

Order 25-21/22

Passage: 8-0 (Thibodeau absent) on 8/23/2021

Effective 9/2/2021

KATE SNYDER (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
TAE Y. CHONG (3)  
ANDREW ZARRO (4)

**CITY OF PORTLAND**  
**IN THE CITY COUNCIL**

MARK DION (5)  
APRIL D. FOURNIER(A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AMENDING PORTLAND DEVELOPMENT CORPORATION BYLAWS  
AND LOAN AND GRANT GUIDELINES FOR TWO PROGRAMS**

**ORDERED**, that the amendments to the Portland Development Corporation Business Assistance Program for Job Creation are hereby approved substantially in the form attached hereto; and

**BE IT FURTHER ORDERED**, the amendments to the Portland Development Corporation COVID-19 Microenterprise Grant Program are hereby approved substantially in the form attached hereto; and

**BE IT FURTHER ORDERED**, the amendments to the Portland Development Corporation Bylaws are hereby approved substantially in the form attached hereto; and

**BE IT FURTHER ORDERED**, the City Manager or his or her designee is authorized to execute any and all documents necessary to implement this program and otherwise carry out the intent of this Order.

## Portland Business Assistance Program for Job Creation

### Program Description

The City of Portland's Business Assistance Program for Job Creation (BAP) provides grants up to \$20,000 to new and expanding for-profit Portland businesses for the creation of net new, permanent full-time jobs for low/moderate income individuals.

### Program Objectives

- Job creation for low/moderate income individuals;
- New business formation and existing business expansion;
- ~~Leverage private investment to support business growth;~~
- Help new and expanding businesses establish credit;
- Enhance the health and vitality of ~~the~~ Portland's neighborhoods and the City's economy as a whole. economy.

### Program Requirements/Eligibility

- Business must be located within the City of Portland;
- Will cCreate one (1) full-time job (at least 1,750 hours/year \* which is at least 34 hours/week) for every \$10,000 of approved grant funding.;
- Applicant business location fits any of the following: in a low income area of the City; wWithin walking distance to one or more of these low income areas; ~~or, c~~ Easily accessible from these low income areas via public transportation;
- ~~Net new jobs(s)~~ created with the help of the grant is ~~are~~ marketed to and provided to low/moderate income\*\* individuals; resulting in at least 51% of these jobs going to this population. (For example, if two jobs are created to meet grant requirements, then both must be filled by low/moderate income individuals);
- Job(s) is created within nine (9) months of signing a grant agreement;
- Wages paid to new hires (s) exceeds-meet or exceed Portland's minimum wage
- Applicant cannot owe outstanding property taxes, fees, or judgments to the City and property must be free of all City liens and encumbrances.
- 

### Financing Terms Grant Terms:

- Maximum grant : \$20,000 per business
- Grant of \$10,000 per full-time job that business promises to create, up to \$20,000 per business;
- Job(s) must be created after grant is approved in order to be counted as meeting the grant requirement;
- Job(s) must be created within nine (9) months after signing a grant agreement;

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- Once approved for a grant, no more than half the approved grant amount may be requested prior to job creation;
- Grants are provided through reimbursement of paid receipts (for eligible expenses) for twice the amount requested. For example, a request for a \$5,000 grant draw down must be accompanied by \$10,000 worth of paid receipts for eligible expenses (see Eligible Funding Activities below);

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- ~~Required Private Match: Equal to or greater than grant amount.~~
- ~~Private Match Sources: Private investment match includes at least 50% private equity. The remaining 50% may be a bank loan or a loan from the City's Commercial Loan Program, if conventional financing is not available. For existing businesses, the 50% equity can include private investment made within the past 12 months.~~

**Eligible Funding Activities:**

1. Equipment and machinery;
2. Permanent working capital, (e.g., inventory, furniture and fixtures, relocation expense);
3. Working capital s (e.g., rent, utilities, salaries, insurance);
4. Business consulting services (e.g., accounting, marketing, software training, legal assistance);
5. Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Construction projects must comply with Davis Bacon federal labor standards.)

