

Draft Agenda

**PORTLAND FISH PIER AUTHORITY BOARD OF
DIRECTORS**

October 10, 2018, 3:00pm

Room 209

389 Congress Street

1. Approval of August 27, 2018 Meeting Minutes

Action Item: *Public Comment*

The draft August 27, 2018 minutes are attached.

2. Financial update - Produced by Rhonda Girard, Finance, presented by Bill Needelman

An up to date financial summary will be provided at the meeting.

3. Fish Exchange update - Bert Jongerden, PFX, Tom Valleau, PFX President

4. Facilities update - Phil DiPierro, Project Manager.

A summary of recent projects is attached.

5. Lot 1 Development – Bill Needelman

Discussion of staff recommendation to issue a Request for Proposals (RFP) in November seeking interested parties to develop Lot 1.

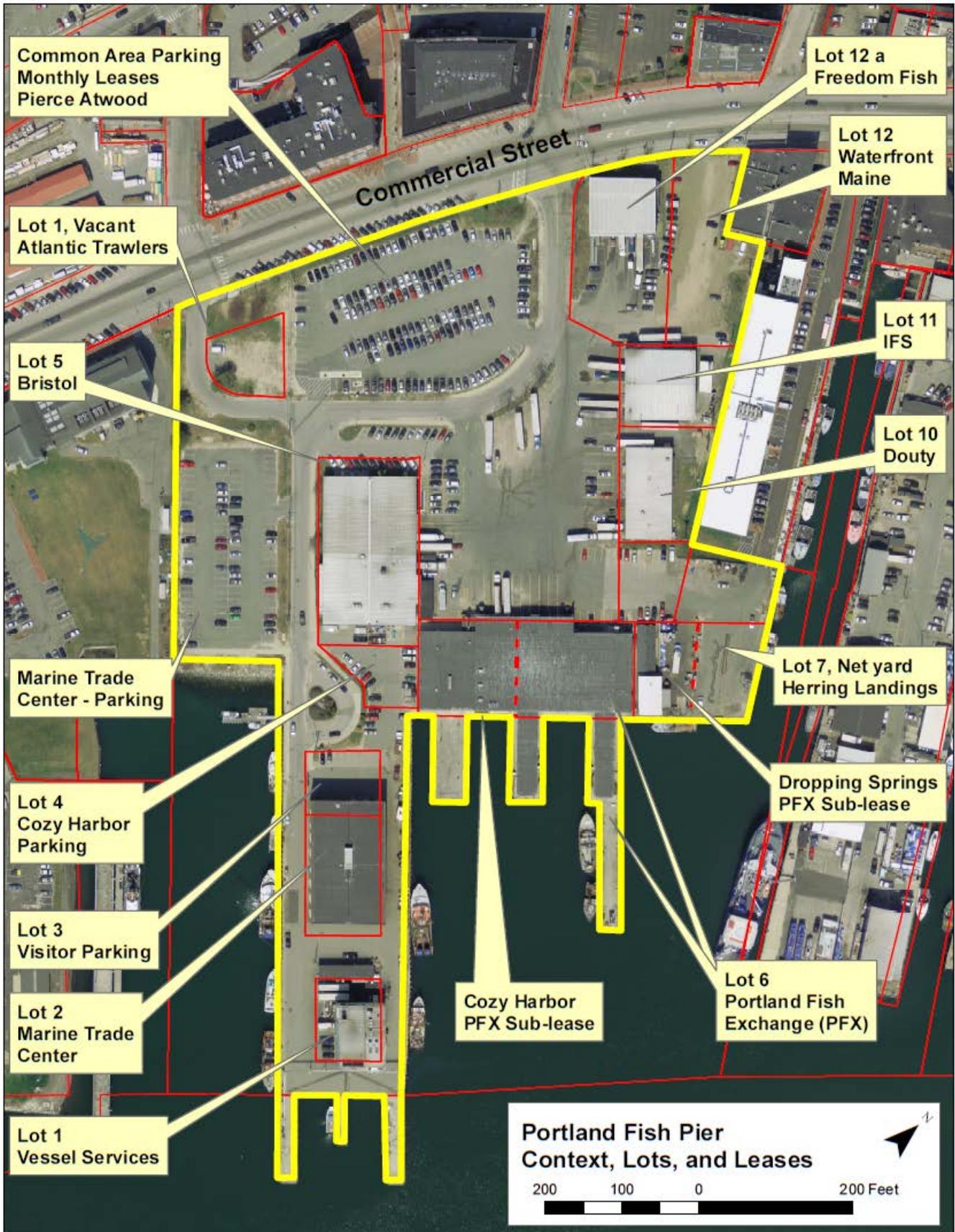
Consistent with Exec Session statute--1 MRS 405(6)(C) & (E) the Board may go into Executive Session to discuss this item.

6. October 20, 2018 Event on the Net Yard – Communication. Bill Needelman

Attachments:

General Information: Orientation aerial photo, Context, Lots, and Leases

| | |
|----------------|--|
| Agenda Item 1, | Draft Minutes from the August 27, 2018 PFPA meeting, |
| Agenda Item 2, | Financial Update - Pending |
| Agenda Item 4, | Facilities Update |
| Agenda Item 5, | Lot 1 Development Memo and 2015 RFP documents |



DRAFT Meeting Minutes DRAFT

**PORTLAND FISH PIER AUTHORITY BOARD OF
DIRECTORS**

August 27, 2018, 3:00pm

Room 209

389 Congress Street

Board Members in attendance: Nick Mavodones, Class A Board Member, City Council (arrived for Item #6)
Tom Valteau, Ex-Officio, President of the Portland Fish Exchange
Jennifer Smith, Class C Board Member, MDOT
Michael Sauschuck, Ex-Officio, City Manager's Office

Board Members absent: Meredith Mendelson, Class B Board Member, DMR

Staff present: Phil DiPierro, Project Manager, Facilities
Kathy Alves, Facilities Director
Bert Jongerden, General Manager, Portland Fish Exchange
Bill Needelman, Waterfront Coordinator, Principal Staff

Public in attendance: Dan Jacques, Waterfront Maine, Lot 1
John Hathaway, Shucks Maine Lobster
(along with +/-15 members of Shucks' staff)
Bill Coppersmith, MLU
Togue Brawn, Downeast Dayboat
Alan Tracy, Vessel Services
Jen Cyr, Bristol Seafood
Mark L, Cozy Harbor
John Norton, Cozy Harbor
Nick Popov, DMR
Others...

1. The Board welcomed new ex officio board member, Michael Sauschuck, Assistant City Manager.

A memo from City Manager, Jon Jennings, assigning Mr. Sauschuck to the Board was provided in the Meeting packet.
2. **Approval of June 11, 2018 Meeting Minutes**

Motion to approve: Moved by Smith, 2nd by Sauschuck: Pass 3-0 by all present
3. **Financial update** - A financial statement produced by Rhonda Girard, Finance, was included in the packet and presented by Bill Needelman. There was a discussion regarding unspent repair funds. Ms. Alves clarified that piling work was delayed but will commence in this FY with reuse of composite piles from the Portland Ocean Terminal, at a savings for the PFP.
4. **Fish Exchange update** - Bert Jongerden, PFX, Tom Valteau, PFX President

Mr. Jongerden noted that the PFX is in the 4th month of fiscal year. The summer has been active with abundant dabs, hake and other species. Herring landings are strong, at +/- 6 million lbs, however herring fishing will end soon and will be limited moving forward due to an upcoming 75% quota cut. Bait will be a problem for the industry moving forward with pogies hopefully staying strong. Following an inquiry from Mr. Valleau, Bert noted that there are inexpensive quotas available from New Bedford and two vessels will likely be new/returning to Portland. The PFX is on track for a 2.5-2.7 million pound year for ground fish.

5. **Facilities update** - Phil DiPierro, Project Manager, with additional comments from Kathy Alves, Facilities Director, provided an update of project completed as described in a summary of recent projects included in the meeting packet

Mr. Valleau suggested and it was agreed by the Board to take item 7 out of order.

7. **Increased Use of the Fish Pier by the Lobster Industry** – Bill Needelman

As introduced to the Board at previous meetings, increased development pressure on the Portland waterfront has motivated members of the lobster harvesting community to explore options for access, berthing, and operational support for their industry. Increased use of the Fish Pier parking resource by fish harvesters, including lobstermen, is a direct result of this activism.

On August 23, staff held a site walk of the Fish Pier with members of the lobstering community. Department of Marine Resources (including Board member Mendelson) joined the group, as did several current tenants of the PFP.

Needelman facilitated the discussion and prepared notes that were included in the meeting packet.

Bill Coppersmith, MLU, noted that a lack of tank infrastructure limited the ability or attractiveness of auctioning lobster at the PFX. If lobsters don't sell, there is no ability to hold product over until the next auction.

No Board Action was requested or taken.

6. **Lot 1 Development** – Status update by Sustainable Maine Seafood, John Hathaway, with request for lease approvals at the upcoming meeting.

Needelman introduced the item noting that the previous team representing Sustainable Maine Seafood had evolved since the previous meeting where this item was discussed. In February, three entities including John Jordan of Calendar Island Lobster, Barton Seaver, and John Hathaway represented the proposal. Currently, Mr. Hathaway as owner Shucks Maine Lobster represented as the sole owner of Maine Sustainable Seafood and the primary negotiating entity moving forward.

Editor's note: On April 9, 2018, the board did not have a quorum and took no action. However, attending Board members Mavodones and Valleau heard an update by John Jordan representing

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the proposal. Mr. Jordan indicated that the project team was in transition and that Shucks Maine Lobster was not then involved. wbn

Needelman also noted that a third party had expressed interest in Lot 1 in the days preceding the August 27 meeting. A letter of interest was available for the Board's review in executive session.

Following introductions of his staff and legal counsel, Mr. Hathaway presented a revised request and description of the "Maine Sustainable Seafood Center."

The concept program for the lot remained largely consistent with presentations from previous meetings with a reduction in footprint allowing for the continued use of the secondary access drive around the perimeter of the lot. The concept program included lobster processing, a restaurant and raw bar, demonstration kitchen, and "seafood heritage" display/event space. Mr. Hathaway referred to a rendered site plan of the site, which was not circulated and is not included with these minutes.

Confidential financial information related to the request was circulated at the meeting for the Board's review in executive session.

Following clarifying questions from the Board, Mr. Hathaway noted the "option" granted by the Board at the February meeting, and that he was hoping for a lease approval at the next board meeting. Board member Valteau clarified that the February motion was not intended as an option, but as space for the development team to conduct due diligence and further develop their proposal. Needelman added that the language of the February motion indicated that the Board would "not entertain offers on Lot 1 until November 1, 2018." Mr. Hathaway's legal representative concurred that the motion did not constitute an option on the property.

Editor's Note: The full text of the previously passed Motion, February 12, 2018:

"The PFFA Board will not entertain offers on Lot 1 until November 1, 2018 in recognition of Maine Sustainable Seafood's expressed interest in the property, as presented to the Board on December 11, 2017 and February 12, 2018. Corporation Counsel will document the Board's intent with a seen and agreed to letter for the President's signature."

