above, which results in a change in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses, including acquisition of equipment.~~

~~Affected properties within the WREZ shall be~~

~~designated for inclusion in this redevelopment program as a TIF District, and the tax increment from the captured assessed value shall be applied to the redevelopment program purposes, subject to approval by the City Council on a TIF-by-TIF basis.~~

~~A property is an affected property if it otherwise so qualifies, and the total aggregate amount of captured assessment in the TIF Districts devoted to this redevelopment program does not exceed 1.25% (.0125) of the total taxable valuation of the City of Portland, when adjusted as necessary to reflect 100% valuation, as determined by the City Assessor.~~

~~3. Paragraphs (1) and (2) notwithstanding, the Council may by Council order determine that the increases in assessed value that would otherwise be designated for the first time as TIF districts under (1) and (2) above for the next succeeding fiscal year shall not be so designated.~~

~~4. The redevelopment program shall be that series of investments, expenditures, guarantees and supports which are planned for project fund expenditures.~~

~~(b) Program Income and Other Revenues.~~

~~The City Manager will budget the program activities, including the program income and expense, of the redevelopment program annually for approval and implementation by the City Council. The redevelopment program is authorized to receive program income, grants, participations, joint ventures, investments and other revenues for the purposes of the redevelopment program as approved by the City of Portland from time to time.~~

~~(c) Updates to development plan.~~

~~Periodically, the city manager shall evaluate and propose updates to the Development Plan, and identify properties developed in the redevelopment zone which qualify as TIF District properties. The city manager shall report to the council on conditions and changes~~

~~in conditions addressing the economic circumstances of the waterfront economy, and shall include in said report detail on at least the following issues:~~

- ~~1. The utilization, adequacy and capital and operating position of the enterprise loan fund designed to assist water dependant, marine-related properties and businesses;~~
- ~~2. The state of the fishing industry, the adequacy and demand for berthing space and operating facilities, financing, local markets and opportunities, and the operations of public operations pertaining to the fishing industry;~~
- ~~3. The status of other water dependant industries and operations along the Portland waterfront, including opportunities to develop or promote water dependent and marine resource dependant economic opportunities;~~
- ~~4. The status of dredge operations and needs at public and private piers, the nature of impediments to maintaining full depths at all working Portland piers;~~
- ~~5. The status of cargo operations in the Port of Portland, including analysis of surface transportation capacities serving the Port cargo operations, whether public or private;~~
- ~~6. The status of parking availability, public access to the waterfront and to water dependent recreational activities and pursuits;~~
- ~~7. The status of environmental concerns, programs and issues along the Portland waterfront, and particularly in the inner harbor; and~~
- ~~8. Such other information, data or findings concerning conditions as affects the economic and environmental health of the waterfront area, or recommendations concerning the operations of the loan fund or the capital improvement program.~~

~~(d) Recommendations.~~

~~As often as he or she deems prudent, the city manager shall submit to the city council a recommended capital improvement plan, utilizing the revenues of the WREZ. The finance 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.~~

~~(e) Adoption.~~

~~The City Council shall adopt amendments to the WREZ, designate TIF Districts and authorize expenditures and take such other actions as are necessary each year to implement this redevelopment plan and administer its revenues and expenses.~~

2. *That the Portland City Code is hereby amended by adding sections to be numbered 8-1 to 8-4, which said sections reads as follows:*

**ARTICLE I. WATERFRONT DEVELOPMENT GROWTH AREA  
ORDINANCE**

**Sec. 8-1. Title.**

This ordinance shall be known as the Waterfront Development Growth Area Ordinance.

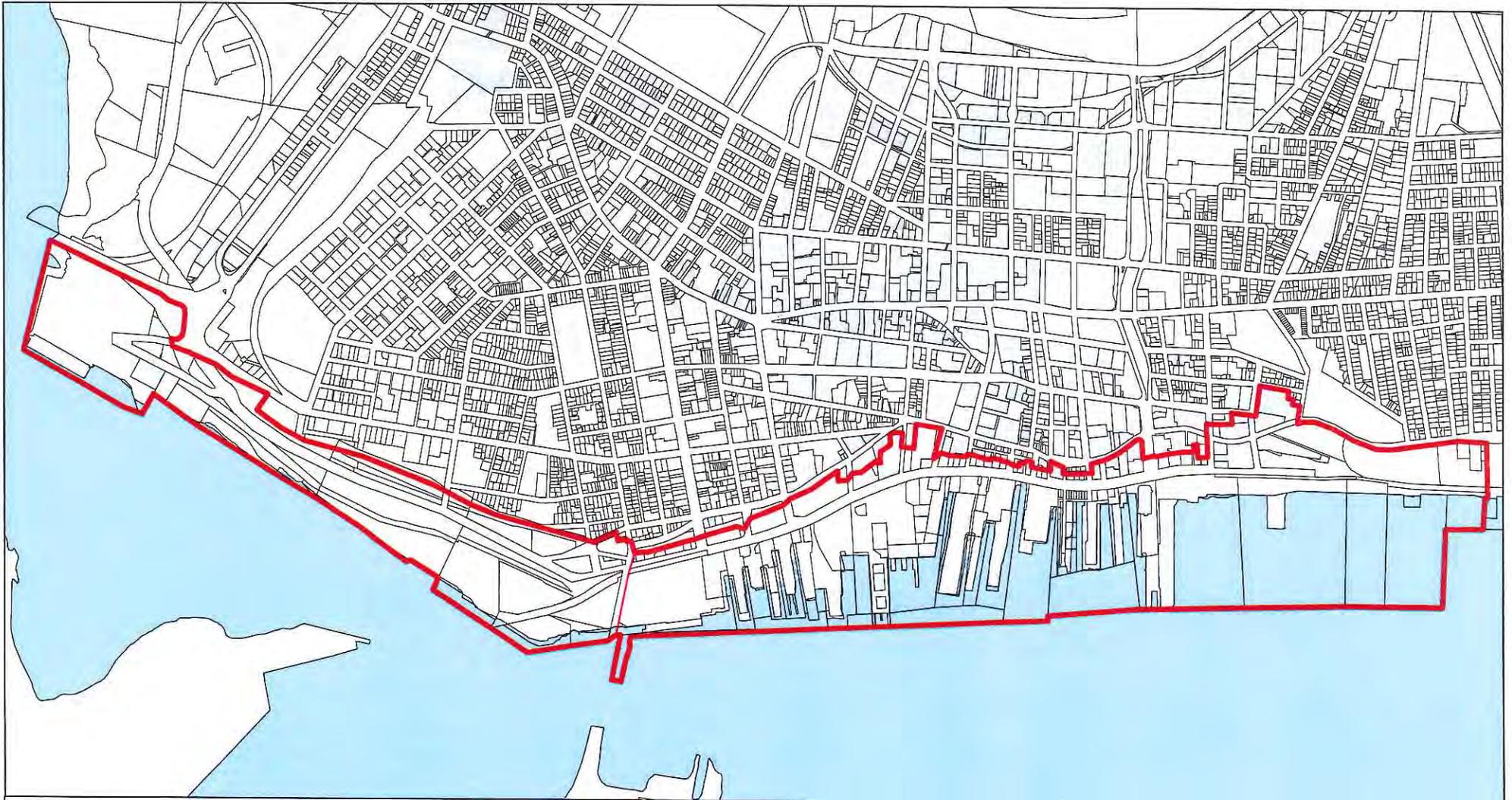
**Sec. 8-2. Purposes.**

The purpose of this ordinance is to implement those provisions of the Waterfront Economic Development Task Force Report, (Waterfront II) entitled "Investing in Our Working Waterfront: Final Report of the Mayor's Waterfront Task Force on Economic Development," dated September 2000, as adopted by the Portland City Council on June 4, 2001 which create a capital improvement plan for redevelopment on the Portland Waterfront. That plan includes funding the loan fund described in that report, the financing and installation of infrastructure to support the economy of that area of the City of Portland, such as parking facilities, utilities, traffic and congestion management installations, operating facilities for the cargo, fishing and other water-dependent, marine related industries, environmental protection and improvement, including the management and abatement of combined sewer overflows, appropriate

assistance in the permitting and completion of dredging of siltation at piers, wharfs and weirs, and such other matters, such as climate change adaptation, as the City Council shall approve from time to time. These activities shall be collectively known as the redevelopment program.

**Sec. 8-3. Creation of the Waterfront Development Growth Area**

The Waterfront Development Growth Area (WDGA) is hereby created and shown on the map below, titled the Portland Waterfront Development Growth Area, which is incorporated as a component of this ordinance, as may be amended from time to time.



# Portland Waterfront Development Growth Area

 Waterfront Development Growth Area

2,500 1,250 0 2,500 Feet

Map produced by the City of Portland Economic Development Department. Intended as an exhibit to the City ordinance expanding and replacing the Waterfront Redevelopment Economic Zone. October 2018



Sec. 8-4. Financing Activities.

The following financing activities are authorized for the creation of funds to be used for the activities approved for funding by this ordinance:

(a) Tax Increment Financing (TIF) Districts Revenues.

1. Within the Waterfront Development Growth Area (WDGA) all activity except minor changes as defined below, which results in an increase in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses shall be subject to designation as a Tax Increment Finance (TIF) District to support redevelopment activities within the WDGA pursuant to 30-A M.R.S. §§ 251-526, as amended.

Minor changes shall mean those physical changes, minimal in scope or purpose, which when accumulated with previous and anticipated other changes, over a period of two years, increase the assessed value of the affected property by a cumulative total of \$400,000 or less.

2. Affected properties shall mean those properties within the WGDA which through revaluation or by undertaking activity, except minor changes as defined above, which results in a change in assessed value due to new construction, development or redevelopment, renovation, refitting or other physical change to structures or uses, including acquisition of equipment.