**Ineligible Activities:**

- a. Refinance existing debt;
- b. Down payment for other financing;
- c. Use of grant funds for activities commenced or completed prior to program funding approval and prior to signing a grant agreement (e.g., purchases of equipment and supplies).

**Application Review Criteria/Preferences: (listed in no particular order):**

Criteria/Preferences (listed in no particular order):

- Career Potential
  - Job training for new hire(s) in a marketable skill;
  - Potential for job advancement within the company or elsewhere.
- Employer
  - Demonstrated need for grant funds to create job(s);
  - ~~Private match exceeds grant amount requested;~~

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- Number of net new jobs exceeds one (1) per \$10,000 of grant funding.
- Compensation and Benefits
  - Quality of compensation and benefits package (for example, wages, health coverage, vacation, sick leave);
  - Wages paid to new hire(s) exceeds Portland's minimum wage.

**Eligible Funding Activities:**

1. ~~Equipment and machinery;~~
2. ~~Permanent working capital, (e.g., inventory, furniture and fixtures, relocation expense);~~
3. ~~Working capital expenses (e.g., rent, utilities, salaries, insurance);~~
4. ~~Up to \$1,000 for business consulting services (e.g., accounting, marketing, software training, legal assistance);~~
5. ~~Leasehold improvements, renovation, reconstruction, or restoration of vacant, under-utilized or deteriorated space; building modifications to enhance accessibility to elderly or handicapped persons. (Construction projects must comply with Davis Bacon federal labor standards.)~~

**Ineligible Activities:**

- a. ~~Refinance existing debt;~~
- b. ~~Down payment for other financing;~~
- c. ~~Use of grant funds for activities, (e.g., purchases of equipment and supplies), commenced or completed prior to program funding approval and prior to signing a grant agreement.~~

**Basic Program Qualifications:**

- ~~Business must be located within the City of Portland;~~
- ~~Applicant cannot owe outstanding property taxes, fees, or judgments to the City, and property must be free of all City liens and encumbrances.~~

**Application and Approval Process**

The City's Housing and Economic Development Department is responsible for administration of the Business Assistance Program for Job Creation, ~~with guidance from the Housing and Community Development Division~~. Eligible applications are analyzed by an underwriter and then presented to the Portland Development Corporation (PDC) for its review. The PDC has final decision-making authority in approving applicants for grant awards.

**Post Grant Requirements Reporting and Tracking (after grant approval)**

Jobs:

- Jobs must be created within nine (9) months of signing a grant agreement after being approved for a grant.

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- Post job description(s) where low/moderate income people are likely to see it and a photo provided to the City showing that posting;
- Baseline payroll provided prior to job creation;
- Grant recipients will be required to provide Quarterly report (listing new hire)s until all required hires are made, then a summary report (list of new hires) and then an annual report for one year beyond that;
- Income certification for each new hire(s).

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**Property:**

The City will retain an interest in property improved or equipment purchased (worth \$5,000 or more) with grant funds for up to five (5) years. If such property improvements or equipment are transferred, or otherwise disposed of within the five (5) year period from the date the improvements are completed or equipment is purchased, respectively, the City may require partial repayment of the grant funds (on a pro rata basis) ~~of the grant funds~~.

**Program Actions if Grantee Business is Unable to Meet Job(s) Requirements**

Nine (9) months from the date of signing the grant agreement, if a grantee business has been unable to create the required number of jobs, the PDC Board, at its discretion, may require that the grantee return all grant funds that it has drawn down. Alternatively, should the PDC Board determine, in its judgement, that the grantee has made a good faith effort to create the required number of jobs within the nine (9) month timeframe, the Board may approve the use of the following option if it deems it appropriate: Allow the creation of two part-time jobs for low/moderate income individuals in place of one full-time job to meet the job creation requirement per \$10,000 in grant funds. A part-time job is defined as working at least 875 hours per year but less than 1,750 per year.\*\*\*

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In the case of a grantee business that has been unable to retain the required job(s) for one year from the time the job(s) was initially created, the PDC Board, at its discretion, may require the partial repayment of grant funds (on a pro-rata basis) ~~of grant funds~~.