Corporation Counsel prepared the letter for the President's signature at the April 9 PFFA meeting where Mr. Jordan and President Mavodones signed as indicated in the February motion. A copy of the signed seen and agreed to letter is attached to these minutes. wbn

Following Mr. Hathaway's presentation, Mr. Valteau moved (2nd by Mavodones) to go into executive session.

Motion to go into Executive Session:

Consistent with Exec Session statute--1 MRS 405(6)(C) & (E) the Board will go into Executive

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Session to discuss this item. Vote: 4-0, by all present, motion passed.

The Board returned to public session at +/-4:50pm and remaining participants were called back into room 209.

Mr. Mavodones welcomed participants back and noted that, consistent with the February motion (see editor's note above,) that the Board did not review the unsolicited third party letter of interest. After discussing Mr. Hathaway's proposal, the Board had questions for the City Corporation Counsel that needed to be answered before taking further action.

S. Beliveau, representing Mr. Hathaway, asked: " what questions?"

Mr. Mavodones reiterated that the Board needed advice prior to moving forward. After receiving direction from City CC, the Board had the option of scheduling a special meeting to continue discussions if timing for the project was critical.

Public Comment:

Jen Cyr, Bristol Seafood, stated that Bristol was in a growth mode and the unsolicited proposal noted above came from Bristol. They are interested in developing Lot 1.

Togue Brawn, Downeast Dayboat, stressed the importance of the project. The public needs to interact with the industry and John H is the best person to do the project.

Alan Tracy, Vessel Services, noted that the project plan has greatly improved and would be good for the lobster industry. He appreciated the continued use of the secondary entrance and stressed the need for good flow on the Fish Pier.

Dan Jacques, Waterfront Maine, also supported the traffic flow of the revised concept.

At the conclusion of public comment, the President thanked participants and adjourned the meeting at +/-5:15.

Attachments:

April 9, 2018 "seen and agreed to" letter resulting from the Board's February 12, 2018 motion.



April 9, 2018

John Jordan, President
Calendar Islands Maine Lobster
6A Portland Fish Pier
Portland, Maine 04101

RE: Portland Fish Pier Lot 1 (North)

Dear Mr. Jordan,

Thank you for presenting introductions to a proposed development on Lot 1 (north) on the Portland Fish Pier at both the December 11, 2017 and February 12, 2018 meetings of the Portland Fish Pier Authority (PFPA) Board of Directors. Lot 1 (north) is a vacant parcel located along Commercial Street and is currently partially occupied by a month to month storage lease with Atlantic Trawlers, Inc.

At the February 2018 meeting of the PFPA, your team requested a 9-month exclusive option to lease Lot 1 (north) to allow further refinement and development of your proposal in advance of a potential ground lease. In response to your request, the PFPA Board did not agree to grant you a 9-month exclusive option, but in recognition of your expressed interest in the property and your plans to continue to explore development opportunities as presented to the Board on December 11, 2017 and February 12, 2018, the PFPA Board agreed that it will not entertain any offers on Lot 1 until November 1, 2018.

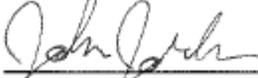
The PFPA Board appreciates your team's interest in development on the Portland Fish Pier and looks forward to reviewing your project's progress. Please understand, however, that although the PFPA Board will not entertain other offers on the property until November 1, 2018 so long as you continue to pursue your development, nothing in this letter obligates the PFPA to enter into a lease with you for any property on the Portland Fish Pier.

Sincerely,



Nicholas Mavodones, President
Portland Fish Pier Authority

04/09/18
Date

Seen and Agreed To


John Jordan, President
Calendar Islands Maine Lobster

04/09/18
Date

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Public Buildings Administrative Offices

212 Canco Road Portland, Maine 04103 (207)808-5400

To: Portland Fish Pier Authority Board
From: Philip DiPierro, Facilities Project Manager
Date: October 2, 2018
RE: Facilities Update
CC: Kathy Alves, Facilities Director

Please find below a listing of the monthly improvements to the Portland Fish Pier by the Facilities Department:

Updates for September 2018

- Seabreeze Property Services completed sweeping of the parking lots and roads throughout the facility (except for the Net Yard), completed landscape maintenance including, weeding, tree pruning, mulching plant beds, and providing stone drip edge around portions of the Fish Exchange building.
- Speed limit striping in the Net Yard area was completed.
- A basic visual inspection was completed by City staff of the service piers and the sorting piers to assess the condition of the piles, chocks, wales, ladders, hardware, etc. The inspection will be used as a guide to schedule future maintenance work and repairs.
- A sink hole was discovered behind the sheet pile along the seawall between Vessel Services and the Marine Trade Center. We are in the process of evaluating the damage in order to complete repairs.
- Staff has contacted three engineering firms for proposals to complete a "Limited Routine Inspection" of the sorting piers and the service piers. The inspection will include assessment of the steel piles and cross bracing, pile caps, beams, decking, mooring hardware, and the fender system, with options for an underwater inspection and vertical load ratings.
- A new fire alarm panel has been installed to replace the failed panel in the electrical building behind Vessel Services.
- Camel cleaning has been scheduled with Waterworks Diving Services and is expected to be completed this month.
- Broken piles around the various piers are planned to be replaced.

Updates for May 2018 – August 2018:

- Seabreeze Property Services is being scheduled to sweep the parking lots and roads throughout the facility, to complete landscape maintenance including, weeding, tree pruning, mulching plant beds, and providing stone drip edge around portions of the Fish Exchange building.
- The erosion and drainage repairs have been completed in the netyard area.
- The sidewalk repair along the Portland Fish Pier Road has been completed.
- The catch basin lowering project has been completed.
- Speed limit striping in the netyard area is to be completed within the next month.
- Broken piles around the various piers are planned to be replaced.
- We in the process of getting proposals to add concrete curbing at various locations

- around the inside and outside of the Fish Exchange building; to replace sections of the channel-grate drains inside the Fish Exchange building; and to install a dumpster pad under the dumpster at Cozy Harbor.
- Emergency repairs were made to a leaking water line the serves the building leased by Mr. Tamaki.

Updates for February 2018 – April 2018:

- Seabreeze Property Services has been scheduled to start spring cleanup and winter sand removal throughout the facility.

Updates for December 2017 – January 2018:

- The Fish Exchange electrical upgrade is complete as of January 27th.
- The first phase of the ventilation system at the PFEX is scheduled to be installed Saturday, 2/10/18 in the locker room area. The second phase of the system will be installed in the breakroom.

Updates for August - November 2017:

- A new 25yd self-contained compactor was installed at the Fish Exchange.
- Drainage issues in the parking lot at Bristol Seafood were addressed. A catch basin install along with grading and paving improved an ongoing drainage problem in the front parking lot.
- We will be installing a ventilation system at the PFEX in the locker room/common

area. Updates for July 2017:

- Pavement striping has been completed in various areas of the facility. These are changes that were discussed at the Fish Pier Authority Meeting to help with parking issues.
- The first phase of the electrical upgrade for the Fish Exchange has been completed. The components are being designed and will be ready for install in November approximately.
- New composite camels have been installed. (4) at the Fish Pier and (2) at the Fish Exchange.
- We have placed an order for a new 25yd self-contained compactor for the Fish Exchange.

Updates for June 2017:

- The majority of winter sand and spring cleanup was completed in May. Seabreeze will return to finish a few areas.
- We are getting quotes on pavement striping. Work tentatively scheduled for July/August.
- Bert and the electrician are working with CMP to coordinate the first phase of the electrical upgrade project.



Memorandum

To: President Mavodones and Members of the Portland Fish Pier Board of Directors

From: Bill Needelman, Waterfront Coordinator

Date: October 2, 2018

Re: Lot 1 Development

CC: Greg Mitchell, Economic Development Director
Michael Goldman, Associate Corporation Counsel

Introduction

Recent development interest in Lot 1 along Commercial Street suggests to staff that a request for proposals is appropriate and timely. Staff seeks guidance from the Board on steps moving forward.

Background

Beginning in December 2017, the Board has considered potential development of Lot 1 (located along Commercial Street) as proposed by a group operating as Maine Sustainable Seafood. In February 2019 the group, which was comprised of Calendar Island Seafood, Shucks Maine Lobster, and restaurateur and author, Barton Seaver, requested from the Board an option on the lot. Given the conceptual nature of the proposal, the Board chose not to grant an option, but did commit to hold off on entertaining offers on the lot until November 1, 2018 to allow the team to further develop their concepts into an actionable project. The Board's February motion was documented in a letter to Calendar Island President, John Jordan for his "seen and agreed to" signature at the April 2018 PFPA meeting. As of and following the April meeting, the Sustainable Maine Seafood team has been in flux, resulting in confusion as to whom, if any, of the original Sustainable Maine Seafood team members the February motion benefits.

At the August 27, 2018 PFPA meeting, John Hathaway of Shucks Maine Lobster indicated that he is the sole partner remaining from the Sustainable Seafood team. As stated to the Board in August, Mr. Hathaway remains interested in making a proposal on the site. Board members will also recall that Jennifer Cyr of Bristol Seafood stated in public session that Bristol has a strong interest in the site.

Issues

With multiple interested parties and a lack of an accepted proposal on the Sustainable Maine Seafood project, staff is requesting that the Board continue to consider its options for development of Lot 1.

The following points are clear:

- John Hathaway remains interested in developing the lot in a manner consistent with the program described in the previously submitted Sustainable Maine Seafood material.
- Bristol Seafood, longstanding tenant of PFP Lot 5 has also expressed interest in the Lot.

Next Steps

In the interest of fairness and transparency, Staff recommends the following:

- The Board should respect the commitment made in February 2019 to avoid entertaining offers on the lot until November 1, 2019.
- Soon thereafter, working through the City’s Purchasing Department, the City can issue a Request for Proposals (RFP) for developing the lot. The RFP could follow the form established in 2015 when the lot was advertised, but no developer interest came forward. A copy of the 2015 RFP is attached for the Board’s reference.

Staff suggests the following possible time line of events moving forward:

1. Issue and Advertise Lot 1 RFP November 2, 2018
2. Close RFP November 20, 2018
3. Review Proposals November 21- December 7, 2018
4. Present proposals and Staff recommendation for Board vote on selecting development team for negotiating a land lease. December 10, 2018 (Regular PFPA meeting)
5. Negotiate land lease with selected development team December 11, 2018 to January 2019
6. Present Draft Land Lease and staff recommendation for Board approval. February 12, 2019

The above schedule is aggressive showing the shortest reasonable timeline for selecting a developer for the lot.

Staff seeks the Board’s guidance in steps moving forward.



**CITY PORTLAND, MAINE
REQUEST FOR PROPOSALS**

**Portland Fish Pier Authority
Land Lease and Development Lot #1**

Notice and General Specifications

Sealed proposals will be accepted by the Purchasing Office, Room 103, City Hall, 389 Congress Street, Portland, ME 04101, until **Thursday, September 3, 2015 at 3:00 P.M.** when they will be publicly opened for land lease and development of the Lot #1 at the Portland Fish Pier, as may be amended, that are consistent with the Review Criteria listed on page 4.