Affected properties within the WDGA shall be designated for inclusion in this redevelopment program as a TIF District, and the tax increment from the captured assessed value shall be applied to the redevelopment program purposes, subject to approval by the City Council on a TIF-by-TIF basis.

A property is an affected property if it otherwise so qualifies, and the total aggregate amount of captured assessment in the TIF Districts devoted to this redevelopment program does not exceed 1.25% (.0125) of the total taxable valuation of the City of Portland,

when adjusted as necessary to reflect 100% valuation, as determined by the City Assessor.

3. Paragraphs (1) and (2) notwithstanding, the Council may by Council order determine that the increases in assessed value that would otherwise be designated for the first time as TIF districts under (1) and (2) above for the next succeeding fiscal year shall not be so designated.

4. The redevelopment program shall be that series of investments, expenditures, guarantees and supports which are planned for project fund expenditures.

(b) Program Income and Other Revenues. The City Manager will budget and implement the program activities, including the program income and expense, of the redevelopment program annually for approval by the City Council. The redevelopment program is authorized to receive program income, grants, participations, joint ventures, investments and other revenues for the purposes of the redevelopment program as approved by the City of Portland from time to time.

(c) Updates to development plan and annual TIF District reporting. Periodically, the city manager shall evaluate and propose updates to the Development Plan, and identify properties developed in the redevelopment zone which qualify as additional TIF District properties. The city manager shall report to the council on conditions and changes in conditions addressing the economic circumstances of the waterfront economy when proposing the addition of properties for inclusion in the Waterfront TIF District.

Additionally, the City Manager through the Economic Development Department shall report to the City Council on financial activity related to the Development Program within an Annual TIF District Activity Report.

(d) Recommendations. As often as he or she deems prudent, the city manager shall submit to the city council a recommended capital improvement plan, utilizing the revenues of the WDGA. The finance 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.

(e) Adoption. The City Council shall adopt amendments to the WDGA, designate TIF Districts and authorize expenditures and

take such other actions as are necessary each year to implement this redevelopment plan and administer its revenues and expenses.

*Order 81-18/19  
Tab 14 10-1-18*

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

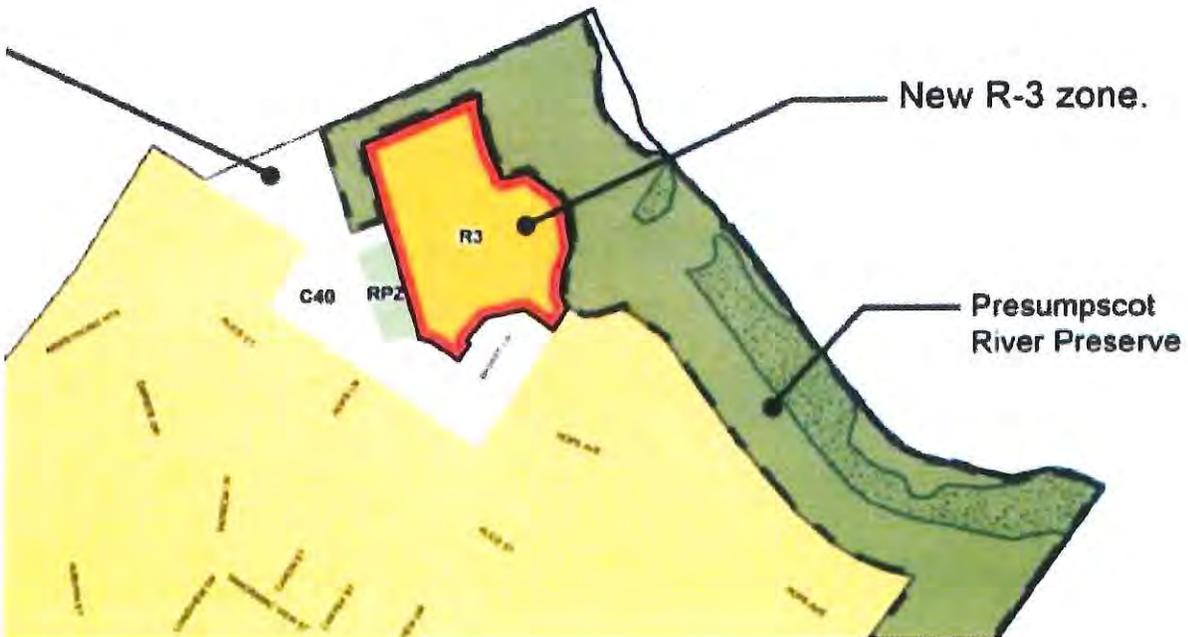
**CITY OF PORTLAND  
IN THE CITY COUNCIL**

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

**AMENDMENT TO ZONING MAP  
RE: HOPE AVENUE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE  
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment and specifically rezoning property on Hope Avenue to the R-3 Zone, as shown in the map below.



**MEMORANDUM**  
**City Council Agenda Item**

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

**FROM:** Jeff Levine, Director of Planning and Urban Development

**DATE:** September 17, 2018

**SUBJECT:** Map Amendments to the Zoning Code in Regard to 0 Hope Avenue

**SPONSOR:** Sean Dundon, Chair, Portland Planning Board  
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

**COUNCIL MEETING DATE ACTION IS REQUESTED:**  
1<sup>st</sup> reading October 1, 2018 Final Action October 15, 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)**  
Short presentation by Planning Board Chair. Short presentation by Planning Staff (if necessary)

**I. ONE SENTENCE SUMMARY**

The Planning Board is recommending adoption of a zoning map amendment requested by Estelle Estates, LLC to rezone 0 Hope Avenue and the adjacent Hope Avenue right-of-way, to the street centerline to R-3 Residential, in support of a proposed Planned Residential Unit Development as described in a land conveyance agreement made between the City of Portland and Robert L. Adam and AJS Family Limited Partnership, dated September 21, 2001.

**II. AGENDA DESCRIPTION**

The Planning Board voted unanimously, 5-0 (Dundon and Silk absent) to recommend to City Council adoption of the proposed map amendment to rezone a 14-acre parcel comprising 0 Hope Avenue and adjacent right-of-way to R-3 Residential, as requested by Estelle Estates, LLC. This map amendment would enable the development of a planned residential unit development with 27 duplexes (54 residential units) on currently undeveloped land off of Hope Avenue in the North Deering Neighborhood. The proposed development was conceived as part of a negotiated land conveyance agreement between the City and then property owners Lloyd Wolf and Robert Adam, that brought 48-acres of land into the City of Portland's municipal limits and established the Presumpscot River Preserve.

**III. BACKGROUND**

In 2001 the subject property was part of a larger parcel that remained from a land conveyance (approximately 48 acres) to the City of Portland that included property located in the Town of Falmouth. As a condition of the City accepting this land, an agreement was made between the City and then landowners, Lloyd Wolf and Robert Adam, that a portion of the land adjacent to the Presumpscot River would become part of the Portland Trails system and be preserved. In exchange for this preservation land, the City agreed to work with the landowners on creating a contract zone amenable to both parties. The agreement allowed for the development of up to 80 age-restricted residential dwellings, 55 of which would be constructed as "clustered" or multifamily/duplex units. The proposed map amendment to R-3 Residential is in support of this portion of the agreement, although the applicant is now considering 54 units, as opposed to 55 units and the units are no longer being proposed as age-restricted.

While the 2001 agreement expressly calls out a contract zone, City staff have instead encouraged a map amendment to an established zone, the R-3 Residential zone, as the zone effectively permits the development being sought, provides greater flexibility to the property owner, and simplifies the city's land use oversight.

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

In considering the intended result, the Council should also consider the proposed map amendment in conjunction with the Presumpscot River Preserve, and its benefits to the City. The Comprehensive Plan encourages actions that maintain and enhance the natural environment and augment access to areas for recreation and open space, achieved via this public resource. From a housing perspective, the map amendment facilitates a development that provides a greater diversity of housing options in North Deering in a manner that is contextually sensitive to surrounding development.

#### **V. FINANCIAL IMPACT**

As agreed to in the 2001 land conveyance agreement, the City is partially responsible for infrastructure improvements needed to develop this property. Some of this work has already been completed, notably, the construction of Hope Avenue and extension of municipal water and sewer lines. The City's Water Resources Division has indicated that the existing pump station that would service this site, would need to be upgraded, and the 2001 agreement indicates that the City will be responsible for approximately half of these costs, with a finite limit on the city's contribution.

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

In reviewing this proposal, City staff assessed the variability between the R-2 Residential, R-3 Residential and contract zone as it relates to land use and dimensional requirements.

The R-2 zone is the predominant zone in the vicinity of this project and is essentially limited to single-family development (does not permit planned residential unit developments) and requires a lot area per dwelling unit of 10,000 square feet. The density requirements of the R-2 would not

achieve the contemplated 55-unit density as agreed to in the 2001 agreement, and a clustered developments meets the definition of a planned residential unit development.

The R-3 zone is well-suited for this proposal, as it does permit planned residential unit developments on parcels of 3 acres gross area or larger, achieved at this site. The minimum lot area per dwelling unit requirement for the R-3 zone is 6,500 square feet, again, a density requirement that satisfies the needs for this proposal. The C-40 contract zone, which was created as a response to this 2001 agreement for adjoining properties (Brandy Lane and Basket Lane subdivisions) bases its allowable density off of the R-3 zone, and so this rezoning would be comparable to both of these sites. Under a full buildout scenario, this site could accommodate up to 81 residential units, as opposed to the 54 units currently being proposed.

## **VII. RECOMMENDATION**

On September 11, 2018, the Planning Board unanimously recommended to City Council the adoption 5-0 (Dundon and Silk absent), of the zoning map amendment to rezone three parcels encompassing 0 Hope Avenue and adjacent Hope Avenue right-of-way to the street centerline to R-3 Residential, as this amendment supports key policies found in the Comprehensive Plan and is in line with the 2001 land conveyance agreement made between the City and then property owner, Robert Adam.