Alternatively, should the PDC Board determine, in its judgement, that the grantee has made a good faith effort to create the required number of jobs within nine (9) months of signing the grant agreement or to retain the job(s) one year from the time the job(s) was created:

- A) The Board may approve the use of any of the following options it deems most appropriate:
- Allow the creation of two part time jobs for low/moderate income individuals in place of one full time job to meet the job creation requirement per \$10,000 in grant funds. A part-time job is defined as working at least 875 hours per year but less than 1,750 per year.\*\*\*
  - Qualify the business as a microenterprise if the business owner meets HUD's low/moderate income threshold (80% of median HH income) and the business has five or fewer employees\*\*\*. This qualification would not require the creation of jobs, other than the job that was created for the low/moderate income business owner.

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And,

~~B) The Board will make a determination whether to release the balance of the approved grant funds to the grantee.~~

~~NOTE: These actions are retroactive and may be applied to any BAP grantee business that has not yet met its job requirements, per these guidelines.~~

### Definitions

\*Definition of a full-time job, per the Maine Department of Economic and Community Development;

\*\*For the purposes of this Program, low/moderate income is defined by the U.S. Department of Housing and Urban Development as 80% of median household income. A chart showing qualified income levels can be found on the City's website at the following link:  
<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

\*\*\*Definition of a part-time job, per the Maine Department of Economic and Community Development;

~~\*\*\*\*Two part definition of a microenterprise, per the U.S. Department of Housing and Urban Development.~~

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## COVID-19 Portland Microenterprise Grant Program (MGP)

### Program Description

The City of Portland's Microenterprise Grant Program (MGP) provides grants of up to \$5,000 for ~~existing~~ Portland businesses that operate out of leased commercial space and \$2,500 to other Portland microenterprises,\* including home based businesses, that have been [and/or are being impacted by the COVID 19 crisis](#). [Startups are also eligible given that they are opening during this challenging period.](#)

The **definition of a Microenterprise\*** for the purposes of this program is a business owned by a low/moderate income individual\*\* that has 0 to ~~one~~ [three \(3\)](#) Full Time Equivalent (FTE) employees. One FTE =1 full-time job that is at least 34 hours/week or 2 part-time jobs that are each at least 17 hours/week), ~~plus the business owner(s)~~. Funding through this Program cannot be combined with any other City of Portland COVID-19 financing.

[In accordance with the CARES Act emergency relief funds may not be used for the costs where other assistance has already been provided for the same purpose and there is no demonstrated unmet need.](#) This ~~program may not duplicate~~[includes](#) benefits received from COVID-19 Federal, State or County grants. Specifically, COVID-19 City grants can only be used to pay for items not already paid for by other governmental [or private grants or loans.](#)

### Program Objective

The stabilization [and growth](#) of Portland microenterprises [that have been negatively impacted by the Covid19 pandemic.](#), ~~whether the business is open or temporarily closed.~~

### Funding Source

Community Development Block Grant ~~Coronavirus (CDBG-CV)~~.

### Financing

Maximum grant of \$5,000 per microenterprise that operates out of leased commercial space.  
Maximum grant of \$2,500 per microenterprise that does not operate out of leased commercial space (e.g., is home based or provides services elsewhere).

### Program Requirements/Eligibility

- [Business is open or temporarily closed](#);
- Owner(s) must be low/moderate income\*\*;
- If the business has employees, at least 51% must be low/moderate income\*\*;
- [Business began operating no later than March 15, 2020](#);
- Business can have no more than [three \(3\)](#) FTE employees, plus the owner;
- Business must be located within the City of Portland;
- Owner is unable to finance business expenses on his/her own;
- Applicant does not owe outstanding property taxes, fees, or judgments to the City and property must be free of all City liens and encumbrances.

### Eligible Funding Activities:

Rent, utilities, inventory, insurance, payroll (not including owner) and other working capital needs; the portion of a residential mortgage [or rent](#) that covers the square footage used by a home based businesses.