Eight (8) copies of your proposal shall be submitted on the enclosed forms and returned in sealed envelopes clearly marked "**PORTLAND FISH PIER AUTHORITY LAND LEASE AND DEVELOPMENT LOT #1**". Late, faxed or proposals submitted electronically shall not be accepted. Proposals submitted shall be held open to acceptance for 30 days from opening.

Copies of the above documents will be available at the Purchasing Office, Room 103, City Hall, 389 Congress Street, Portland, ME 04101. Each prospective proposer will be required to obtain from the City each copy of the proposal form and each set of plans; e-mail jrl@portlandmaine.gov, phone (207) 874-8654, or fax (207) 874-8652.

Proposals from vendors not registered with the Purchasing Office may be rejected; receipt of this document directly from the City of Portland indicates registration. Should a vendor receive this Request from a source other than the City, please contact 207-874-8654 to ensure that your firm is listed as a vendor for this RFP.

Questions regarding this proposal shall be made in writing only and be sent to the Purchasing Office, being received no later than five working days prior to the proposal opening. They may be hand delivered, mailed, e-mailed to MFF@portlandmaine.gov or faxed to 207-874-8652. Questions that result in modifications to the proposal's specifications will be in the form of a written addendum and sent to all proposal holders on registered in the Purchasing Office.

The successful proposer shall agree to defend, indemnify and save the City harmless from all losses, costs or damages caused by its acts or those of its agents, and, before signing the contract, will produce evidence satisfactory to the City's Corporation Counsel of coverage for General Public and Automobile Liability insurance in amounts not less than \$400,000 per person, for bodily injury, death and property damage, protecting the contractor and the City, and naming the City as an additional insured from such claims, and shall also procure Workers' Compensation insurance.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

Pursuant to City procurement policy and ordinance, the City is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Proposers who are delinquent in their financial obligations to the City must do one of the following: bring the obligation current, negotiate a payment plan with the City's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful proposer.

EQUAL EMPLOYMENT OPPORTUNITIES

Vendor shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37 and all other applicable laws, including the Maine Human Rights Act, ordinances and regulations regarding equal opportunity and equal treatment.

RESERVATION OF RIGHTS

Pursuant to City procurement policy and ordinance, the City is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Proposers who are delinquent in their financial obligations to the City must do one of the following: bring the obligation current, negotiate a payment plan with the City's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful proposer.

It is the custom of the City of Portland, Maine to pay its bills 30 days following equipment delivery and acceptance, and following the receipt of correct invoices for all items covered by the purchase order. In submitting proposals under these specifications, proposers should take into account all discounts; both trade and time allowed in accordance with this payment policy and quote a net price. The City is exempt from the State's sales and use tax as well as all Federal excise taxes.

August 3, 2015

Matthew F. Fitzgerald
Purchasing Manager

BACKGROUND

- Whereas:** The Portland Fish Pier Authority manages the Portland Fish Pier on Portland's Waterfront.
- Whereas:** The mission of the Portland Fish Pier is to operate a "public fish pier for the purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly related to the purpose of landing processing shellfish, finfish or natural products of the sea including fueling, loading or selling these products,..." (taken from quit claim deed from the State of Maine to the City of Portland dated September 9, 1983, a copy of which is attached.)
- Whereas:** Lot #1 on the Portland Fish Pier, being a vacant lot of +/-15,036 square feet located along the Commercial Street right of way, is available for development under a long-term land lease.
- Whereas:** The bounds of Lot #1 are defined on the AMENDED RECORDING PLAT "PORTLAND FISH PIER COMPLEX" as approved on July 24, 2002 and recorded in the Cumberland County Registry of Deeds and Plan Book 202, Page 477, a copy of which is attached.
- Whereas:** The southerly and westerly bounds of Lot #1 are currently constrained by an existing drive entrance from Commercial Street. The Portland Fish Pier Authority is open to considering proposals that include additional land currently occupied by the drive entrance and adjacent undeveloped space. A concept sketch of an expanded Lot#1 is attached. Respondents proposing such a lot expansion and any potential modification to the entrance drive will take responsibility for permitting such lot and site amendments through a subdivision amendment and site plan review with the Portland Planning Authority, including all associated costs.
- Whereas:** The Fish Pier Authority has conducted Phase I and II environmental assessments of the lot and has received preliminary approval from the Maine Department of Environmental Protection for a VRAP. The summary and status of which are attached.
- Whereas:** The Portland Fish Pier is located in the Waterfront Central Zone, a copy of which is attached, and all proposed use and development of Lot #1 is subject to the rules and regulations therein.
- Therefore:** The Portland Fish Pier Authority seeks proposals for land lease and development of the Lot #1, as may be amended, that are consistent with the Review Criteria listed on the next page.

Review Criteria:

Proposals will be reviewed according to the following criteria:

a. **Mission of the Portland Fish Pier (50%)**

The proposed development and uses further the mission of the Portland Fish Pier as established in the deed from the State of Maine to the City of Portland in September 1983. In so doing, the development:

- Promotes the seafood industry including landing, processing, loading and selling “natural products of the sea.”
- Provides a positive economic benefit to the Fish Pier Authority

b. **Demonstrate technical and financial capacity to proceed with a project (50%)**

1. Proven track record with comparable projects.
2. Evidence of financial capacity

Submission Requirements

- a. Development Narrative – Provide a concept development narrative, general project budget with projected funding sources, and development timeline. Sketch level drawings to augment this information are suggested. This RFP does not require detailed architectural drawings.
- b. Project timeline for city development regulatory approval and construction.
- c. Proposed Lot 1 lease terms.
- d. A complete description of the structure of your team, including administration and project management team as well as major shareholders.
 - Developer – Name, address, telephone, fax number of the proposed
 - Owner/developer and the name(s) of an alternative contact person(s).
- e. Developer Capacity – Identify the qualifications and experience of the development team for the project including a list of previously completed projects similar to the proposed project. This may include key staff of the developer, architect, general contractor and future property operator and management.

Including, but not limited to:

- Experience with similar development projects
 - Experience with marine industrial and/or fisheries related projects
- f. Evidence of financing capability sufficient to undertake a project of this scope, including a letter of reference from a Financial Institution.
 - g. Eight (8) copies, with the original so marked, of each submittal along with a single digital copy.

Agenda 6
2015 RFP

COMPLETE AND RETURN THESE PAGES

PROPOSAL

The UNDERSIGNED hereby declares that he, she or they are the only person(s), firm or corporation interested in this proposal as principal; that it is made without any connection with any other person(s), firm or corporation submitting a proposal for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined herein, and that the proposal is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this proposal, or in any profits which may be derived therefrom has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City employee who would be paid to perform services under this proposal. An example of an indirect interest would be a City employee who is related to any officers, employees, principals or shareholders of your firm or you. If in doubt of status or interest, please disclose to the extent known.)

This Proposal acknowledges the receipt of Addenda No.: _____

COMPANY NAME: _____
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: _____ DATE: _____
(Officer, Auth. Individual, Owner)

PRINT NAME & TITLE: _____

ADDRESS: _____

Zip Code

TELEPHONE: _____ FAX: _____

EMAIL ADDRESS: _____

FEDERAL TAX I.D. NUMBER: _____

NOTE: All proposals must bear the handwritten signature of a duly authorized member or employee of the organization making the proposal.

Attachments

1. Portland Fish Pier Deed, State of Maine to the City of Portland, 1983
2. Environmental Assessment Summary and VRAP Status, Sebago Technics
3. Portland Fish Pier Recording Plat, amended 2002
4. Portland Fish Pier Lot 1, Conceptual Lot Line Expansion Sketch Plan
5. Waterfront Central Zone text
6. Fish Pier Authority members

Copies of the Phase I and Phase II site assessments are available for inspection upon request.

KNOW ALL MEN BY THESE PRESENTS

That, the STATE OF MAINE, acting by and through its Governor, on recommendation of the Commissioner of the Department of Transportation, under and pursuant to the provisions of 23 M.R.S.A. Section 4206, in consideration of One Dollar (\$1.00) and other valuable considerations paid by the CITY OF PORTLAND, a Municipal Corporation located at Portland, County of Cumberland and State of Maine, the receipt whereof it does hereby acknowledge, does hereby remise, release, bargain, sell and convey and quit-claim unto the said CITY OF PORTLAND, its right, title and interest in and to a certain lot or parcel of land situated on the southeasterly side of Commercial Street, in Portland, County of Cumberland and State of Maine, bounded and described as follows, for as long as said lot or parcel is operated as a public fish pier for the purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly related to the purpose of landing or processing shellfish, finfish or natural products of the sea including fueling, loading or selling these products, to wit:

Beginning at a point in the southeasterly side line of Commercial Street in said Portland, at the northwesterly corner of land now owned by Armour and Company as described in a deed from Franklin Real Estate Company to said Armour and Company, dated April 26, 1918 and recorded in the Cumberland County Registry of Deeds in Book 1008, Page 120; said point also being the same point described in a deed from Proprietors of Union Wharf to Armour and Company dated March 1981 and to be recorded in the Cumberland County Registry of Deeds.

Thence S. $34^{\circ}-47'-00''$ E. along said Armour and Company Land one hundred four and sixty-three hundredths (104.63) feet to a point;

Thence N. $55^{\circ}-03'-00''$ E. fifty and three tenths (50.3) feet to the southerly line of land now or formerly of Robert J. Levine, Trustee of Levine Real Estate Trust, as described in a deed to said Trust from Poultry Processing, Inc., dated September 30, 1930, and

Recorded in the Cumberland County Registry of Deeds, Book 4673, Page 2;

Thence S. $34^{\circ}-57'-00''$ E. four hundred six and forty-seven hundredths (406.47) feet along the southwesterly line of land now or formerly of Robert J. Levine, Trustee of Levine Real Estate Trust and said line extended to a point, said point being twenty-five (25) feet southeasterly of the five story brick building on said Real Estate Trust Property;

Thence N. $55^{\circ}-03'-00''$ E. one hundred forty-five and four hundredths (145.04) feet along the line described in a conveyance to said Robert J. Levine, Trustee of Levine Real Estate Trust to a point, said point being on a line established by extending the southwesterly line of land of the Proprietors of Union Wharf (Union Wharf Property) southeasterly;

Thence continuing on said line extended on a course of S. $35^{\circ}-29'-00''$ E. seven hundred eleven and forty-nine hundredths (711.49) feet to the Harbor Commissioners Line in Portland Harbour;

Thence S. $42^{\circ}-00'-00''$ W. along the Harbor Commissioners Line about three hundred sixty-six (366) feet to the northeasterly edge of Browns Wharf, so-called;

Thence southeasterly along the northeasterly edge of said Browns Wharf, said line being about right angles to last described line, about one hundred eleven (111) feet to the southeasterly end of said Wharf;