## **VIII. LIST ATTACHMENTS**

- A. Proposed Map Amendment for 0 Hope Avenue**
- B. Planning Board Report to City Council with Attachments**

Prepared by: Matthew Grooms, Planner

Date: September 17, 2018



# PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

## Zoning Map Amendment to R-3 Residential at o Hope Avenue Estelle Estates, LLC, Applicant

Submitted to: Mayor Strimling and City Council  
From: Chair Dundon and Portland Planning Board  
Public Hearing Date: October 1, 2018

Prepared by: Matthew Grooms, Planner  
Date: September 24, 2018

### I. INTRODUCTION

On September 11, 2018, the Board held a public hearing and voted unanimously (5-0 Dundon and Silk absent) to recommend to City Council the zoning map amendment to R-3 Residential for the three parcels located at o Hope Avenue. This property was annexed into the City of Portland in 2001, and was never formally zoned.

The applicant, Estelle Estates, LLC requested a zoning map amendment for a 14-acre tract of land, located at o Hope Avenue in the North Deering neighborhood to R-3 Residential. This property entered into the City of Portland in 2001 as part of a land conveyance from the Town of Falmouth. Negotiations at that time between then property owners (Lloyd Wolf and Robert Adam) and the City of Portland and Portland Trails, resulted in the creation of the Presumpscot River



Figure 1: Proposed Development Site

Preserve and the formalization of multiple land development agreements. The proposal before the Planning Board is derived from one such agreement, wherein the City agreed to assist the developer in establishing a new contract zone to permit fifty-five (55) clustered and age-restricted residential units. While the written agreement specified a contract zone, the City in recent years has discouraged the creation of new contract zones, and in discussions with the applicant, City staff recommended that they pursue a zone change to R-3 Residential. This zone permits Planned Residential Unit Developments (PRUDs) as well as a unit-density in line with the development outlined in the written agreement.

**Applicant and Property Owner:** Peter Bouchard, Estelle Estates, LLC  
**Agents:** Chris DiMatteo, Gorrill Palmer; Doug Reynolds, P.E., Gorrill Palmer

### II. PROJECT DATA

Existing Zoning	Not Zoned
Proposed Zoning	Residential R-3
Existing Use	Undeveloped, primarily woodlands

Proposed Use	PRUD w/ 54 residential units arrayed in 27 duplex buildings
Parcel Size	14 acres

**III. BACKGROUND**

In 2002, the City of Portland purchased a 48-acre parcel along the Presumpscot River from Lloyd Wolf and Bob Adam. Commonly known as the Presumpscot River Preserve, it was purchased for open space and land conservation purposes. As part of the property agreement, the City Council agreed to rezone (at a later date) an abutting 23-acre parcel as a conditional zone for residential development. It is the conditional zoning agreement for the 14-acre Adam parcel that is the subject of the proposed map amendment (Attachment A). This parcel was previously located in the town of Falmouth, but was annexed by Portland through state legislature action in 2002.



Figure 2: Property in blue represents land conveyed to and developed by Lloyd Wolf and Robert Adam. Presumpscot River Preserve is outlined in green, subject property in red.

The annexation of the land from Falmouth, the protection of sensitive land along the Presumpscot River and the conditional zone are interrelated. The Wolf-Adam property was landlocked from Falmouth (Presumpscot River and I-295) with no practical roadway access except through Portland. Annexation of the property to Portland was the only feasible manner to develop the property and provide municipal services. Conservation of upland shore frontage along the Presumpscot River was an important resource to protect and public ownership was viewed as critical. A conditional zone for the development parcel would allow the property to be developed within reasonable limits and address the developers’ goals of developing age-restricted housing for those fifty-five (55) years of age or older.

In 2005, an amendment to remove the age-restricted clause of the conditional zoning agreement was approved for the portion of land owned by Lloyd Wolf, though not Robert Adam. The remaining section controlled by Adam (multi-family) was to be processed as a separate conditional zone but Mr. Adam did not submit a rezoning application at that time. Mr. Wolf and Mr. Adam developed the 30-lot Presumpscot River Place subdivision, which constitutes lots located along Hope Avenue east of Basket Lane.

For development purposes, the Wolf property was split into three phases. Phase one consisted of one lot (#17) on Hope Avenue while phase two consisted of 6 lots (lot 18 to lot 23) which included the creation of a new public street, Basket Lane. The final phase, consisting of 16 lots, was approved by the Planning Board in February of 2018, and resulted in the creation of another new street, Brandy Lane.

Robert Bouchard, of Estelle Estates, LLC, has entered into a purchase and sale agreement with AJS Family Limited Partnership (Robert Adam Estate), to purchase a 14-acre parcel located just west of the Basket Lane subdivision. In discussions with City staff, the applicant indicated that they would pursue development of fifty-four (54) age-restricted residential units, housed in twenty-seven (27) duplex buildings as outlined under the 2001 agreement. In recent years, the City has pushed to reduce the number of new contract zones and staff suggested instead that the applicant pursue a zoning map amendment to rezone the parcel to R-3 Residential. This zone permits PRUD

style developments, necessary for the completion of this project, and permits a lot area per dwelling unit of 6,000 square feet, necessary to achieve the density required.

**IV. EXISTING CONDITIONS**

The subject property consists of three separate parcels totaling fourteen (14) acres of undeveloped woodlands that is bounded by the Presumpscot River Preserve to the north, east and west, the Basket Lane Subdivision to the southeast, and Hope Avenue to the south. The property has a high degree of relief in topography due to a transecting stream running approximately east-west along the southerly property boundary, and a consistent slope towards the Presumpscot River. Other property constraints include extensive wetlands, located throughout the site. Of the fourteen (14) total acres, just over twelve (12.2) acres are suitable for development.



Figure 3: Existing condition of the property

In looking at the surrounding context, this area of the North Deering neighborhood is predominantly low-density single-family housing, with the majority of properties being zoned R-2 Residential. Under the 2001 agreement between the City of Portland and both Lloyd Wolf and Robert Adam, certain properties conveyed to Mr. Wolf and Mr. Adam became subject to the C-40 Contract Zone. This zone, encompassing the Brandy and Basket Lane subdivisions, permits smaller lot sizes and increased density when compared with the R-2 Residential zone, as well as additional requirements intended to facilitate access to the Presumpscot River Preserve, such as requirements for trail parking. Immediately to the west of the proposed development site is a property zoned RPZ Resource Protection zone, which contains a 135’ wide easement held by Central Maine Power.



Figure 4: View of the property in its existing condition. Note the house visible is located in the Basket Lane Subdivision, and the utility line is located within the 135’ foot CMP easement described.

**V. PROPOSED DEVELOPMENT**

The applicant is proposing to develop a compact residential development consisting of twenty-seven (27) duplexes accessed by a private loop road with extensive open space designated at the center and along the riparian area to the southeast. This site will be well-screened from the public view, with proposed buildings being no closer than 350’ feet from Hope Avenue, and approximately 200’ feet from the nearest residential lots (located within the Brandy Lane Subdivision). The private loop road, measuring just 20’ feet in width, would be privately

maintained, and is not proposed to be built to city standards. The preliminary site plan shows a 5' foot sidewalk and 5' foot esplanade along both sides of the private street and eleven additional on-street parking spaces. The duplex units themselves will each contain two parking spaces, with a one car garage, and driveway space for one car.

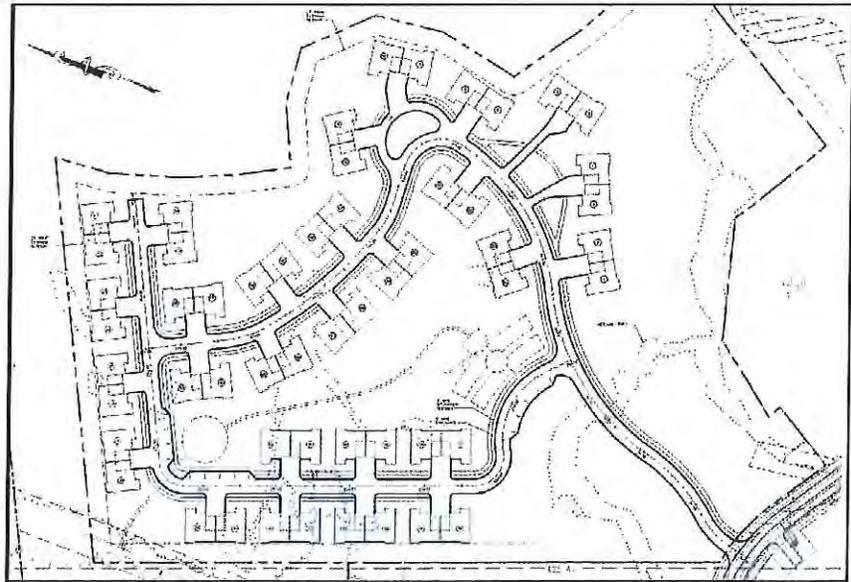


Figure 5: Proposed site layout

**VI. POLICY CONSIDERATIONS**

**A. Proposed Development Under Residential R-2 and R-3 Zone:**

The following chart illustrates the comparison between the current R-2 zone and R-3 zones, showing the purpose statements, permitted uses, and dimensional requirements of each zone. The minimum lot size varies in the R-2 and R-3 zones with R-2 having the largest minimum lot size of 10,000 square feet. Generally, the R-3 has more flexible dimensional requirements than the R-2, and permits increased residential unit density. The intent of the rezone is to provide the proposed project a medium density residential development, which can be accomplished with the R-3 zone.