### **Ineligible Activities:**

- Wages for business owner(s) and family members of the business owner(s);
- Refinance existing debt;
- Down payment for other financing;
- Use of grant funds for activities other than those that are noted as eligible.

### **Application Review Criteria**

The Portland Development Corporation (PDC), the City's lending and granting board, will weigh the following criteria, but has the discretion to base its approval on other considerations as well:

- Completeness of application package (all required submittals);
- Business has been substantially impacted by COVID-19 crisis:
- If closed, timing when business will reopen;
- If business had employees [prior to the pandemic](#), timing when business will hire back furloughed employee(s) or re-create job(s) that existed just before the COVID-19 crisis ;
- If business had [or has](#) employees, company profile of employee wages and benefits;
- Health of business just before the COVID-19 crisis [if the business existed then](#),
- Personal credit score.

### **Required Submittals**

- City of Portland Microenterprise Program Application;
- Commercial lease, if business is in a leased space, noting monthly or annual rate, and CAM charges for NNN leases;
- Personal financial statement - from all owners of the business with 20% ownership or greater;
- ~~2019~~ and ~~2020~~ [completed federal](#) business tax returns;
- ~~A~~ Current Balance Sheet
- [Current](#) Profit and Loss ~~for 2019~~;
- [One year of monthly projections](#);
- [Business plan if a startup](#);
- If had employees [prior to the pandemic](#), payroll showing number of full and part-time employees [just before the COVID-19 crisis at that time \(January or February 2020\)](#) ;

### **Application and Approval Process**

The City's Housing and Economic Development Department is responsible for administration of the COVID-19 Microenterprise Grant Program. Applications are submitted to staff for eligibility review and may be analyzed by an underwriter. Eligible applications are presented to the Portland Development Corporation (PDC) for its review and approval. The PDC has the authority to establish application deadlines.

### **[Reporting and Tracking \(after grant approval\)](#)**



~~If business is still operating, within six months after applicable Stay at Home or other COVID-19 emergency orders have been lifted for the grantee's type of business, the payroll will be at the same capacity it was just before it was impacted by the COVID-19 crisis. If business is temporarily closed it will be operating within six months after applicable State at Home or other City COVID-19 emergency orders have been lifted for the grantee's type of business. The six month timeframe can be adjusted based on how the COVID-19 restrictions are lifted.~~

### **Sunset Provision**

Program ~~has a terminat~~es ion date of December 31, 2021 or when the funds run out, ~~whichever comes first.~~

### **Definitions**

\*For the purposes of this Program, a microenterprise business is defined as a commercial enterprise that has 0 to ~~one three~~ (3+) Full-Time Equivalent (FTE) employees. **One (1) FTE job is equal to at least 34 hours/week or 2 part-time jobs, each at least 17 hours/week** plus the business owner(s). The owner(s) must be low/moderate income.\*\*

\*\* Low/moderate income is defined by the U.S. Department of Housing and Urban Development as 80% of median household income. A chart showing qualified income levels can be found on the City's website at the following link:

<http://www.portlandmaine.gov/DocumentCenter/Home/View/8939>

# **BYLAWS OF PORTLAND DEVELOPMENT CORPORATION**

## **ARTICLE 1**

### **NAME, PRINCIPAL OFFICE, CORPORATE SEAL**

Section 1.1. Name. The name of this corporation shall be the Portland Development Corporation.

Section 1.2. Principal Office. The principal office for the conduct of the activities of the corporation shall be located at Portland City Hall, 389 Congress Street, Portland, Maine.

Section 1.3. Corporate Seal. The corporate seal of the corporation shall be circular in form and shall bear the words and figures "Portland Development Corporation," the word "Maine" and the year of the corporation's incorporation. The form of such seal may be altered from time to time by the Board of Directors.

Section 1.4. Registered Office. The Registered Office of the Corporation is at 389 Congress Street, Portland, Maine. The address of the Registered Office may be changed from time to time by the Board of Directors or by the Registered Agent.