Thence southwesterly along the southeasterly end of said Browns Wharf about one hundred sixty-seven (167) feet to the southwesterly edge of said Wharf;

Thence northwesterly along the southwesterly edge of said Browns Wharf about one hundred seven (107) feet to a point in the Harbor Commissioners Line;

Thence S. $42^{\circ}-00'-00''$ W. about one hundred forty-three (143) feet to a point, said point being on a line being the extension of the northeasterly line of the United States Government (occupied by the U.S. Naval Reserve) in a southeasterly direction;

Thence N. $47^{\circ}-46'-00''$ W. along said extended line and the northeasterly line of land of the said United States Government, ten hundred twenty-three and fifty-two hundredths (1023.52) feet to a point in the southeasterly line of Commercial Street;

Thence N. $17^{\circ}-06'-30''$ E. thirty-five and fifteen hundredths (35.15) feet along the southeasterly line of Commercial Street;

Thence N. 21°-52'-00" E. two hundred ninety-nine and ten hundredths (299.10) feet along the southeasterly line of Commercial Street;

Thence N. 25°-22'-00" E. one hundred eighty-four and twenty-four hundredths (184.24) feet along the southeasterly line of Commercial Street;

Thence N. 27°-51'-00" E. one hundred sixteen and sixty-four hundredths (116.64) feet along the southeasterly line of Commercial Street;

Thence N. 31°-07'-00" E. forty-six and forty-six hundredths (46.46) feet along the southeasterly line of Commercial Street;

Thence N. 36°-49'-00" E. thirty-nine and ninety-eight hundredths (39.98) feet along the southeasterly line of Commercial Street;

Thence N. 40°-22'-00" E. fifty-five and thirty-seven hundredths (55.37) feet along the southeasterly line of Commercial Street to the point of beginning.

The herein described parcel of land contains about 14.578 acres and was acquired by Notice of Taking, Proprietors of Union Wharf, et al, to State of Maine, recorded April 1, 1981 in the Cumberland County Registry of Deeds in Book 4759, Page 119.

This conveyance is subject to the rights of Portland Water District as acquired by deed of the State of Maine dated March 30, 1983 and recorded in the Cumberland County Registry of Deeds in Book 6142, Page 57.

Being a certain lot or parcel of land as shown on the Department of Transportation Property Map for Portland Fish Pier dated January 1981, on file in the Office of the Maine Department of Transportation at Augusta, File No. 3-290 and recorded in the Cumberland County Registry of Deeds in Plan Book 137, Page 34.

This deed does not convey the rights held by the State, including rights the State holds in trust for the public, in the submerged and intertidal lands within the boundaries of the above described lot or parcel of land.

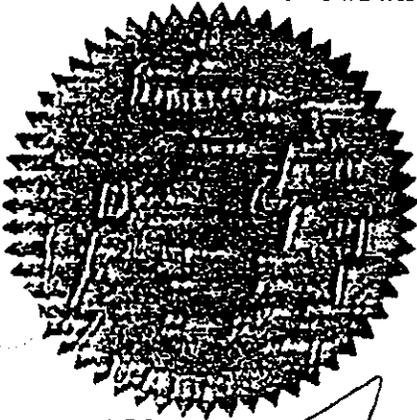
The right, title and interest conveyed by this deed shall automatically revert to the State, without the necessity of re-entry or notice, should and when the lot or parcel is no longer used or operated as a public fish pier for the purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly related to the purpose of landing or processing shellfish, finfish or other natural products of the sea, including fueling, loading or selling these products.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging to the said CITY OF PORTLAND.

IN WITNESS WHEREOF, I, Joseph E. Brennan, Governor of the State of Maine, have caused the name and great seal of the State of Maine to be hereto affixed this ninth day of September, in the year of our Lord one thousand nine hundred and eighty-three.

STATE OF MAINE

By Joseph E. Brennan Governor



Affixed By John S. Harriman
Deputy Secretary of State

STATE OF MAINE)
COUNTY OF KENNEBEC).ss.

September 9, 1983

Personally appeared the above named Joseph E. Brennan, Governor of the State of Maine and acknowledged the above instrument to be his free act and deed in his said capacity and the free act and deed of the State of Maine.

Before me, A. Kirk [Signature]
Notary Public.
Attorney-At-Law



Memorandum

To: William Needleman

From: Grant Austin

Date: July 8, 2015

Subject: Portland Fish Pier Lot #1 RFP-Environmental Considerations

To Whom It May Concern,

In reference to the Request for Proposal (RFP) regarding the redevelopment of "Lot #1", Sebago Technics Inc. (STI) is issuing this memorandum to convey the current environmental considerations in regards to this parcel. This property was the subject of previous environmental site assessments and investigations conducted by STI.

STI initially conducted a Phase I Environmental Site Assessment (ESA) in April, 2014. Results of the Phase I identified potential recognized environmental conditions on the property. At that time it was recommended the City of Portland apply the site to the Maine Department of Environmental Protection's (MDEP) Voluntary Response Action Program (VRAP). The VRAP includes a scope of work for remedial measures at a property if necessary. At that time, STI worked with MDEP to complete a Limited Phase II Site Assessment in which the nature and extent of the property's contamination had been characterized. Site contamination was relatively minor with Naphthalene detected in groundwater samples and petroleum compounds detected in soil samples above remediation goals for the property. Based on these findings, MDEP recommended the site adhere to a Soils Management Plan, prohibit the extraction of drinking water from the property, and continued commercial use of the site. At this time, MDEP has issued a draft "No Action Assurance" letter stating that if these provisions are properly implemented, the Department will assure the applicant(s) that no enforcement action will be taken. Following receipt of a final report documenting the satisfactory completion of all response actions required, the VRAP will issue a "Certificate of Completion" acknowledging that the applicant has satisfactorily completed the response action. The "Certificate of Completion" includes the applicable liability release provisions for either a complete or partial cleanup. The "Certificate of Completion" generally applies to applicant(s) to VRAP, the successors and assigns of the applicant(s), lenders, fiduciaries, and parties providing financing to the applicant(s).

At this time, STI has provided draft Soil Management Plans to both the City of Portland and MDEP. Currently, the City of Portland has yet to determine the property's boundaries, which is likely to depend on the results of the RFP. Once this boundary is determined, MDEP can finalize

their "No Action Assurance" letter and should the site be redeveloped in accordance with this letter, the site will receive its "Certificate of Completion".

Enc.

1. Draft No Further Action Letter
2. Draft Soils Management Plan



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

December 11, 2014

City Of Portland
ATTN: William B. Needelman, Waterfront Director
389 Congress Street
Portland, Maine 04101

Re: Portland Fish Pier 1 & 12, Portland Fish Pier, Portland, Maine
No Further Action Assurance Letter - Voluntary Response Action Program (VRAP)

Dear Mr. Needelman:

The Maine Department of Environmental Protection ("Department") has reviewed your application to the Department's Voluntary Response Action Program ("VRAP"). The application and associated reports were submitted to the Department with the request that the Portland Fish Pier 1 & 1 property, located at the Portland Fish Pier, Portland, Maine ("Site") participate in the VRAP and the City of Portland ("Applicant"), as applicant to the VRAP, receive the protections provided by the VRAP Law.

The Site consists of 2 lots, is approximately .9 acres, and both have historically been undeveloped except for the presence of a 20,000 gallon underground storage tank (UST) on Lot 1 used to service fishing vessels. It was removed in 2013. Both lots are currently used for parking and have been upgraded with lighting and are partially paved. The Site is adjacent to Casco Bay in an area of mixed commercial businesses. The proposed future development of the Site is unknown as the City of Portland is exploring its options.

DEP staff has reviewed the following reports and supporting documents for the Site (hereinafter collectively referred to as the "Reports"):

- Phase I Environmental Site Assessment prepared by Sebago Technics dated April 24, 2014
- Limited Phase II Site Assessment prepared by Sebago Technics dated September 30, 2014

The Reports document no impacts to groundwater on Lot 12 above the construction worker remedial action guidelines.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

Napthalene at 16 ug/l was found in one groundwater sampling location on Lot 1 in excess of the construction worker remedial action guideline of 9.7 ug/l.

The Site and surrounding properties are served by a public water supply, there are no known users of groundwater within 2,500 feet of the Site and the shallow aquifer at the site is unlikely to be useful as a water supply because of historical impacts in the area. The risk for exposure to contaminated groundwater at the Site is significantly reduced provided that use of groundwater is restricted via a Declaration of Environmental Covenant.

The Reports document that surficial soil (0-2 feet below ground surface) at Lot 1 was found to be impacted in one location by Benzo (a) pyrene at 4.3 mg/kg above the commercial worker guideline of 3.5 mg/kg.

The Reports document that surficial soil (0-2 feet below ground surface) at Lot 12 was found to be impacted in 4 locations by Benzo (a) pyrene at a maximum concentration of 14 mg/kg above the commercial worker guideline of 3.5 mg/kg.

The Site's soils are impacted by Benzo (a) pyrene with concentrations above applicable soil contact health guidelines. However, impacted soil at the Site is primarily located under asphalt or a gravel surfaced parking area. It is the understanding of VRAP staff that the Site soils will remain under pavement or left undisturbed for continued use as a parking area in a potential redevelopment scenario, limiting current and future workers' potential exposure to impacted soil at the Site provided that these structures are maintained / soil management plan is followed.

Pursuant to potential Site development plans, the impacted portions of the property that will be regularly exposed to workers will either be paved or developed with structures, thus restricting potential for exposure to impacted soil at the Site.

The Reports document that soil vapor beneath Lot 12 is impacted by Chloroform in excess of 10x the commercial indoor air guideline. However, this contaminated soil vapor was found in the center of the property which serves as a parking area. Given that this property has not been developed and serves as a parking area it is likely that the source of this Chloroform impact is from the adjacent lot where W. H. Shurtleff operated, an industrial chemical warehouse. Residual Chloroform contamination is unlikely to impact indoor air in the future provided good management practices including subslab ventilation systems are installed in any building constructed on the property.

The City of Portland is not the former owner or operator responsible for the discharge or release of hazardous substance, hazardous waste, hazardous matter, special waste, pollutant or contaminant, including petroleum products or by-products that may be present on this property.

No recognized environmental conditions other than those described in the Reports were reported to the Department in the Applicant's VRAP application.