	<b>R-2 Zone</b>	<b>R-3 Zone</b>
<b>Purpose Statements</b>	To provide for low-density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.	To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
<b>Permitted Uses</b>	<b>Residential:</b> Single family; Handicapped family unit; Single-family, multiple-component manufactured housing; Single-family single-component manufactured housing; <b>Other:</b> Parks; Agriculture; Accessory uses; Home occupation; Municipal uses; Wind energy systems	<b>Residential:</b> Single family; PRUD; Handicapped family unit; Single-family, multiple-component manufactured housing; Single-family single-component manufactured housing; <b>Other:</b> Parks; Accessory uses; Home occupation; Municipal uses; Wind energy systems
<b>Conditional Uses</b>	<b>Residential:</b> Sheltered Care group homes; adding one accessory dwelling unit; <b>Institutional:</b> Schools; Long term and extended care facilities; places of assembly; College, university, trade school <b>Other:</b> Utility substations; Cemeteries; Raising of domestic animals for noncommercial; day care or home babysitting services; temporary wind anemometer towers; wind energy systems.	<b>Residential:</b> Sheltered Care group homes; adding one accessory dwelling unit; <b>Institutional:</b> Schools; Long term and extended care facilities; intermediate care facilities; places of assembly; hospital; <b>Other:</b> Off-street parking; utility substations; day care or home babysitting services; temporary wind anemometer towers; wind energy systems.
<b>Dimensional Requirements</b>		
<b>Minimum Lot Size</b>	10,000 SF	6,500 SF, 3 acres (PRUD)

<b>Street Frontage</b>	50 feet	50 feet
<b>Front Yard (Min)</b>	25 feet	25 feet
<b>Rear Yard</b>	25 feet	25 feet
<b>Side Yard</b>	14 feet for 2-story building	14 feet for 2-story building
<b>Structure Height</b>	35 feet	35 feet
<b>Lot Coverage (max)</b>	20%	35%
<b>Parking</b>	Two parking spaces for each dwelling unit.	Two parking spaces for each dwelling unit.
<b>Maximum # of Units in Building (PRUD)</b>	N/A	5 acres or more = 6 units Less than 5 acres = 5 units
<b>Max Building Length (PRUD)</b>	N/A	Buildings w/o garages = 100 feet Building w/ garages = 140 feet
<b>Min Building Setback from External Subdivision Line (PRUD)</b>	N/A	3 or fewer units in building = 25 feet 4 or more units in building = 35 feet
<b>Minimum distance between detached PRUD dwelling unit</b>	N/A	16 feet
<b>Min Recreation Open Space Per Unit (PRUD)</b>	N/A	300 square feet, with minimum contiguous area of 6,000 square feet, and minimum width of 50 feet, not to be located closer than 25 feet from dwelling unit.
<b>Habitable Space (PRUD)</b>	N/A	No habitable space to be located below grade, except basements in units with above ground space

As indicated in the narrative provided with this application, the proposed development could not meet the dimensional requirements of the R-2 district, given that the minimum lot area per dwelling unit is 10,000 square feet, as compared with the 9,846 square feet associated with the proposed plan, and that the R-2 does not permit PRUD style developments. Given that PRUDs are not permitted within the R-2 district, it is difficult to compare the proposed development against the R-2 standards, as they are explicitly intended for single-family homes on individual lots. Based upon these parameters and when only considering non-contract zoning districts within the city, the R-3 is best-suited for this proposed development.

An alternative to either the R-2 or R-3 zone would be a contract zone based upon the 2001 land conveyance agreement. As indicated previously, the City is not in favor of this approach, and has discouraged property owners from pursuing contract zones to the extent practicable. The rationale for this, is that it is more difficult to administer, with 62 contract zones now in existence. Contract zones have also resulted in unforeseen complications, in scenarios where the conceived project did not move forward exactly as planned. The R-3 zone is an existing zone that provides a suitable regulatory framework for the proposed development as agreed to in 2001. Also, the C-40 Contract Zone, which encompasses both Brandy Lane and Basket Lane, bases its density requirement on the R-3 zone.

Assuming the map amendment being sought is approved, the applicant would not be beholden to the 2001 agreement, and could develop their site to the maximum extent permitted under the R-3 zone. Based upon the buildable lot area (12.2 acres), the maximum number of units permissible would be eighty-one (81) units. Under this application, fifty-four (54) residential units are proposed, and the applicant is no longer pursuing age-restricted housing.

## VII. COMPREHENSIVE PLAN ANALYSIS

The applicant has submitted their analysis of the projects conformance with the Comprehensive Plan (refer to Attachment C). The staff has identified the additional goals and policies which are relevant to the proposed housing development and finds the proposal in conformance with the Comprehensive Plan. As stated the purpose of the R-3 Residential Zone is:

*To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.*

**Portland's Plan 2030:** Below are a list of state and local goals, as well as future strategies that are being met under this proposal.

### A. Environment: A Healthy City

State Goals:

- To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas
- To protect the State's other critical natural resources, including without limitation: wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas, and unique natural areas.

Local Goals:

- Identify and protect Portland's critical natural resources
- Restore impaired waterbodies through local efforts in collaboration with regional partners.
- Support agricultural, forest, and scenic resources appropriate to our urban context

Goals from Future Strategies:

1. Improve Water Quality
  - Collaborate with local non-profits, research organizations, private property owners, and surrounding communities to achieve cleaner waters
2. Support Agricultural and Forest Resources
  - Increase the urban tree canopy by 15% above current canopy coverage to benefit air quality, local climate, CO2 absorption and aesthetics

Staff Discussion: In looking at this proposal, it is important to discuss the 2001 land conveyance agreement, that brought this property into the City of Portland, and formalized protection of 48 acres of undeveloped woodlands and riparian ways along the Presumpscot River. This agreement has provided essential buffer along the river which helps to maintain water quality of the Presumpscot River, and protects one of Portland's most significant tracts of remaining undeveloped land. This is an important resource for both local wildlife and Portland's residents. In exchange for this land, the City granted the applicant increased development rights for their property.

### B. Housing: A Livable City

State Goals: To encourage and promote affordable decent, housing opportunities for all Maine citizens

Local Goals:

- Increase, preserve, and modify the overall supply of housing City-wide to meet the needs, preferences and financial capabilities of all Portland households.
- Encourage additional contextually-appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.
- Encourage quality, sustainable design in new housing development.

Goals from Future Strategies:

1. *Remove Housing Barriers*

- Evaluate whether current zoning allows for new development consistent with historic patterns of form, density and/or use, as well as whether it allows for priority growth areas.
- Allow for a range of housing models in City codes, whether small units, co-housing, or others that may suit changing needs and demographics.

2. *Adopt Affordable Housing*

- Pursue new opportunities for increased energy efficiency, increased densities, mixed incomes, and greater connectivity to surrounding neighborhoods.

Staff Discussion: This project is unique in its ability to provide increased housing density, and alternative housing forms in a location proximate to relatively low-density single-family housing, while still being contextually sensitive. The site is sufficiently sized to provide extensive vegetated buffers around the exterior, which better integrates the proposed development into the neighborhood.

C. *Recreation & Open Space: An Active City*

State Goals: To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

Local Goals: Portland commits to sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable city by the sea. We will:

- Provide high quality, well-designed, well-maintained, safe and integrated parks, trails, public open spaces, and recreational opportunities to all residents.
- Strengthen connections between open spaces
- Preserve the intrinsic values of the park and open space system, including historic resources, vistas, healthy ecosystem functions and biological diversity

Goals from Future Strategies

1. *Maintain Existing Facilities*

- Maintain trails, sports fields, courts and playgrounds and other amenities such as seating and landscaping, in good condition.

2. *Ensure Equity*

- Pursue opportunities, in collaboration with partners, to create new open spaces in areas that are currently underserved
- Pursue opportunities for new and enhanced walking and biking trails as a means of filling existing gaps, and investigate paper streets, vacant land, medians, and other often overlooked areas for the potential for park linkages, trails and other improvements to the urban landscape.

3. Connect to the Waterfront

- Encourage physical and visual access to Portland’s waterfront – Casco Bay, Back Cove, and the Stroudwater, Presumpscot, and Fore Rivers – as a “blueway” network and an extension of public space for local and regional recreation and transportation needs.

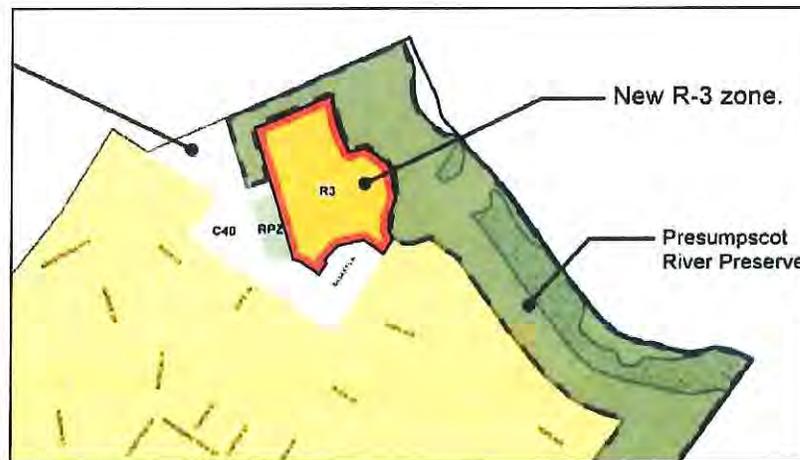
Staff Discussion: As previously stated, the proposed map amendment is integrally connected to the 2001 land conveyance agreement that formalized the creation of the Presumpscot River Preserve, a 48-acre public preserve with extensive opportunities for outdoor recreation, including hiking trails with vistas of the Presumpscot River and portage for canoes and kayaks. This system provides connections to other publicly accessible open spaces in the vicinity, including Oat Nuts Park and Presumpscot Falls Park.