Section 1.5. Registered Agent. The Registered Agent of the Corporation is the person designated in the Articles of Incorporation, as amended from time to time by the Board of Directors.

## **ARTICLE II** **PURPOSES**

Section 2.1. General Purposes. The Corporation is organized and shall be operated on a non-profit basis to receive donations and contributions in support of the City of Portland economic development efforts that enhance and create business, employment and development opportunities including:

- A. Implement and administer development programs that enhance business opportunities and combat community deterioration in the City of Portland, including, but not limited to, brownfields programs that facilitate development of commercial, multi-family residential, public open space and public recreational properties;
- B. Enhance employment opportunities for members of the Portland community by offering education and counseling services which support businesses in the City of Portland, thereby lessening the burdens of government;
- C. Make recommendations to the City Council with respect to, but not limited to, bond and tax increment financing and the management, acquisition, disposal and general land use of City of Portland property;

D. Refer requests to acquire property via eminent domain to the City Council;  
and

E. Acquire, hold, own, manage, dispose or liquidate property, upon City Council approval, for the purpose of advancing economic development and promoting employment opportunities in the City of Portland;

Section 2.2. Powers. This Corporation shall have all such powers as are authorized to non-profit corporations by the Maine Nonprofit Corporations Act. The corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended.

Section 2.3. Prohibition of the Inurement of Assets and Income to Private Persons. The corporation is not organized for pecuniary profit and shall not have any capital stock. No part of its net earnings or of its principal shall inure to the benefit of any officer or director of the corporation, or any other individual, partnership or corporation, but reimbursements for expenditures or the payment of reasonable compensation for services rendered shall not be deemed to be a distribution of earnings or principal.

Section 2.4. Dissolution. If this Corporation is dissolved or its legal existence terminated, either voluntarily or involuntarily, or upon final liquidation of the Corporation, none of its assets shall inure to the benefit of any private individual, and all of its assets remaining after payment of all of its liabilities shall be distributed to one or more organizations which the Board of Directors then determines is qualified both as an exempt organization under Section 501(c)(3) of the Internal Revenue Code, and as an organization engaged in activities substantially similar to those of this Corporation (within the meaning of 13-B M.R.S.A. §407).

Section 2.5 Tax exempt Status. It is intended that the Corporation shall have and continue to have the status of a corporation which is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended, or successor provisions of federal tax law (the "Internal Revenue Code") as an organization described in Section 501(c)(3) of such Code, and to which contributions are deductible under Section 170(c)(2) and 2055(a)(2) of the Internal Revenue Code which is other than a private foundation as defined in Section 509(A) of the Internal Revenue Code. The Articles of Incorporation and these Bylaws shall be construed accordingly, and all powers and activities shall be limited accordingly.

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation; provided that the Corporation shall have the power to make an election under Section 501(h) of the Internal Revenue Code. Likewise, the Corporation shall not participate or intervene in any manner or to any extent in any political campaign on behalf of any candidate for public office. Furthermore, the Corporation shall not engage in any activities that are unlawful under applicable federal, state or local laws,

including, but not limited to, activities prohibited for an exempt organization under Section 501(c)(3) of the Internal Revenue Code and regulations thereunder as they now exist or as they may hereafter be amended.

### **ARTICLE III** **MEMBERSHIP**

Section 3.1. Member. The sole member of the Corporation shall be the City of Portland, Maine. The sole member of the Corporation shall be referred to as the "Corporator" for the purposes of the Articles of Incorporation and these Bylaws.

Section 3.2 General. In addition to the other powers of the Corporator listed in Section 3.3 hereof, the Corporator shall have the responsibility for the election of the Board of Directors of the Corporation, which Board has the ultimate responsibility for governing the Corporation. The rights and responsibilities of the Corporator, may be changed from time to time by an amendment to the Articles of Incorporation (to the extent required by law) and by these Bylaws.