Based on the information presented in the Reports, the Department considers no further investigations or remedial actions are necessary at the Site at this time, provided conditions of approval 1 – 9 below are followed:

1. The extraction of groundwater at the Site is prohibited without the express written permission of the Department.
2. The Site may be used for industrial and/or commercial purposes, and must not be used for residences, schools, childcare facilities, or long-term health care facilities without the express written permission of the Department.
3. The limits of liability conferred by the VRAP are not assignable to any person, company, or government agency that caused or is otherwise responsible for a release of petroleum or hazardous substances at the Site.
4. Soils that may be disturbed during redevelopment of the Site must be managed according to a Department-approved soil management plan and must not be moved on or off-site without the express written permission of the Department. In order to minimize soil disturbance and limit potential dermal and oral contact with soil, either the existing paved area at the Site must be maintained or future development must provide for an appropriate Department-approved cover.
5. The excavation of soil at the Site is prohibited without prior notification to any excavation workers of the potential to encounter residual petroleum contamination and to direct them to minimize soil disturbance and dermal and oral contact with soil.
6. In the event that petroleum-saturated soils are encountered at the Site, the Department must be promptly informed and the impacted soil must be managed in accordance with Department petroleum contaminated soil guidance. Soil may not be moved off-Site without the express written permission of the Department.
7. New buildings constructed at the Site must include a sub-slab vapor barrier and active sub-slab ventilation system.
8. A Declaration of Environmental Covenants, consistent the Maine Uniform Environmental Covenants Act as defined in 38 M.R.S.A. § 3001 et seq, consistent with this letter, incorporating conditions 1 through 11, and acceptable to the Department must be executed for the Site and must be recorded at the Cumberland County Registry of Deeds. A copy of the recorded Declaration of Environmental Covenants must be supplied to the Department's VRAP.
9. A copy of this document must be recorded at the Cumberland County Registry of Deeds for the property located at Portland Fish Pier Lots 1 and 12, Portland, Maine, identified on Map 41 Block A, Lots 12 and 13 at the City of Portland's Assessor's Office, and further

described in **Book 6288, Page 400** of the Cumberland County Registry of Deeds. A copy of the recorded document must be supplied to the Department.

The VRAP's evaluation of the environmental risks present at the Site was based on the conditions listed above. Prior to undertaking any activity or land use that would alter the conditions of approval listed above, the City of Portland, their successors, assigns or affiliates must obtain the VRAP's written approval and must obtain the Department's written consent to amend or terminate the Declaration of Environmental Covenants described above, if needed to complete the proposed activity.

The VRAP will not require further remedial actions by the City of Portland, or their successors, assigns and/or affiliates, and all of those persons identified in 38 M.R.S.A. § 343-E(6)(B-F), provided that a copy of this letter for the property located at Portland Fish Pier Lots 1 and 12, City of Portland, Maine, identified on Map 41 Block A, Lot 12 and 13 at the City of Portland Assessor's Office, and further described in **Book 6288, Page 400** of the Cumberland County Registry of Deeds, is recorded with the Cumberland County Registry of Deeds, and that the VRAP applicant execute and record a Declaration of Environmental Covenants consistent with the Maine Uniform Environmental Covenants Act as defined in 38 M.R.S.A. § 3001 et seq, consistent with this letter, incorporating conditions 1 through 9 above, and acceptable to the Department. Copies of the recorded documents must be provided to the Department's VRAP.

Therefore, the Applicant is granted the liability protections provided pursuant to Title 38 M.R.S.A. § 343-E. This protection from liability is limited to the matters identified and addressed in the Reports, is subject to the qualifications in this letter, is subject to conditions of approval 1 – 9 above, and is subject to the qualifications and conditions in 38 M.R.S.A. § 343-E. VRAP liability protections under 38 M.R.S.A. § 343-E do not limit the Department's enforcement authorities for non-compliance with other laws administered by the Department, including, but not limited to, lead abatement and asbestos regulations.

If you have any questions regarding this letter, please feel free to call Wilkes Harper of my staff at (207) 287-4856.

Sincerely,

Melanie Loyzim
Director
Bureau of Remediation & Waste Management

cc: Grant Austin, Sebago Technics
Lawrence Walden, Esq., City of Portland
Nick Hodgkins, MEDEP VRAP Coordinator

STATE OF MAINE

KENNEBEC, ss.,

December _____, 2014

Then personally appeared the above-named Melanie Loyzim, Director, Bureau of Remediation & Waste Management of the Maine Department of Environmental Protection and duly authorized delegee for the Commissioner, and acknowledged the foregoing instrument to be her free act and deed, and the free act and deed of the Department of Environmental Protection.

Before me,

Notary Public

(Print name)

My commission expires: _____

DRAFT

DRAFT

**Routing Sheet for VRAP Documents
Review and Comment**

Applicants Names: City of Portland

Site: Portland Fish Pier Lots 1 and 12

Type of Document (Mark with "x"):

- No Further Action Assurance Letter
- Certificate of Completion

1. Drafted By Staff: (Mark with "x"):

- Nick Hodgkins Gordon Fuller Wilkes Harper
- Tracy W. Kelly Chris Redmond Ben Guidi

2. Date staff sent draft for Unit Leader Review: 12/5/14

3. Approved by Unit Leader, Nick Hodgkins (Initial/Date): NJH _____

4. First Review by Division Director

- a. Check one:
 - i. Returned to staff with **no changes**
 - ii. Returned to staff with **substantive changes** as noted below on
(Date): _____

b. Approved by DD for outside review (Initials & Date): DWW 12/12/2014 _____

5. Sent to VRAP applicants for review and Comment (Initials & Date): _____

- a. Check one:
 - i. Returned to DEP with **no changes** as noted with Mark-up
(If no changes, route to Bureau Director for signature)

- ii. Returned to DEP with changes as noted with Mark-up on
(Date): _____

b. If Changes

- i. Approved by Unit Leader for final signature
(Initials & Date): _____

- ii. Approved by Division Director for final signature & sent to Bureau Director
for Signature (Initials & Date): _____

6. Return Signed Document to Staff for Distribution

DRAFT

SOIL & GROUNDWATER MANAGEMENT PLAN

Portland Fish Pier Parcels Lots 1 & 12 Portland Fish Pier Portland, Maine

The following Soil & Groundwater Management Plan has been prepared for the City of Portland (Applicant) for Lots 1 & 12, located on the Portland Fish Pier in Portland, Maine. These two parcels are identified as Lot's 1 & 12 on an Amended Recording Plat "Portland Fish Pier Complex" by Owen Haskell, Inc. and recorded in the Cumberland County Registry of Deeds on January 18, 2001 and recorded in Plan Book 201, Page 18 (see attached Figure 1). Proposed redevelopment plans for the property are yet to be determined at this time. However, the City of Portland is exploring the potential transfer of these properties for future development. The City of Portland is preparing this Soil Management Plan in conjunction with assumed, future, development of the property. Figure 1-Site Location Map and Figure 2-Boring & Monitoring Well Locations, are attached for reference.

A. Background

The two lots are currently vacant. Lot 12 is currently utilized as a gravel parking lot for the neighboring wholesale and retail fish purveyors, while Lot 1 was the former location of Vessel Service's bulk fuel storage underground storage tanks for fueling operations at the end of the fish pier. These parcels are located within a densely developed commercial and retail area of Commercial Street.

The environmental conditions on the site are documented in a Phase I Environmental Site Assessment (ESA) report by Sebago Technics, Inc. (STI), dated April 14, 2014, and a Limited Phase II ESA report, dated September 30, 2014. With the assistance of STI, the City of Portland enrolled in Maine Department of Environmental Protection's (MDEP's) Voluntary Response Action Program (VRAP) on April 30, 2014. The MDEP has reviewed the both the Phase I and II reports.

B. Site Investigation Summary

As documented in the Limited Phase II ESA report submitted to Maine DEP, it was revealed that residual contamination remains in soil and groundwater at the property.

Lot 12 (north parcel)

Based on results of soil and groundwater sampling on Lot 12, residual contamination was detected in sampled collected throughout the majority of this parcel. Shallow soils,

within borings from locations GP-6, GP-7, GP-8, and GP-9 contain benzo(a)pyrene at concentrations above commercial remedial action guidelines (RAGs) of 3.5 mg/kg, with locations GP-6, GP-7, and GP-9 above urban background fill RAG of 5.2 mg/kg. Low level chlorinated solvents (perchloroethylene, 1,1,1-trichloroethane, and 1,1-dichloroethane) were detected in groundwater at location GP-9, however below construction worker RAGs. Soil gas collected from location GP-9 exceeded the commercial indoor RAG of 10X, with additional non-RAG exceeding chlorinated solvents detected at this location 9-10 feet below surface grade.

Lot 1 (south parcel)

Based on results of soil and groundwater sampling on Lot 1, residual contamination was detected in groundwater collected on this parcel and from soils collected from offsite of this parcel. Naphthalene was detected in groundwater collected from location GP-10 exceeding construction worker RAGs. Surficial soil samples collected from just outside this parcel at location GP-2 detected benzo(a)pyrene exceeding commercial worker RAGs, however below urban background fill RAGs.

C. Proposed Redevelopment

Proposed redevelopment plans for the parcels on this property are yet to be determined at this time. However, the City of Portland is exploring the potential transfer of these properties for future development. The City of Portland is preparing this Soils Management Plan in conjunction with assumed, future, development of the property.

Proposed re-development plans will likely include excavation for footings of any proposed new buildings, potential excavation for water, sewer, and electrical utilities, and site grading to construct paved parking areas. Future redevelopment will remain commercial in use, and is expected to be slab-on-grade constructed with soil gas vapor barrier required to mitigate any potential contaminated soil gas intrusion within future indoor spaces.

D. Soil Management

VRAP personnel require advanced written notice of any excavation at the property. Should excavation in the vicinity of any of the previously identified areas of remaining contamination be conducted in the future, it shall be carried out with personnel performing excavation, removal, segregation, handling, stockpiling, management, or transportation of remaining soil contamination on the property supervised by a 40-hour Hazardous Waste Operator trained in compliance with OSHA 29 CFR 1910.120(e) (8). Former UST locations are currently covered by more than 2 feet of backfill will be continued to be covered by a minimum of 2 feet of clean soil or impervious surfaces,

serving as sufficient cover to mitigate human exposure if these areas are left undisturbed.

Underground excavation, underground utility repair, or construction activities exposing site workers to dermal contact or ingestion of soil within the identified areas shall be monitored for potential contamination by an Environmental Professional. If contaminated soil is encountered, only the soil that has been removed from the ground and not returned to the same excavation should be disposed of off-site, except as allowed to remain by permission of the Maine DEP. The location or relocation of any contaminated soils must be identified for inclusion on as-built drawings and subject to future soil management restrictions. If there are detections of volatile organic compounds (VOC), or "Suspect Materials", defined as chemical odors or stains (other than petroleum odors or stains), a sheen or other substance on the water table, fibrous material, drums or containers, unusual textures (such as powders, crystals, or beads), encountered in soils, then excavation must cease and the Environmental Professional must properly characterize the soils and propose a plan for disposition of the soils to the Maine DEP, which may include leaving the materials in place. If these detections occur, then the area must be secured using caution tape or temporary fencing or obstructions. Off-site soil disposal must be conducted in compliance with all applicable federal, Maine DEP, and local regulations. The Maine DEP should be notified of any excavation and excavated soil should be managed in accordance with Maine DEP rules and policies.