D. Future Land Use

The future land use map, identifies this area of Portland as continuing to be residential in nature, though does not go into greater detail regarding the specific future of this site or neighborhood. Generally speaking, the comprehensive plan recommends increased residential density to accommodate Portland’s changing demographics, household characteristics and growing population. The proposed development speaks to all of these points by providing increased housing density in a contextually sensitive manner that targets a growing sector of Portland’s population, those who would seek age restricted housing.

**VIII. PLANNING BOARD RECOMMENDATION**

At the public hearing on September 11, 2018, the Planning Board unanimously (5-0) found that rezoning to the Residential R-3 zone for the property located at o Hope Avenue, as shown on the map below is consistent with the Comprehensive Plan for the City of Portland.



**IX. ATTACHMENTS**

**PLANNING BOARD REPORT ATTACHMENTS**

1. Traffic Review (Tom Errico)
2. Utility Capacity Review
3. Life Safety Review

**APPLICANT’S SUBMITTALS**

- A. Zoning Map Amendment Narrative
- B. Neighborhood Meeting Certification

**PLANS**

Plan 1 Zoning Map Amendment Plan

Plan 2 Preliminary Site Layout Plan



Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;

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## 0 Hope Avenue - Traffic Review Comments

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Tom Errico &lt;thomas.errico@tylin.com&gt;

Tue, Aug 7, 2018 at 10:13 AM

To: Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;

Cc: Keith Gray &lt;kgray@portlandmaine.gov&gt;, Bruce Hyman &lt;bhyman@portlandmaine.gov&gt;, Jeremiah Bartlett &lt;JBartlett@portlandmaine.gov&gt;, "Jeff Tarling (JST@portlandmaine.gov)" &lt;JST@portlandmaine.gov&gt;

Hi Matt – I have reviewed the application materials as it relates to the Zoning Map Amendment and do not expect the change will have a significant impact on traffic mobility and safety in the project area. I would note that a full review of site plan standards will be required and the concept plan provided will need a comprehensive review (this zoning review should not be considered an approval for the concept site plan).

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate

Traffic Engineering Director

**TYLIN** INTERNATIONAL

12 Northbrook Drive

Falmouth, ME 04105

+1.207.781.4721 main

+1.207.347.4354 direct

+1.207.400.0719 mobile

+1.207.781.4753 fax

thomas.errico@tylin.com

Visit us online at [www.tylin.com](http://www.tylin.com)

Twitter | Facebook | LinkedIn | Google+

"One Vision, One Company"



Matthew Grooms <mgrooms@portlandmaine.gov>

---

## FW: Hope Ave/Ln utility question

---

Lauren Swett <lszett@woodardcurran.com>  
To: Matthew Grooms <mgrooms@portlandmaine.gov>

Thu, Aug 9, 2018 at 10:09 AM

Hi Matt,

See below for some information on the existing sewer utilities for 0 Hope Avenue. There is existing sewer and stormdrain, however the pump station that pumps back to Alice St (see the purple forcemain on the GIS figure attached) is not sized adequately to accommodate the new development as Brad notes below. The Applicant would be required to contribute to the replacement of the existing pump station to accommodate the load they are adding to the system.

If there are any questions, let me know.

Thanks,

Lauren

[Quoted text hidden]

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 **Hope Ave 2018-07-25.pdf**  
802K



Matthew Grooms <[mgrooms@portlandmaine.gov](mailto:mgrooms@portlandmaine.gov)>

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## 0 Hope Ave

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**Robert Thompson** <[rmt@portlandmaine.gov](mailto:rmt@portlandmaine.gov)>  
To: Matthew Grooms <[mgrooms@portlandmaine.gov](mailto:mgrooms@portlandmaine.gov)>

Wed, Jul 18, 2018 at 10:09 AM

Hi Matt,

There plan isn't showing the hammerhead turn around at the dead end. The technical manual requires every dead-end roadway more than one hundred fifty (150') feet in length shall provide a turnaround at the closed end. Turnarounds shall be deisgned to facilitate futrue street connectivity and shall always be designed to the right (refer to Figure I-5 of the Technical Manual).

Also in the Technical Manual, no inside turning radius shall be less than twenty-five (25') feet, and not outside turning radius shall be less than one hundred (100') feet.

The will also have to install two fire hydrants in the complex. I'll have to review my comments in UI, and probably update them to reflect the number and location hydrants. I'll email you if there is a change in hydrant numbers or locations.

Thanks,  
Mike  
[Quoted text hidden]

--  
Robert M. Thompson  
Division Fire Chief  
Portland Fire Department  
(207) 874-8400  
[rmt@portlandmaine.gov](mailto:rmt@portlandmaine.gov)

June 21, 2018

**PORTLAND ZONING MAP AMENDMENT  
FOR LAND OFF HOPE AVE. SOUTH OF THE PRESUMPSCOT RIVER**

**INTRODUCTION**

The subject parcel is approximately 14 acres located off Hope Avenue abutting the Presumpscot River Preserve at the north end of the City. Peter Bouchard, Estelle Estates, LLC currently is under contract to purchase the land to create a residential development that was identified as part of a 2001 Agreement between the City of Portland and former owners Robert Adam and AJS Family Limited Partnership (ATT-1). The Agreement anticipates such development to be allowed *under contract zoning* (Sect. 4(c)). After consultation with Planning Staff, the current City Planning Director Tuck O'Brien recommended a zoning map amendment rather than a conditional/contract zone amendment to facilitate the planned development previously agreed upon in 2001. The proposed zoning map amendment seeks to expand the R-3 zone to include the subject property. Subsequent to the zoning amendment, the development plans will be submitted to the City for subdivision and site plan review and approval.

**BACKGROUND AND EXISTING CONDITIONS**

In 2001 the subject property (CBL 448-A00-1001; 449-A-2; and 390-A-1) was part of a larger parcel that remained from a land conveyance (approximately 48 acres) to the City of Portland that included property located in the Town of Falmouth. As a condition of the City of Portland accepting this land, an agreement was made between the City and the landowners, that a portion of the land adjacent to the River would become part of the Portland Trails system and be preserved. In exchange for this preservation land, the City agreed to work with the landowners on creating a contract zone amenable to both parties. The Agreement allows for the development of up to 80 age restricted residential dwellings, 55 of which to be constructed as "clustered" or multifamily/duplex units. The 25 single family units were constructed as part of a conditional zone agreement (C-40) approved in July 2005. The remaining 55 units (only 54 currently proposed) are planned for the subject property after the proposed re-zoning.

The applicant submits this application while expressly reserving all of its rights under the 2001 Agreement, including, without limitation, the right to pursue contract zoning in the event the R-3 zone proves to be inadequate to implement the objectives of the 2001 Agreement.

The subject property is undeveloped and is bounded by the Presumpscot River Preserve to the west, north and east. It fronts Hope Avenue to the south and abuts residential properties located on Basket Lane and further down on Hope Avenue. The property has a high degree of relief in topography due to a transecting stream to south and land falling away to the northeast towards the Presumpscot River resulting in a development envelope of less than ten acres in size of the 14 total acres. In locations



where the property is not abutting public open space, it is adjacent to a well-established residential neighborhood.

The property is depicted on the City's Zoning Map as zoned Residential - R-2, however, it is the applicant's understanding that zoning for the property was never adopted by the City Council and remains not zoned. Preliminarily, City Staff have stated that this appears to be the case, though they have not completed their review.

## PROPOSED AMENDMENT

The map amendment proposed is simple and straight forward. The objective is to expand the R-3 zone to include the subject property as depicted on the attached plan exhibit (ATT-2). The R-3 zone allows for Planned Residential Unit Developments (PRUDs) which is the regulatory use and review required for the type of development planned for the property and agreed to in the 2001 Agreement. There are no text amendments proposed to the City's Land Use ordinance, Chapter 14, only an amendment to the Zoning Map.

## PROPOSED DEVELOPMENT

The attached Sketch Plan (ATT-3) depicts a compact residential development consisting of 27 duplexes accessed by a private loop road with open space designated at the center and along the riparian area to the southeast. The property's net residential area (gross parcel area less watercourses, wetlands, steep slopes, etc....) is approximately 12.2 acres. The density, when considering the proposed 54 dwelling units planned is 1 dwelling per 9,846± square feet. The R-2 Zone allows for a maximum density of 1 dwelling per 10,000 s.f. while the R-3 is 1 dwelling per 6,500 s.f.

## CONFORMANCE WITH THE COMPREHENSIVE PLAN

Allowing the Residential R-3 zone in this portion of the City is consistent with the Comprehensive Plan for these reasons:

The Comprehensive Plan identifies this northern portion of the City as having a population density of up to 10 people per acre. Considering this, the 14-acre subject property might have as many as 140 people. The Plan also indicates the average people per household for this area of the City is between 2.51 and 3 people. Considering this statistic and that the proposed housing is age-restricted (55 years of age and over), household size is likely to be on the lower end of the scale. At 2.51 people per 54 proposed dwelling units, there would be approximately 136 residents living at the 14-acre subject property, less than the current population density for this part of the City.

The current Plan looks to encourage an increase in housing throughout the City to help meet its objective to *accommodate 75% of the current daytime population, or approximately 72,000 people*, providing housing opportunities for Portland's current non-resident workforce. A total of 2,557 new housing units over the next 10 years is the estimated need to meet this objective. The zone change



would allow a development that would have a meaningful contribution (>20%) to City's annual goal of more than 255 new dwelling units per year.

The Plan's Future Land Use chapter does not identify anything that can be construed as inconsistent with the proposed zone change in this area of the City. The Plan maintains residential use for this general locale of the City. The proposed zoning amendment is consistent with this, where the R-3 residential zone has very few differences with the adjacent R-2 zone, and those differences would result in modest changes in development.

## CONCLUSION

The proposed Zoning Map amendment is appropriate for this part of the City, especially when considering the proposed amendment maintains a residential use and that the difference between the R-2 and R-3 is primarily a modest increase in density and a change in method of development, single-family versus duplexes and multi-family, where the latter is not applicable since the development proposal is for 27 duplexes.