Section 3.3. Powers. The Corporator shall have only those rights set forth in the Articles of Incorporation, as restated in these Bylaws. Such rights are as follows:

- A. The establishment of the size of the Board of Directors within the limits described in Section 4.2 hereof;
- B. The election of Directors pursuant to Article IV hereof, with the exception of filling of a vacant Board seat as provided in Section 4.5 hereof;
- C. The removal of Directors from the Board of Directors;
- D. The amendment, restatement, or modification of the Articles of Incorporation or of the Bylaws of this Corporation;
- E. The approval of the sale, lease, or other disposition (excluding by mortgage or pledge for purposes of security) of all, or substantially all, of the assets and property of the Corporation;
- F. The dissolution of the Corporation or its merger with or consolidation with another corporation; and
- G. Any other matter which a majority of the Board of Directors voting on the matter votes to submit to the Member.

Section 3.4 Annual Meetings. The Annual Meeting of the Corporator shall be held on such day in the month of September of each year at such place and time as shall be fixed by the Board of Directors. In the event of a failure for any reason to hold an Annual Meeting as aforesaid, any business which may properly be transacted at an Annual Meeting, including the election of Directors, may be transacted at a Special Meeting.

Section 3.5 Special Meetings. Special Meetings of the Corporator may be called at any time by the President or a majority of the Directors.

Section 3.6. Notice of Meetings. Notice of all meetings of the Corporator shall be given by the Secretary or in his or her absence or disability by the President, by mailing or emailing to the Corporator a written notice specifying the time and place of the meeting, such notice to be addressed to the Corporator and emailed or mailed (postage prepaid) at least five (5) but not more than fifty (50) days before the meeting.

Section 3.7. Action by Unanimous Consent. Any action required or permitted to be taken at a meeting of the Corporator may be taken without a meeting as long as consent in writing, setting forth the action so taken shall be signed by the Corporator, and filed with the minutes of the meetings of the Corporator.

Section 3.8. Manner of Acting. The act of the Corporator, present in person or by proxy at a meeting, shall be the valid act of the Corporator.

## **ARTICLE IV** **BOARD OF DIRECTORS**

Section 4.1. Management by Board. The affairs of the Corporation shall be managed by its Board of Directors, which may exercise all powers of the Corporation and do all lawful acts and things necessary or appropriate to carry out the purposes of the Corporation.

Section 4.2. Number of Directors; Eligibility. The Board of Directors shall consist of eleven (11) individuals, nine (9) of whom shall be Directors appointed by the Corporator through the Portland City Council and two (2) of whom shall be ex officio members of the Board pursuant to Section 4 of this Article. No fewer than six (6) of the nine (9) directors appointed by the Corporator must be a resident or property owner in the City of Portland or have an ownership interest in a business that has its principal office in the City.

Section 4.3. Nomination. The Corporator shall receive nominations from the Portland City Council Nominating Committee, which shall supplement its regular Committee recruitment efforts by advertising in the local media and by otherwise publicizing the vacancies as widely as possible.

Section 4.4. Ex Officio Members of the Board of Directors. There shall be two (2) individuals who shall each be deemed an ex officio member of the Board of Directors by virtue of his or her holding the position of (1) Mayor or City Council member of the City of Portland as appointed by the Corporator; and (2) City Manager of the City of Portland.

The provisions of these Bylaws contained in Section 5 regarding term of office, Section 3 regarding nomination of directors and Section 7 regarding vacancies shall not apply to said ex officio members. The City Manager shall be a member of the Board of Directors so long as he or she continues to serve in the office by virtue of which he or she was appointed; and the Mayor or

City Council member shall be appointed annually; and said members shall enjoy all the rights, privileges and responsibilities of all other member of the Board of Directors, including, without limitation, voting privileges, except, however that no ex officio member may serve as President of the Board of Directors. The Board of Directors may take action by unanimous consent only with the consent of said ex officio member. Ex officio members shall be counted as Directors for purposes of determination of residency requirements in Section I of this Article. Ex officio members shall be entitled to the same indemnification rights available to all Directors under the law, these Bylaws or otherwise.