If unidentified conditions are encountered during excavation activities, the Maine DEP VRAP must be contacted to determine appropriate actions. Should the conditions warrant immediate response, the Maine DEP Division of Response shall be contacted to determine the appropriate course of action. The following phone numbers may be used for contact purposes:

- Maine DEP Division of Response 207-941-4570
- Maine DEP VRAP Program 207-287-4854

In addition to any impervious surfaces constructed on the property, new construction details for any of the property's proposed buildings will also incorporate the appropriate vapor barriers and/or ventilation systems to prevent any vapor intrusion issues that may arise in the future. The property will continue to be served by a public water supply, and environmental covenants will be recorded on the property. Implementation of these mitigation measures will adequately mitigate human exposure to any contaminated soils that may remain on the property.

E. Groundwater Management

Where groundwater contamination is present on Lot 1, the groundwater may not be discharged to the storm drain or sanitary sewer unless in compliance with a discharge permit issued by the responsible regulatory agency. Activities that may encounter

contaminated groundwater must have written procedures for site monitoring, spill contingency and treatment, and discharge for any extracted groundwater. If contaminated groundwater is extracted, it must be captured and treated prior to being routed to a permitted discharge point. With potential groundwater risk to construction workers, plans must be prepared to document worker protection and training requirements should groundwater be encountered during construction activities.

Prepared by,

SEBAGO TECHNICS, INC.

Grant Austin
Environmental Scientist

GEA:gea/

Attachments:

Figure 1-Site Location Map

Figure 2-Boring & Monitoring Well Locations



FIGURE 1 - SITE LOCATION MAP
 OF PORTLAND FISH PIER COMPLEX LOTS 1 & 12

SCALE: 1" = 2,000'
 DATE: 03/07/2014

LOCATION:
 COMMERCIAL STREET
 PORTLAND, ME 04101

INFORMATION:
 USGS QUADRANGLES (PORTLAND WEST & PORTLAND EAST)
 PARCEL DATA FROM MAINE OFFICE OF GIS AND
 THE CITY OF PORTLAND

SEBAGO
 TECHNICALS
 WWW.SEBAGOTECHNICS.COM

75 John Roberts Rd. - Suite 1A
 South Portland, ME 04106
 Tel. 207-209-2100

250 Goddard Rd. - Suite B
 Lewiston, ME 04240
 Tel. 207-783-9696



LEGEND

-  GP-1 GEOPROBE LOCATION
-  MW-1 MONITORING WELL LOCATION
-  EXISTING ABUTTING PROPERTY LINE
-  EXISTING PROPERTY LINE

SEBAGO
TECHNICALS

WWW.SEAGOTECHNICALS.COM

75 John Roberts Rd. - Suite 1A
South Portland, ME 04240
Tel. 207-200-2100

250 Goddard Rd. - Suite B
Lewiston, ME 04240
Tel. 207-783-5656

PHASE II BORING & MONITORING WELL LOCATIONS

OF: PORTLAND FISH PIER COMPLEX, LOTS 1 & 12

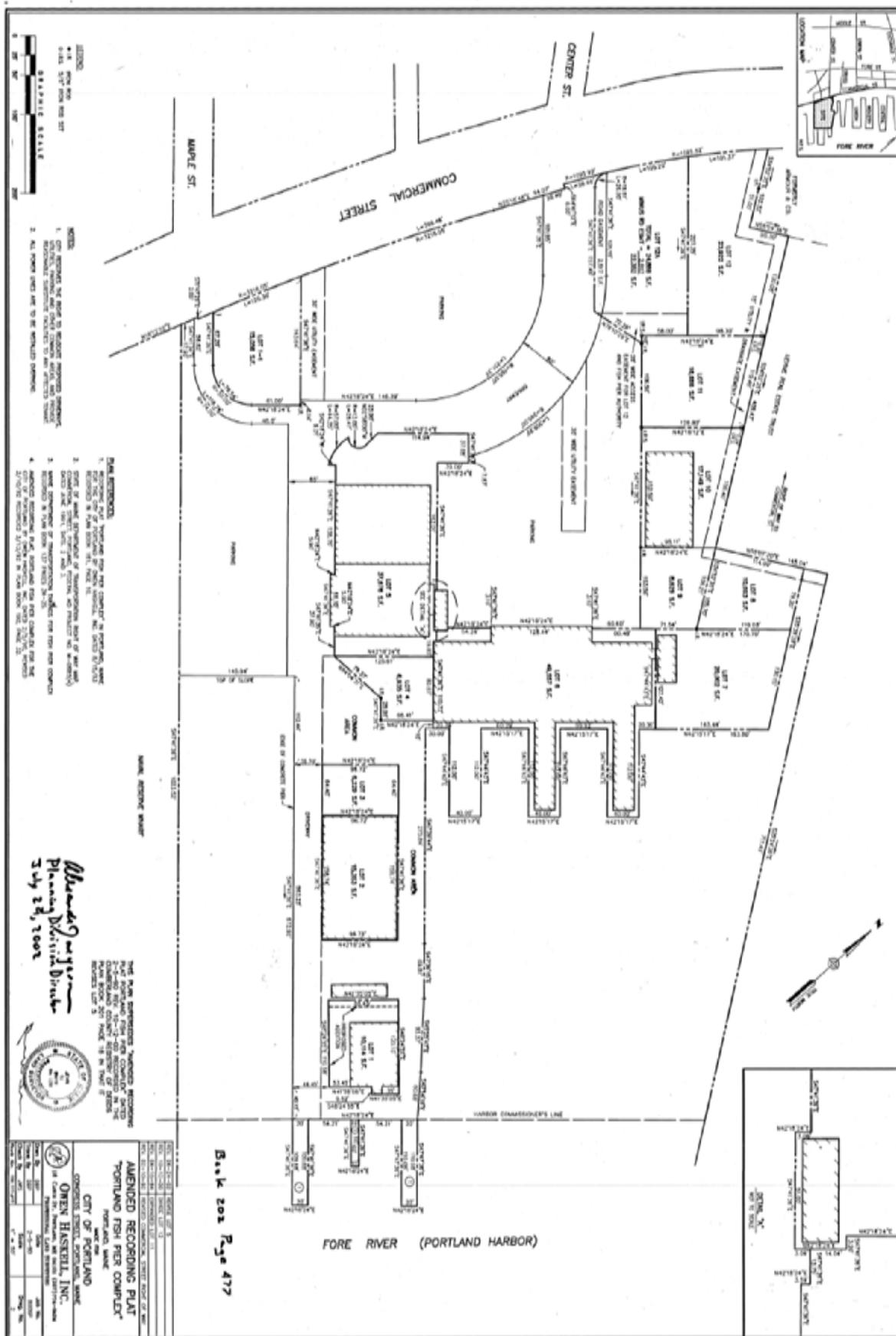
COMMERCIAL STREET
PORTLAND, MAINE

FOR: CITY OF PORTLAND

389 CONGRESS STREET
PORTLAND, MAINE 04101

| | |
|-------------|-----------------|
| DESIGN BY: | - |
| DRAWN BY: | BRF |
| CHECKED BY: | GEA |
| DATE: | 09-03-14 |
| SCALE: | 1' = 80' |
| FIELD BK: | - |
| PROJ. NO: | 13039 |
| DWG: | 13039SK2/BOR-MW |

FIGURE 1



LEGEND
 1. ALL DIMENSIONS ARE TO BE CENTERLINE UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO BE CENTERLINE UNLESS OTHERWISE NOTED.

NOTES
 1. THE RECORDING PLAN, EXCEPT FOR THE COMMON FISH PIER AND COMMON FISH PIER, SHALL BE SUBJECT TO THE RECORDING PLAN, EXCEPT FOR THE COMMON FISH PIER AND COMMON FISH PIER.
 2. ALL DIMENSIONS ARE TO BE CENTERLINE UNLESS OTHERWISE NOTED.

PLAN NOTES
 1. THE PLAN SUBMITTER'S "UNIFIED RECORDING PLAN" SHALL BE SUBJECT TO THE RECORDING PLAN, EXCEPT FOR THE COMMON FISH PIER AND COMMON FISH PIER.
 2. ALL DIMENSIONS ARE TO BE CENTERLINE UNLESS OTHERWISE NOTED.

PLANNING DIVISION
 July 24, 2008



CITY OF PORTLAND
 PLANNING DIVISION
 JULY 24, 2008

AMENDED RECORDING PLAN
 PORTLAND FISH PIER COMPLEX
 PROJECT NO. 1008-0001
 DATE: JULY 24, 2008

Bank 202 Page 477

FORE RIVER (PORTLAND HARBOR)



NICHOLAS M. MAVODONES (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
JILL C. DUSON (A/L)

Order #103-10/11, passed as amended 12-20-10.

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE III. ZONING
DIVISION 18. WATERFRONT CENTRAL ZONE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

*That sections 14-305 to 14-315 of the Portland City Code
are hereby amended to read as follows:*

Sec. 14-305. Purpose.

The waterfront central zone was created to protect and nurture water-dependent and marine-related support uses so that they may grow and prosper in an environment and area dedicated to this purpose. The following priority of uses is recognized:

- (a) The first priority of this zone is to protect and nurture existing and potential water-dependent uses in a setting that enforces their continued economic viability;
- (b) The second priority is to encourage other marine and marine-related support uses so long as they do not interfere with water-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure;
- (c) Non-marine uses are encouraged provided that they do not interfere with and are not incompatible with first and second priority uses. Non-marine uses are beneficial to the waterfront economy because they provide the financial return to property owners necessary for the maintenance and improvement of the marine infrastructure.

Water-dependent and marine-related support uses by their nature have activities and operational needs that are unique to this area and are not shared by other commercial and industrial uses in the city. These first and second priority uses and related activities may result in noise, odor, dust, hours of operation, parking and traffic patterns and traffic control needs that are necessary for the convenient and successful conduct of such uses. Other uses may not be compatible with these types of effects. Other specified uses are permitted in the waterfront central zone, provided that they do not significantly interfere with the activities and operation of water-dependent and marine-related support uses. Such uses must be, and are assumed to be, aware of the impacts associated with marine uses and therefore must

accept and be tolerant of them. Other specified uses in the zone shall accommodate to those patterns and needs of the higher priority uses so long as those higher priority uses are not detrimental to public health and safety and the higher priority activities are conducted in accordance with sound practices or practices customary in the trade.

Commercial Street is recognized as an important economic center for the City and region. Marine compatible uses are encouraged to locate and grow along Commercial Street while higher priority marine uses are protected on the waterfront.

Sec. 14-306. Definitions.

For the purposes of the waterfront central zone only the following terms shall have the following definitions:

Common circulation drives: private driveways, roadways, and circulation areas accessible to all on-site tenants and/or occupants of a lot within the waterfront central zone providing access from/to the public street network.

Lot: any abutting property under common ownership.

Non-Marine Use Overlay Zone (NMUOZ): The Non-Marine Use Overlay Zone (NMUOZ) is a portion of the waterfront central zone, as described below, where new and existing development may be occupied with 100% non-marine use tenants listed under 14-307(b), subject to the standards and use limitations provided in section 14-311(b).