The density limit for the R-2 is 1 dwelling unit per 10,000 square feet, while the R-3 allows for 1 dwelling unit per 6,500 square feet. While on face value these numbers appear to be a significant departure, the actual proposal for development and limit of the total number of dwelling units that can be realized on the subject property amounts to a density just shy of the R-2 density limit. This combined with the likely population for the subject property being within the range of what is the current population density for this part of the City, underscores the modest change that would be anticipated from the zoning map amendment.

With consideration of the above discussion, the Portland Planning Board and City Council should find the proposed map amendment to change the land located north of Hope Avenue that includes the subject property to be appropriate in character and consistent with the Comprehensive Plan.

AGREEMENT BETWEEN

CITY OF PORTLAND

AND

ROBERT L. ADAM AND

AJS FAMILY LIMITED PARTNERSHIP

AGREEMENT made this 21st day of September, 2001 by and between the CITY OF PORTLAND, a body politic and corporate, located in Cumberland County and State of Maine (hereinafter "CITY") and ROBERT L. ADAM and AJS FAMILY LIMITED PARTNERSHIP, a Maine Limited Partnership (hereinafter "DEVELOPER")

WITNESSETH:

WHEREAS, DEVELOPER is proposing a housing development of up to thirty (30) single family homes along Eagle Avenue, in Portland, as limited herein, known as Presumpscot River Place Phase 3A (hereinafter "PROJECT"); and

WHEREAS, application for PRP3 approval is presently pending before the Planning Board; and

WHEREAS, application for PROJECT will be submitted; and

WHEREAS, the CITY by and through its City Council has determined that it is in the public interest to obtain a portion of property owned by DEVELOPER for purposes of passive recreation and access to the Presumpscot River with no vehicular access or use; and

WHEREAS, the CITY has determined that because of the unusual nature of the proposed development it is necessary or appropriate to impose by agreement the following conditions or restrictions in order to insure that the public interest is protected and as conditions to purchase of the PROPERTY; and

WHEREAS, the CITY authorized the execution of this Agreement on September 19, 2001;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

- 1(a) DEVELOPER agrees to sell the property, shown on Exhibit A, attached hereto and incorporated herein by reference, to CITY and CITY agrees to purchase said property in accordance with the provisions hereof. DEVELOPER agrees that the total amount of property conveyed to CITY shall be approximately 48 acres. CITY agrees said area shall remain undeveloped and/or used for passive recreational purposes.
- (b) CITY will pay DEVELOPER the sum of [REDACTED] as consideration for the PROPERTY. CITY expects that payment shall be from the following sources:  
[REDACTED] from the State Land for Maine's Future Program;  
[REDACTED] from private fund-raising or other non-profit sources.

In the event that CITY does not receive the [REDACTED] from the Land for Maine's Future Program by November 6, 2001, CITY may, at its election, terminate this agreement upon written notice to DEVELOPER no later than 5:00 p.m. on November 6, 2001.

- (c) Title to PROPERTY shall be conveyed to CITY by warranty deed free and clear of liens and encumbrances with the exception of a utility transmission line easement and Portland Water District easement, acceptable to CITY and with marketable title, with title being insurable by a standard title insurance policy.
- (d) Full possession of the PROPERTY shall be given at the transfer of title

Real estate taxes for the fiscal year shall be prorated at closing.

- (e) Closing shall be scheduled upon agreement of the parties.

Payment to **DEVELOPER** and closing on the sale of the transfer of **PROPERTY** shall be structured as follows:

(1.) Providing that **CITY** receives funding from the Land for Maine's Future Program by November 6, 2001, closing shall occur within ninety (90) days from the submission by **DEVELOPER** to the Planning Board of the amendment to PRP3 or sixty (60) days from receipt of Planning Board approval for PRP3A, whichever come later.

(2.) At the time of closing, **CITY** shall have the option to tender either the full purchase price to **DEVELOPER**, or a combination of cash and a promissory note with a term of one (1) year, at the prevailing interest rate paid on municipal bonds; the promissory note shall be secured by a mortgage on the property.

2. **DEVELOPER** shall be authorized to develop **PROJECT** substantially in accordance with the site plan shown on Exhibit A.
- 3(a) **DEVELOPER** shall be authorized to construct up to thirty (30) single family homes along the proposed Eagle Avenue contingent on Planning Board approval. Lots will extend from the western boundary of Presumpscot River Place 3A (PRP3A) to the buffer adjacent to the ravine. House lots will not cross the ravine and will be no closer than five hundred (500) feet from the Presumpscot River, as shown on Exhibit A.
- (b) **CITY** will consider the application for additional house lots to bring the total number of lots to thirty (30) in the PRP3A as an amendment to the site plan PRP3 presently pending before the Planning Board, and **CITY** shall not require a new application for said amendment. The no cut restriction on PRP3A shall be same as those on PRP3.
- (c) **DEVELOPER** shall not be required to build the Overset Road connection in PRP4 or the Pratt Road Connection in PRP3.
- 4(a) **CITY** will use reasonable efforts to secure emergency approval of the Maine Legislature for the realignment of the **PROPERTY** line between Falmouth and **CITY** in such a manner as to allow the lot shown on Exhibit B to be brought into the City of Portland (hereinafter "Falmouth Land").
- (b) **CITY** will use reasonable good faith efforts to assist **DEVELOPER** in obtaining Planning Board approval for PRP3A and continue to make a good faith effort to facilitate **DEVELOPER**'s approval necessary for the development of PRP3A and Falmouth.
- (c) Provided the Falmouth land is brought into Portland and within its legal boundaries, **CITY** agrees that under contract zoning, it will allow up to eighty (80) age-restricted housing units to be developed as compactly as possible but in any event on no more than

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9.21.01

twenty (20) acres of developable land. These eighty (80) units will consist of a minimum of fifty five (55) clustered units and a maximum of twenty five (25) single family units (clustered shall be defined as two or more units with common walls).

- (d) CITY agrees to assist DEVELOPER in the building of Hope Road including water and sewer lines, from the Falmouth/Portland property line at PRP3A to the existing Hope Road in Portland at such time as required by Planning Board conditions such that the timing of the completion of the road will not delay the obtaining of building permits and certificates of occupancy by the buyers. Parties shall cooperate in good faith to accomplish road development in such a way as to facilitate future development. The CITY shall pay DEVELOPER and/or DEVELOPER's contractor the sum of [REDACTED] for said road and utility construction. Payment shall be made within thirty (30) days of receipt of invoice by CITY. DEVELOPER agrees to be responsible for the costs required to complete construction of said road and utilities, if any. Construction shall be completed by a contractor of DEVELOPER's choice.

DEVELOPER agrees to deed to CITY land required to build said road if said conveyance is required for use of CITY funding.

5. CITY and DEVELOPER shall equally split the cost of the pump stations required for lot development in PRP3A up to a maximum contribution of [REDACTED] by CITY. Costs of constructing the pump station(s) in excess of the total cost of [REDACTED] shall be born by DEVELOPER. Payment shall be made by CITY within thirty (30) days from receipt of invoice from DEVELOPER, which invoice shall be generated after installation of the Pump Station.
6. CITY shall have the option to purchase lots 15 and 16 as shown on Exhibit A. The option to purchase shall be open for thirty (30) days from the pricing of said lots by DEVELOPER, but in any event no sooner than the date of the Planning Board approval. In the event that CITY exercises this option, lots 15 and 16 may only be used for buffering unless resold. Lots shall not be used for parking of any type of vehicle. CITY may resell the lots solely for housing, with conditions in the deeds that houses built on said lots must comply with all standards conditions of construction imposed on lot owners in PRP3A, including approval of building plans by DEVELOPER; CITY shall have a deed restriction that provides no public access across the Lots.
7. DEVELOPER shall provide an easement along the easterly sideline on lot #21 as shown on Exhibit A, a minimum of ten (10) feet in width for purposes of pedestrian access through said lot as shown in Exhibit A.
8. Any amendments required to this Agreement shall be negotiated in good faith by the parties and shall be in writing.
9. In the event a dispute arises under the terms of this Agreement, the parties agree to submit the dispute to binding arbitration. The arbitrator shall be chosen by agreement of

PRP3.AGR.DMK.CON.3  
9.21.01

the parties, with each party bearing half of the cost of the arbitration. Arbitration shall be conducted according to the rules of the American Arbitration Association.

10. CITY acknowledges that DEVELOPER wishes to exchange the PROPERTY, as part of a tax-free exchange transaction, for other property of like kind and qualifying use as provided in Section 1031 of the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder. CITY agrees to cooperate with DEVELOPER in structuring the sale as such an exchange; provided however (i) in no event will CITY or its principals be required to incur any obligation or liability with respect to such transaction, (ii) in no event will the closing be delayed as a result of such transaction, and (iii) in no event will such exchange structure result in CITY being required to take title to any property other than PROPERTY. DEVELOPER agrees to indemnify and hold CITY harmless from and against any and all loss, damage and claims to or against CITY arising from CITY's involvement in such exchange.
11. CITY will obtain approval through a contract zone for DEVELOPER to stockpile fill on a temporary basis on lots to be identified in PRP3, which lots to be identified in PRP3, which lots shall be as near as practicable to Falmouth lots. The stockpiled fill shall be used to build roads in PROJECT. Fill shall be brought in according to a reasonable schedule to be agreed to by the parties.

The above stated restrictions, provisions and conditions are an essential part of the site plan approval of PRP3A and shall run with the subject premises, shall bind DEVELOPER and CITY, their successors and assigns, as permitted by this Agreement, of said property or any part thereof or interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit of and be enforceable by the CITY, by and through its duly authorized representatives.

If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

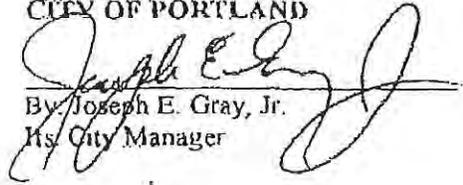
Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

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9.21.01

WITNESS

  
\_\_\_\_\_

CITY OF PORTLAND

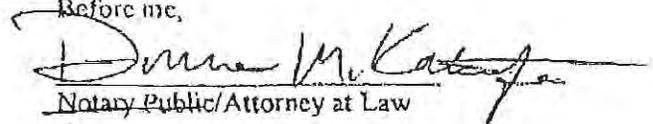
  
By Joseph E. Gray, Jr.  
His City Manager

STATE OF MAINE  
CUMBERLAND, ss.

September 21, 2001

Personally appeared the above-named Joseph E. Gray, in his capacity as City Manager, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Portland.

Before me,

  
Notary Public/Attorney at Law

AJS FAMILY  
LIMITED PARTNERSHIP  
By: LLOYD WOLF

WITNESS:

[Signature]

WITNESS:

[Signature]  
Its: Authorized Partner  
ROBERT L. ADAM

to both

Robert L. Adam

STATE OF MAINE  
CUMBERLAND, ss.

9-21, 2001

Personally appeared the above-named Lloyd Wolf and acknowledged the foregoing instrument to be his free act and deed.

Before me,

[Signature]  
Notary Public/Attorney at Law  
TERRY N. SNOOK

STATE OF MAINE  
CUMBERLAND, ss.

9-21, 2001

Personally appeared the above-named Robert L. Adam and acknowledged the foregoing instrument to be his free act and deed.

Before me,

[Signature]  
Notary Public/Attorney at Law  
TERRY N. SNOOK



**PROPOSED ZONING MAP AMENDMENT**

City of Portland, Hope Avenue Locale





707 Sable Oaks Drive, Suite 30  
South Portland, Maine 04106  
207.772.2515

### Neighborhood Meeting Certification

I, Chris DiMatteo of Gorrill Palmer, hereby certify that a neighborhood meeting was held on August 7, 2018 at the Lyman Moore Middle School Library at 5:00pm.

I also certify that on Thursday, July 26, 2018, invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change.

Signed,

A handwritten signature in blue ink that reads 'Chris DiMatteo'.

Chris DiMatteo, Agent of Applicant

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting notes



707 Sable Oaks Drive, Suite 30  
South Portland, Maine 04106  
207.772.2515

July 27, 2018

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our application for a Zoning Map Amendment for property located along the northerly side of Hope Avenue.

Meeting Location: Lyman Moore Middle School Library; 171 Auburn Street, Portland

Meeting Date: Tuesday, August 7, 2018

Meeting Time: 5:00 pm-6:00 pm

(The City code requires that property owners within 500 feet (1000 feet for proposed industrial subdivisions and industrial zone changes) of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.)

If you have any questions, please call (207) 772-2515.

Sincerely,

A handwritten signature in blue ink that reads "Chris Di Matteo".

Christopher Di Matteo, Agent for Applicant

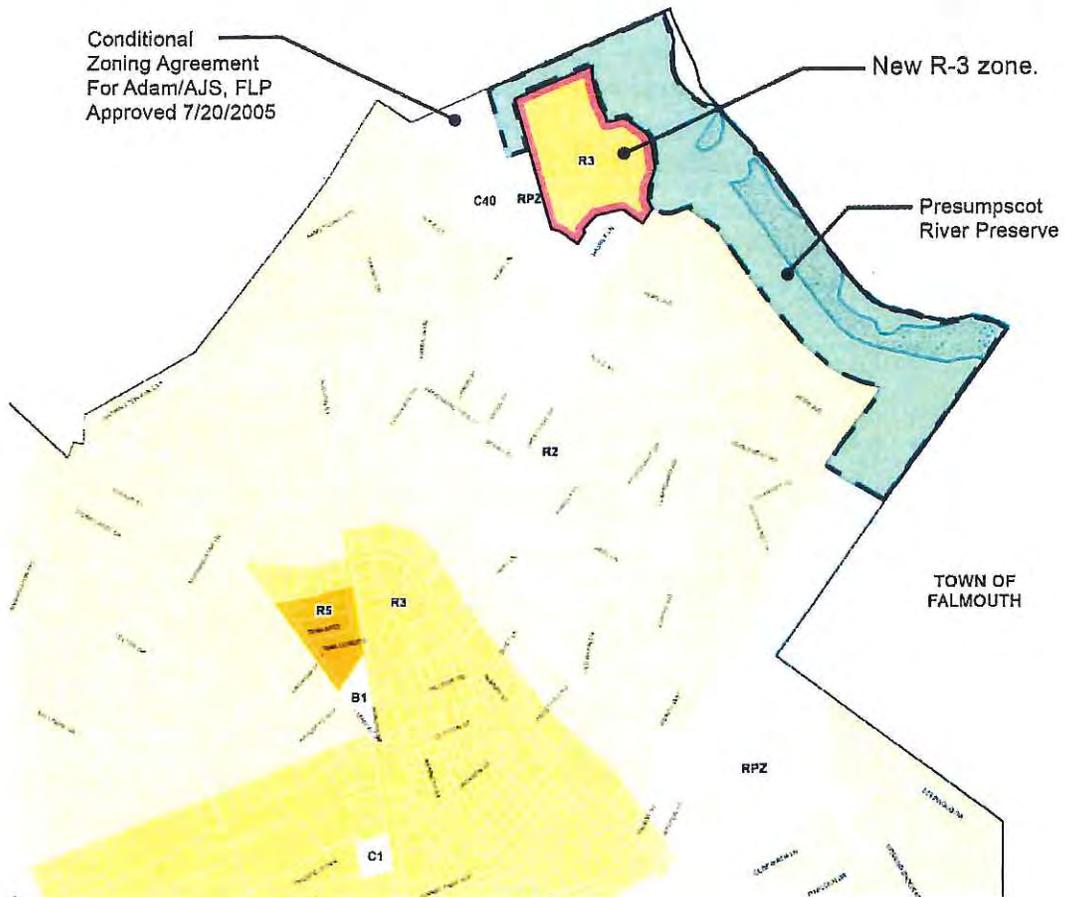
Note:

Under Section 14-32(C) and 14-524(a)d of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within 30 days of submitting a preliminary application or 21 days of submitting a final site plan application, if a preliminary plans were not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division 4<sup>th</sup> Floor, 389 Congress Street Portland, ME 04101 or by email: to [bab@portlandmaine.gov](mailto:bab@portlandmaine.gov)



## PROPOSED ZONING MAP AMENDMENT

### City of Portland, Hope Avenue Locale



Name:	Address:	Tel #:	Email:
Wendy Masan	17 Basket Ln	536 1694	wlmason @ sbeglobal.net
Will Czaja	26 Basket Lane	217 8678	william.p.czaja@gmail.com
Peter Bouchard	NORMAN, HASON + DETROY	—————	—————
Kim Cook	City Council Dist 5		Kcook@portlandmaine.gov
CHRIS DiMatteo	GARRILL PALMER		

### Neighborhood Meeting Notes

Meeting held at the Lyman Moore Middle School Library and started at 5:03 pm.

Chris DiMatteo, with Gorrill Palmer provided a brief overview of the zoning map amendment application. Peter Bouchard, with Norman, Hason and DeTroy, developer, provided history of the property's contract with the City.

The attendees had general questions regarding the R-2 and R-3 zones and about the proposed residential development. It was stated that while the R-3 zone allows for a higher density, the proposed development is only slightly higher in density than what is allowed in the R-2 Zone.

There was a specific question on the use of an existing easement for access between the property and neighboring Alice Street. It was stated that it can be looked into when the proposed development is reviewed for Site and Subdivision plan regulations, after the zoning map amendment process is completed.

Time line and next steps were discussed and it was conveyed that there will be a first meeting with the planning board on 8/14. After the Planning Board reviews the proposed zoning map amendment and makes a recommendation for adoption, there will be additional meetings with the City Council. All meetings will have an opportunity for public input.

There was general discussion on the type of development that will be constructed with the zone change.