The geographic limits of the NMUOZ are defined by parcels of land and piers within the waterfront central zone located on the landward side of a line established one hundred fifty (150) feet southerly from the southerly sideline of Commercial Street and modified as follows: The seaward limit of the NMUOZ extends to a line 500 feet southerly from the

southerly sideline of Commercial Street in the area between the easterly sideline of Long Wharf to the westerly sideline of Union Wharf. Additionally, all areas subject to this provision are set back landward at least twenty five (25) feet from the average high tide line of Portland Harbor and associated coastal wetlands. All offset distances are measured horizontally.

All applicants for development within the NMUOZ are responsible for demonstrating their location within NMUOZ according to the findings of a site specific land survey conducted by a professional land surveyor licensed by the State of Maine. The limits of the NMUOZ shall be shown on all site plans and subdivision plats for proposed development within the NMUOZ. A map showing the presumed boundaries of the NMUOZ is on file with the Department of Planning and Urban Development. Said map is for illustrative purposes only and shall not be relied upon in determining whether a proposed development is located within the NMUOZ.

On-Site: that portion of any lot included within or directly impacted by a proposed development.

Sec. 14-307. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-311, as applicable, the following uses are permitted in the waterfront central zone:

- (a) *Marine:*
1. Marine products, wholesaling, distribution and retailing;
 2. Marine repair services and machine shops;
 3. Tugboat, fireboat, pilot boat and similar services;
 4. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
 5. Marine industrial welding and fabricating;

6. Shipbuilding and facilities for construction, maintenance and repair of vessels;
7. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing, and water taxis;
8. Cargo handling facilities, including docking, loading and related storage;
9. Boat repair yards;
10. Boat storage facilities, excluding rack storage facilities; (Boat rack storage facilities are included in conditional use, section 14-308(b)(3) below);
11. Seafood processing;
12. Seafood packing and packaging;
13. Seafood loading and seafood distribution;
14. Fabrication, storage and repair of fishing equipment;
15. Ice-making services;
16. Facilities for marine construction and salvage;
17. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;
18. Fabrication of marine-related goods;
19. Fishing and commercial vessel berthing;
20. Non-commercial berthing of a maximum of fifty (50) linear feet per pier. A non-commercial berth may not displace a commercial berth.

Parking for any non-commercial berthing is subject to the provisions of sections 14-308(a), 14-311(c) and 14-311(d)8.

21. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers;
22. Public landings;
23. Marine research, education, and laboratory facilities;
24. Bait sales and processing; and,
25. Harbor security and emergency response services including but not limited to Harbor Master, Marine Patrol, and Coast Guard.

(b) *Non-marine commercial and industrial uses:*

Non-marine uses permitted by this section are subject to the standards listed in Section 14-311.

1. Professional, business, government, and general offices;
2. Retail and service establishments, including craft and specialty shops. Convenience stores with gas pumps shall not be permitted under this section;
3. Restaurants provided that full course meal food service and consumption shall be the primary function of the restaurant, and full course meal service shall be continued up until the hours of closing;
4. Banking services without drive-up services;
5. Laundry and dry cleaning services;

6. Cabinet and carpentry shops, studios for artists and crafts people;
7. Intermodal transportation facilities;
8. Cold storage facilities;
9. Museums and art galleries; and
10. Outside accessory activities

(c) *Public:*

1. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

(d) *Other:*

1. Accessory uses:
 - a. Interior accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. Food service establishments, newsstands and other similar retail and service support uses shall only be permitted as accessory uses if they are part of and located within the lot lines of a use set forth in section 14-307(a)(1), (a)(7), or (a)(22); that such uses do not exceed two-thousand (2,000) square feet in total floor area of the building, or twenty-five percent (25%) of the total floor area of the building, whichever is less, and that each individual use does not exceed one-thousand (1,000) square feet in total floor area of the building; and further provided that such accessory uses provide goods or services that are supportive of the principal use

and its clientele. Exterior accessory uses shall be otherwise subject to the provision of 14-311(a); and

- b. Interior meeting or classroom space accessory to uses permitted in section 14-307(a)(23) (marine research, education, and laboratory facilities) may be rented out for meeting use by marine-related or non-marine-related groups or organizations, or the general public, and such accessory uses shall not be subject to the limitations contained in paragraph b, but shall only be permitted as accessory uses if the total of all accessory retail and service support uses, including interior meeting or classroom space, does not exceed three- thousand (3,000) square feet in total floor area per building, or fifteen percent (15%) of the total floor area per building, whichever is less.

2. Street vendors licensed pursuant to chapter 19.

Sec. 14-308. Conditional uses.

The uses listed herein shall be permitted as conditional uses in the waterfront central zone, provided that, notwithstanding section 14-471 and section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that in addition to the provisions of section 14-474(c)(2), they shall also meet the applicable waterfront central zone development standards in section 14-311:

- (a) Commercial marine conditional uses:

1. *Fish by-products processing*, provided that:
 - a. Any fish by-products processing facility has a valid rendering facility license under chapter 12;
 - b. Any existing fish by-products facility shall employ current and appropriate odor control technology (and any new fish by-product use shall employ current, available odor control technology) to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the I-M zone; and
 - c. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
 2. *Boat rack storage facilities*, provided that:
 - a. Parking shall be provided for one-hundred percent (100%) of the demand generated by the use (notwithstanding 14-311(d)8, performance standard for parking), and such parking shall be provided off-site, in another zone permitting such use.
 - b. Boat rack structures shall not exceed ten thousand (10,000) square feet of building footprint.
- (b) *Residential*: The primary owner of a marine business listed under section 14-307(a) located on the same site may occupy upper floor space with a residential use, provided the following conditions are met:

1. The applicant demonstrates a compelling business related need for living on-site that cannot otherwise be accomplished;
2. The residential living space shall not exceed one thousand (1,000) square feet, inclusive of all exterior porches and decks;
3. The occupancy of said space shall be limited to the primary owner of the marine related business. The residential use is not transferable to friends, family or anyone other than the primary business owner. No such residential space shall be leased out by or allowed to be used for occupancy by other than the primary owner of the marine related business;
4. The residential use shall be limited to one unit per wharf;
5. The residential use shall be year round use only, and shall not be used on a seasonal basis; and
6. Upon the vacancy in excess of three (3) months of the residential living space by the primary owner of the marine related business, the residential use shall automatically terminate and shall not be continued without new conditional use approval under this subsection.

For purposes of this subsection, "primary owner of the marine related business" shall mean a person who legally owns fifty percent (50%) or more of a marine business listed under section 14-307(a), permitted marine uses.

- (c) *Utility substations:* Public utility substations, including but not limited to electrical transformers, sewage and

stormwater pumps, and telecommunication switching stations, are permitted under the following conditions:

1. The facility is located more than one-hundred (100) feet from the water's edge;
2. The facility occupies no more than fifty (50) square feet of structure above ground;
3. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise usable and made available for marine uses, including but not limited to parking, travel ways, and/or storage; and
4. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

. Sec. 14-309. Prohibited uses.

Uses which are not enumerated in either section 14-307 or 14-308 as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

- (a) Except as provided in section 14-308, residential uses (not in existence on May 5, 1987);
- (b) Hotels, motels or boatels;
- (c) Auditoriums, civic centers, convention centers or other meeting facilities;
- (d) Drinking establishments;
- (e) Ground mounted telecommunication towers, antennas, and/or disks; and

- (f) Drive-up services for any use other than a permitted use listed under 14-307(a) or 14-308(b)(1).

Sec. 14-310. Dimensional requirements.

In addition to the provisions of division 25 of this article, lots in the waterfront central zone shall be subject to the following requirements:

- (a) *Minimum lot size:* None.
- (b) *Minimum frontage along Commercial Street:* Seventy five (75) feet.
- (c) *Minimum lot width within the NMUOZ:* Fifty (50) feet measured parallel with Commercial Street and such lot width shall be continuous for the full depth of the lot located within the NMUOZ.
- (d) *Minimum yard dimensions:*
 - 1. Front setback: None.
 - 2. Side setback: None.
 - 3. Rear setback: None.
 - 4. Setback from pier edge: Notwithstanding the above requirements, a minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The edge of any pier, wharf or bulkhead shall include any attached apron(s).
- (e) *Maximum lot coverage:* One-hundred (100) percent.
- (f) *Maximum building height:* Fifty (50) feet. Except as provided in (g) below, a structure in the waterfront central zone shall provide no more than three habitable floors; however, typical rooftop appurtenances and/or enclosed or open mechanical

installations shall be allowed over the third floor.

(g) *Minimum ground floor clearance:* Any new building proposed to be larger than three-hundred (300) square feet, and located more than 35 feet from the southerly sideline of Commercial Street, shall provide no less than fifteen (15) feet of first floor to ceiling vertical clearance to promote marine industrial use potential. New buildings less than three-hundred (300) square feet or additions to existing multistory buildings are exempt from this provision but shall provide the maximum ground floor clearance practicable.

(h) *New non-marine use building exception for usable floors and minimum ground floor clearance:* Notwithstanding provisions (f) and (g) above, for new non-marine use buildings permitted within the NMUOZ, four (4) usable floors are allowed and ground floor clearance minimums do not apply.

Sec. 14-311. Development standards.

(a) *Standards for non-marine uses located outside of the NMUOZ:*

Non-marine uses listed above in Sec. 14-307(b) and 14-308(a) that are located outside of the NMUOZ shall be subject to the performance standards listed in 14-311(d) as well as the following standards:

1. *55% marine use required on ground floors:* At least 55% of the ground floor of all of the buildings on the lot (defined in 14-306 above), when calculated using the aggregate of all such ground floors, shall be occupied by marine uses, as listed under 14-307(a) or 14-308(b)(1).
2. *55% marine use required for all open areas:* After subtracting areas used for *common circulation drives* (defined in 14-306 above), at least 55% of un-built area

(meaning area not occupied by a building) on the lot, when calculated using the aggregate of all such un-built areas, shall be occupied by marine uses, as listed under 14-307(a) or 14-308(b)1.

3. *Ground floor vacancies and change of occupant offered to water dependent/marine uses:* Ground floor vacant space and areas proposed for a change of occupant outside of the NMUOZ shall not be filled with any non-marine use without adequate opportunity for marine uses to occupy the space.

- a. *Ground floor vacancy and change of occupant outside of the NMUOZ advertised to marine users:* In any lot or portion of lot outside of the NMUOZ, each time a ground floor occupant departs or gives notice to depart from the lot, the space must be made available to new marine occupants.

Prior to renting to a non-marine user the property owner shall advertise for a new marine occupant for not less than a (60) day period in targeted media and by other means reasonably calculated to reach marine users. Should one or more marine users apply, the property owner shall make the space available to a marine occupant, in accordance with terms and rates generally consistent with comparable space in the 55% marine use portion of the zone (outside of the NMUOZ.) The property owner may stop advertising sooner than the end of the 60 day period if a lease is signed with a marine user. Should no marine user apply by the end of the 60 day period, the owner may fill the space with a non-marine user provided that the new non-marine occupant will not cause the lot to exceed the non-marine use occupancy maximum of 45% of the ground floor area or open area.

- b. *Uses inventoried:* To demonstrate adherence to the 55% marine use requirement, the applicant shall submit to the planning authority, upon request, an inventory which lists each occupant (tenant or otherwise), as well as a map which depicts the location of each occupant. The map shall show all ground level space, including buildings, parking, open areas and submerged lands associated with the subject lot. For each occupant, the property owner must indicate the square footage of area occupied and whether the occupant is a marine use as defined herein. For vacant space, the last previous occupant shall be listed, along with the date of departure.
- c. Applicants for site plan review or a change of use permit outside of the NMUOZ shall provide the planning authority with proof of compliance with the requirements of this section as a condition of approval.

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- d. The City Planning Authority shall compile and report inventories of ground level uses, as reported under (b) above, into an annual *report of ground level uses and investment in the Central Waterfront*. The report shall include an aggregated assessment of ground floor marine and non-marine use occupancy and a catalogue of marine infrastructure investment for the reporting period. The report shall be submitted to the City Council as a communication not less than once every calendar year.
4. Pier or bulkhead edge reserved for marine uses: Notwithstanding anything in contained in 14-311(c) (Contract or conditional rezoning) or any other provision of this ordinance to the contrary, excepting only

the portion of any pier which might be used for non-commercial berthing pursuant to 14-307(a)(20), all berthing and/or dockage space and associated floats plus the entire linear edge of that portion of every pier or bulkhead which is adjacent to greater than zero feet of water depth at mean low water, to a minimum setback line of at least five feet from the edge of the pier, bulkhead, or engineered shoreline may only be used or occupied by one or more marine uses as defined in 14-307(a) or 14-308(b). Said edge shall be the seaward extent of any engineered shoreline or working deck of any pier or wharf.

(b) *NMUOZ standards:*

Non-marine uses listed under 14-307(b) and 14-308(a) located within the NMUOZ, as defined in 14-306, shall be subject to the performance standards listed in 14-311(d) as well as the following standards:

1. *Vessel access:* Non-marine uses allowed under this provision shall not disrupt or block access to vessel berthing and shall otherwise adhere to the performance standards of this zone described in Sec. 14-311(d).
2. *Maximum setback for new development on lots with seventy-five (75) or more feet of Commercial Street frontage:* Any new non-marine development constructed subject to this provision which is located on a lot with seventy-five (75) or more feet of frontage along the Commercial Street right of way shall be located with its front façade no further than thirty-five feet (35) from the southerly sideline of the Commercial Street right of way. Furthermore, any such development shall orient its front façade and its primary pedestrian entrance toward Commercial Street and no vehicular circulation or parking may occupy the land or pier area between the

front façade of the building and Commercial Street.

Non-marine development subject to this provision on lots with fewer than seventy-five (75) feet of frontage along the Commercial Street right of way, changes of use within existing buildings, and/or building additions of less than 5,000 square feet of new development to existing buildings are exempt from the maximum setback provisions established herein.

3. *Investment in marine infrastructure:* All applicants for site plan review or a change of use permit for non-marine development in the NMUOZ are required to invest in marine infrastructure as a condition of development, provided that the total project costs exceed \$250,000. The value of the investment shall be not less than five percent (5%) of total project costs over \$250,000 for constructing non-marine space and associated site improvements in the NMUOZ.

Required investment may occur by one or both of the following methods:

- a. Direct investment in marine infrastructure located on the same lot: Investment shall be for the benefit of marine uses listed in 14-307(a) within the same lot as the proposed non-marine development. Investment may include dredging, pile replacement, new or replaced structural decking (but not pavement resurfacing), new or replaced fendering systems, new or replaced floats, pier expansions, permanent conversions of recreational berthing to commercial berthing, bulkhead or seawall repair or improvements, or any combination of similar improvements. Plans for the marine infrastructure investment shall be submitted to the planning authority with the application

for site plan review or change of use permit and shall include details and a commitment as to how the marine infrastructure will be utilized by marine users. The marine infrastructure improvements shall be completed prior to the issuance of a certificate of occupancy for the non-marine development project.

- b. Financial contribution: If direct investment in marine infrastructure is not made, the developer shall make a financial contribution to the *city's waterfront loan and investment fund*.

(c) *Contract or conditional rezoning standards:*

Applications for proposals deviating from any dimensional requirements under section 14-310 and/or including uses not listed under Sections 14-307 and 14-308 may only be considered if the reviewing body finds the applicant has met the performance standards listed under 14-311(d) and the following standards:

1. *Conditional or contract rezoning located outside of the NMUOZ:* The ground level floor area of any building, existing or proposed, on the subject lot and the un-built area of the subject lot shall be subject to and meet the requirements of Section 14-311(a) of this code.
2. *Conditional or contract rezoning located within the NMUOZ:* Conditional or contract rezoning applications located within the NMUOZ are subject to the provisions of 14-311(b)(3) (*Investment in marine infrastructure*).
3. Residential dwellings are prohibited.
4. The development is consistent with the comprehensive plan and without the development the site could not otherwise support an economically viable water-dependent use.

5. Any physical or legal impediments which preclude or impede functional access from the site of the development to any portion of the water's edge are not the result of action taken by the current owner, the applicant for rezoning, or any prior owner after January 4, 1993.
6. The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits: protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels, and visual and physical access to the waterfront for the general public.
7. The development responds to any unique physical conditions and development opportunities along the shoreline in a manner that is consistent with section 14-305 (purpose).
8. The non-marine portion of the proposed development will not adversely affect the efficient operation of marine uses, such as producing less efficient traffic, parking or circulation patterns. Parking for the non-marine portion of the proposed development shall be subject to review under section 14-311(d)(8).
9. The rezoning contains adequate provisions and/or conditions to ensure that any associated water-dependent infrastructure remains occupied by any commercial marine use as listed in 14-307(a) and that said use is not abandoned after the project is developed.

(d). *Performance standards:*

All uses in the waterfront central zone shall comply with the following standards. Standards 8, 10, 13, 14, 15, 16, and 17 below shall be reviewed by the planning authority:

1. *Outdoor storage of materials:* Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.
2. *Noise:* The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront central zone shall not exceed seventy-five (75) decibels on the A scale at the boundaries of any lot, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).
3. *Vibration:* Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad

vehicle activities, or from activities on a pile supported pier.

4. *Federal and state environmental regulations:* All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.
5. *Discharges into harbor areas:* No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of public services in accordance with chapter 24, article III of this code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this code and federal and state environmental statutes and regulations regarding wastewater discharges.
6. *Storage of vehicles:* Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.
7. *Landfill of docking and berthing areas:* Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. sections 480-A through 480-HH, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of public services and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

8. *Off-street parking and loading:* Division 20 (off-street parking) and division 21 (off-street loading) of this article shall not apply.

The planning authority shall review applications for non-marine use parking against the following standards:

- a. Applicants for non-marine parking in the waterfront central zone shall submit a parking and traffic circulation plan showing the location of all existing and proposed structures, travel ways and parking on the subject lot.
 - b. Outside of the NMUOZ, non-marine use parking is subject to the limitations described in 14-311(a) ("55% rule").
 - c. Non-marine use parking shall only be located on a lot where, based on the parking and traffic circulation plan and a parking analysis to be submitted for planning authority review, the marine use parking supply is reasonably sufficient to serve marine use space located on the subject lot.
 - d. Water-dependent use parking spaces shall be located as close as reasonably possible to associated vessels and/or ground floor lease areas.
9. *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5 of this article.
10. *Lighting:* All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with

vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.

11. *Signs:* Signs shall be permitted as set forth in division 22 of this article.
12. *Storage of pollutants and oily wastes:* On-premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days.
13. *Urban design:* Construction of new structures located within thirty-five (35) feet of the southerly edge of Commercial Street between Maine Wharf and the easterly property line of the city fish pier shall conform to the guidelines set forth in the downtown urban design guidelines, unless such structures are also located within one-hundred (100) feet of the water. Such structures that are also located within one-hundred (100) feet of the water shall conform to the extent practicable to the downtown urban design guidelines.
14. *Pier and wharf expansions:* In addition to meeting Harbor Commission and Coast Guard requirements for navigation, any expansion or extension of a pier and or wharf in the waterfront central zone shall demonstrate its compatibility with fixed route ferry service and emergency vessel operations.
15. *Compatibility of non-marine uses with marine uses:* Non-marine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither interfere with the existence or operation of marine uses nor impede access to vessel berthing or other access to the water by existing or potential marine uses. Siting of a use not set forth in section 14-307(a) shall not substantially reduce or inhibit existing public access to marine or tidal waters.

16. *Functional utility of piers and access to the water's edge:* All new development, whether for marine or non-marine uses, should anticipate current and future functional and operational needs of water-dependent pier tenants to access the water's edge for the transfer of goods and materials between berthed vessels and land bound vehicles, and shall demonstrate adherence to the following provisions:
- a. Provisions for the storage and movement of goods and materials must be designed into all waterside development and internal circulation routes must be maintained or otherwise provided as an element of any development. The siting, design, and circulation of non-marine uses, particularly those allowed on first floors, shall adjust if needed to accommodate reasonable access for pedestrians, vehicles, and freight transfer to and from berthed vessels.
 - b. Any development that proposes to site a building within ten (10) feet of a pier edge (thus precluding vehicle use of the pier edge) should provide openings and circulation through or around the building to allow the transfer of goods and materials to trucks and circulation routes within the interior of the pier.
 - c. With the exception of non-commercial berthing allowed under section 14-307(a)(20), there is to be no other non-commercial berthing.
 - d. Except for common circulation drives as defined in 14-306, access ways, parking and loading areas designated for marine uses shall be exclusively for marine uses and shall not be shared with non-marine uses.

17. *Public view protection:* Any new development in the waterfront central zone shall perform a public view impact analysis for review and approval by the planning board or planning authority as a condition of site plan approval. The analysis shall: (a) demonstrate the project's adherence to the *Portland View Corridor Protection Plan* (City of Portland Comprehensive Plan, 2002) to the extent practicable; and (b) promote the public's visual access to the water through sensitive building placement.

The planning board or planning authority shall find at a minimum that the proposed development (a) retains street corridor views as extended across Commercial Street from the Portland peninsula; (b) retains panoramic views of the water from Commercial Street to the extent practicable; and (c) where loss of existing public views to the water is shown to be necessary for the reasonable development of the site, the developer provides alternative public views to the water through newly established view corridors or publicly accessible pedestrian ways. Such pedestrian ways shall not interfere with existing or potential water-dependent uses, nor shall they endanger the public through uncontrolled proximity to industrial activity.

Sec. 14-312. Reserved.
Sec. 14-313. Reserved
Sec. 14-314. Reserved.
Sec. 14-315. Reserved.
Sec. 14-316. Reserved.
Sec. 14-317. Reserved.

**Portland Fish Pier Authority Members
July 2015**

| Board Members | Affiliation |
|-------------------------|-----------------------------------|
| Rob Elder, Chair | Maine Dept of Transportation |
| Nicholas Mavodones, Jr. | City Council |
| Jon Jennings | City Manager |
| Ray Swenton | President, Portland Fish Exchange |
| Terry Stockwell | Dept of Marine Resources |