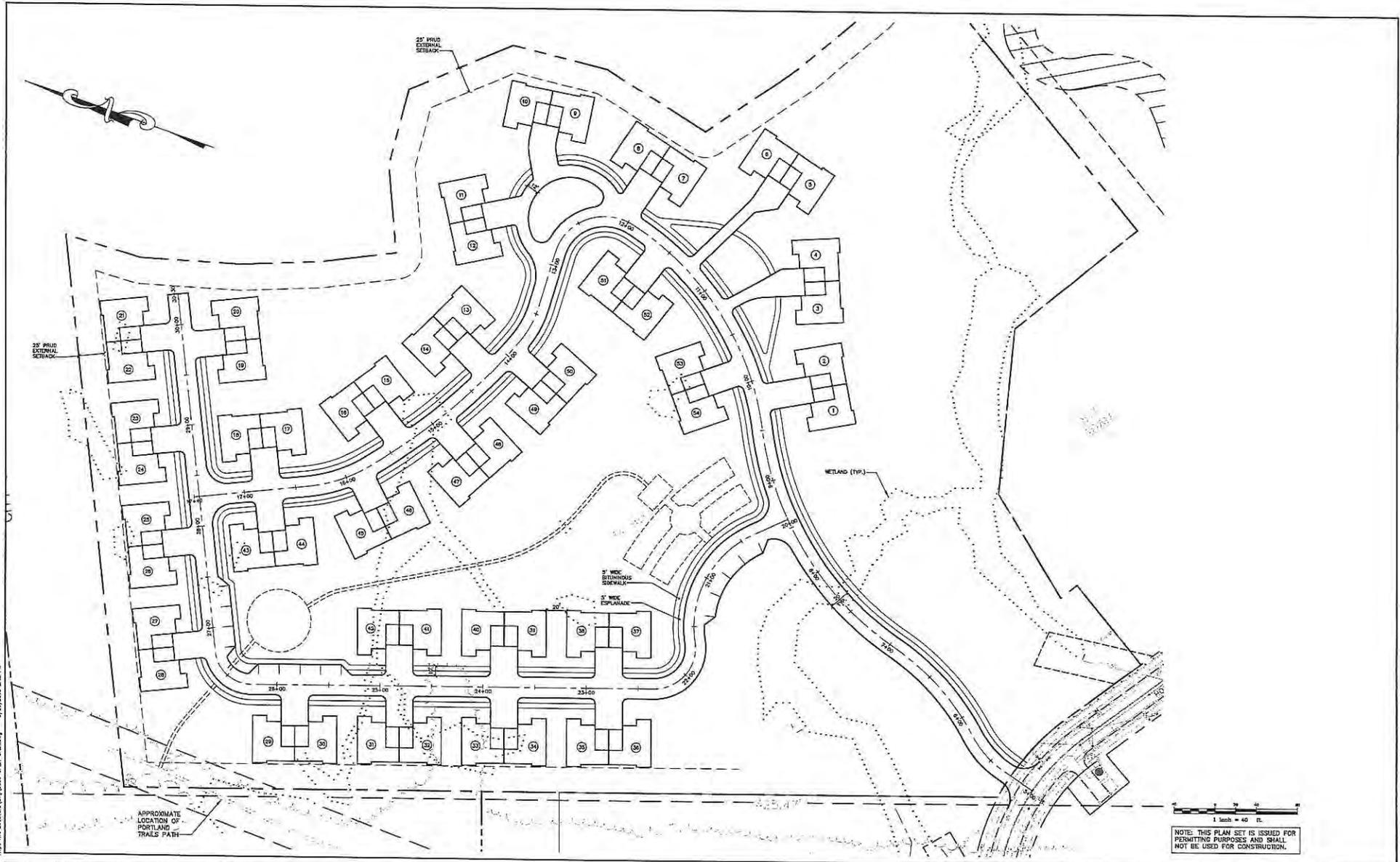
Meeting adjourned at approximately 6:00 pm.



**PROPOSED ZONING MAP AMENDMENT**

City of Portland, Hope Avenue Locale





C:\GDD\WORK\3338 - 1824 Ave. Boucher\New\3338-SP-241.dwg 6/21/2018 2:13 PM

Rev.	Date	Revision

Issued For	Date	By

Drawing: 3338-SP-241.dwg    Draft: 00    Date: MARCH 2018  
 Checked: DRR    Scale: 1"=40'    Plot No.: 3338  
 File Name: 3338-SP-241.dwg  
 This plan shall not be modified without written permission from Gorrill-Palmer Consulting Engineers, Inc.(GPCE). Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to GPCE.

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Drawing Name:	<b>Sketch Plan</b>
Project:	Residential Subdivision Hope Avenue, Portland, ME
Client:	Estelle Estates, LLC 39 Darling Ave, South Portland, ME 04106

Drawing No. **C101**

NOTE: THIS PLAN SET IS ISSUED FOR PERMITTING PURPOSES AND SHALL NOT BE USED FOR CONSTRUCTION.

AMENDMENT TO ORDER NUMBER 69-18/19  
PREPARED BY CORPORATION COUNSEL  
FOR COUNCILOR COOK AND COUNCILOR BATSON  
RE: ADDING MEDICAL MARIJUANA GROW FACILITIES, REMOVING  
RETROACTIVITY AND ENDING MORATORIUM ON DECEMBER 13, 2018

AMENDMENT TO THE PORTLAND CITY CODE CHAPTER 17 RE:  
MORATORIUM ON MEDICAL MARIJUANA RETAIL STORES, MEDICAL MARIJUANA  
TESTING FACILITIES, AND MEDICAL MARIJUANA MANUFACTURING  
FACILITIES, AND MEDICAL MARIJUANA GROW FACILITIES

WHEREAS, the Maine Medical Use of Marijuana Act (the "Act"),  
codified in the Maine Revised Statutes in Title 22,  
Chapter 558-C, authorizes registered caregivers to  
possess, cultivate, and transfer medical marijuana to  
qualifying patients, as those terms are defined by 22  
M.R.S. § 2422; and

WHEREAS, on July 9, 2018 the Maine Legislature enacted as  
emergency legislation PL 2017, c. 447 (LD 239), An Act  
to Amend the Maine Medical Marijuana Law, which  
expressly recognizes municipal home rule authority to  
regulate registered caregiver operations; and

WHEREAS, on July 9, 2018, the Maine Legislature also enacted PL  
2017, c. 452 (LD 1539), An Act to Amend Maine's  
Medical Marijuana Law ("LD 1539"); and

WHEREAS, LD 1539 includes express authorization for registered  
caregivers to 1) operate retail stores for the sale of  
harvested medical marijuana to qualifying patients, 2)  
conduct marijuana testing for research and development  
purposes, ~~and~~ 3) manufacture marijuana products and  
marijuana concentrates for distribution to patients,  
and 4) grow up to 30 plants per caregiver for medical  
use; and

WHEREAS, the unregulated location and operation of medical  
marijuana retail stores, testing facilities, ~~and~~  
manufacturing facilities and grow facilities within  
the City of Portland (the "City") raises legitimate  
and substantial questions about the impact of such

activity on the City, including questions as to compatibility with existing land uses and developments in the City; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

**WHEREAS,** as a result of the foregoing issues, the location and operation of medical marijuana retail stores, testing facilities, and manufacturing facilities, and grow facilities within the City have potentially serious implications for the health, safety and welfare of the City and its residents; and

**WHEREAS,** existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores, testing facilities, manufacturing facilities, and grow facilities; and

**WHEREAS,** the City needs time to understand the impact of the amendments to the Act on the City's existing rules and ordinances regarding, among other things, zoning, land use, and fire and life safety requirements; and

**WHEREAS,** in the judgment of the City Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action; and

**WHEREAS,** a temporary prohibition on medical marijuana retail stores, testing facilities, and manufacturing facilities, and grow facilities is therefore appropriate in order to determine what regulations, if any, are necessary within the City as a result of the amendments to the Act:

**NOW, THEREFORE,** BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, that the Portland City Code is hereby amended by adding an Article, to be numbered X, which said Article reads as follows:

**ARTICLE X. MORATORIUM ON MARIJUANA CAREGIVER RETAIL STORES, TESTING FACILITIES, AND MANUFACTURING FACILITIES, AND GROW FACILITIES**

**Sec. 17-124. Necessity.**

Municipalities are authorized by 30-A M.R.S. § 4356(1) (a) and (b) to enact moratoria for the following reasons:

a. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or

b. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent public harm from residential, commercial or industrial development in the affected geographic area.

In accordance with 30-A M.R.S. § 4356(1) (a) and (b) and for the reasons stated above, the Portland City Council hereby finds that a moratorium on medical marijuana retail stores, medical marijuana testing facilities, ~~and~~ medical marijuana manufacturing facilities, and medical marijuana grow facilities is necessary and warranted in the City of Portland.

**Sec. 17-125. Definitions.**

Except as otherwise provided, the following definitions shall apply to this Article:

*Marijuana extraction* means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

*Manufacturing or manufacture* means the production, drying, blending, infusing, compounding or other preparation of marijuana and marijuana products, including the preparation of food, drink, or similar products from marijuana or marijuana products. Manufacturing includes, but is not limited to, marijuana extraction or preparation by means of chemical synthesis.

*Medical marijuana grow facility* means a lot or parcel where more than one registered caregiver is growing medical marijuana for medical use.

*Medical marijuana manufacturing facility* means an establishment that manufactures marijuana and marijuana products produced by a registered caregiver. Medical marijuana

manufacturing facility does not include a single registered caregiver who solely manufactures marijuana and marijuana products out of marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

*Medical marijuana retail store* means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, regular sales to more than five individual qualifying patients in any one week, and sales directly to the consumer of the product. This includes, but is not limited to, an establishment meeting the definition of a retail establishment in Sec. 14-47 of this Code that is used by a registered caregiver to offer harvested medical marijuana or marijuana products for sale to qualifying patients.

*Medical marijuana testing facility* means an establishment that tests marijuana produced by a registered caregiver. Medical marijuana testing facility does not include a single registered caregiver who solely tests the marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

#### **Sec. 17-126. Conflicts/Savings Clause.**

Any provisions of this Code that are inconsistent or conflicting with the provisions of this Article are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Code is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

#### **Section 17-127. Violations.**

If any medical marijuana retail store, medical marijuana testing facility, ~~or~~ medical marijuana manufacturing facility, or medical marijuana grow facility is established in violation of this Article, it shall be subject to the penalties provided for in Sec. 1-15 of this Code.

#### **Sec. 17-128. Term.**

This moratorium shall begin on October 1, 2018 and continue for 180 days from July 9, 2018 to January 5, 2019. until

December 13, 2018. It may be extended for additional 180 day periods by the City of Portland in accordance with 30-A M.R.S. § 4356(2).

~~Sec. 17-129. Applicability.~~

~~Notwithstanding the provisions of 1 M.R.S. § 302, this moratorium shall apply retroactively and include any and all actions and proceedings pending on July 9, 2018 or thereafter, including any proposed medical marijuana retail store, medical marijuana testing facility, or medical marijuana manufacturing facility for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the City.~~

~~BE IT FURTHER ORDERED, that this Moratorium shall go into effect and be applicable as of July 9, 2018, and remain in effect for one hundred and eighty (180) days thereafter, unless extended, repealed, or modified by the Portland City Council; and~~

~~BE IT FURTHER ORDERED, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, to make it effective immediately in order to protect the public safety and welfare of the City of Portland.~~