Section 4.5. Terms of Office. One (1) Director shall be initially appointed by the Corporator to hold office until the Second Annual Meeting of the Corporation following the incorporation of this Corporation; two (2) Directors shall be initially appointed by the Corporator to hold office until the Third Annual Meeting of the Corporation following the incorporation of this Corporation; and two (2) Directors shall be initially appointed by the Corporator to hold office until the fourth Annual Meeting of the Corporation following the incorporation of this Corporation. The Corporator shall specify the term of office for which each Director is initially appointed. Thereafter, Directors shall be appointed by the Corporator at Annual Meetings of the Corporation to serve as such for a term of three (3) years. Each Director shall serve until his or her successor shall be duly qualified and appointed. Directors shall be nominated prior to the Annual Meeting of the Corporator. No Director shall succeed himself or herself for more than two (2) full consecutive terms, provided that no term of less than three (3) years which is served directly in advance thereof shall be counted for purposes of this limitation.

Section 4.6. Voting. Each Director shall be entitled to one (1) vote.

Section 4.7. Vacancies. Any vacancy occurring on the Board of Directors may be filled by the Corporator by appointment of an individual qualifying and eligible for such position. A person appointed to fill a vacancy which occurs other than by reason of an increase in the number of Directors shall serve until the next Annual Meeting of the Corporator.

Section 4.8. Resignation. Any Director may resign at any time by giving written notice to the President of the Corporation. Such resignation shall take effect on the date of receipt or at any later time specified therein.

## **ARTICLE V** **MEETINGS**

Section 5.1. Annual Meeting. The Annual Meeting of the Board of Directors shall be held without call at the Board's Regular Meeting in the month of September, at the principal office of the Corporation or at some other place fixed by the President.

Section 5.2. Regular Meeting. Other Regular Meetings of the Board of Directors may be held, without call, at such place, date and time as shall be fixed from time to time by resolution of the Board of Directors.

Section 5.3. Special Meetings. Special Meetings of the Board of Directors may be called by such persons as are authorized by law to call Special Meetings. The place, date and time of the Special Meeting shall be fixed in the call therefor.

Section 5.4. Notice of Meetings. Notice of each Annual, Regular or Special Meeting of the Board of Directors shall be given by the person or persons calling the same or by the President or Secretary at least three (3) days in advance thereof. Notice may be given in writing, by email, by telephone, by oral statement or by any other means to the Directors in person or by delivery of a writing to the Director's residence or business address. Notice given in writing by mail shall be deemed given on the day that the same is deposited in the U.S. mails as first class mail, postage prepaid. Neither the business to be transacted thereat, nor the purposes of any Annual, Regular or Special Meeting of the Board of Directors need to be specified in the notice of such meeting, except when otherwise provided by law.

Section 5.5. Conduct of Meetings. The final actions of the Board of Directors shall be taken openly, and subject to provisions of the Maine Freedom of Access Act, deliberations of the Board shall be conducted openly, and the records of their actions shall be open to public inspection.

Section 5.6. Quorum. Six (6) Directors shall constitute a quorum for the transaction of business. The act of at least four (4) of the Directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors.

Section 5.7. Informal Action by Directors. Action of the Directors may be taken in accordance with the provisions of Section 708 of the Maine Nonprofit Corporations Act, Title 13-B M.R.S.A. In amplification of, and not in limitation of the foregoing, action taken by agreement of a majority of Directors shall be deemed action of the Board of Directors if all Directors know of the action taken and no Director makes prompt objection to such action. Objection by a Director shall be effective if written objection to any specific action so taken is filed with the Secretary of this Corporation within thirty (30) days of such specific action.

Section 5.8. Notice. Whenever under the provisions of the statutes, Articles of Incorporation or these Bylaws notice is required to be given to any Director, such notice must be given in writing by personal delivery, by email, mail, or by telephone, addressed to such Director at his or her address as it appears on the records of the Corporation, with postage or other delivery fees prepaid, or at his or her telephone number as it appears on the records of the Corporation. Notice by mail shall be deemed to be given at the time it is deposited in the United States mail.

Section 5.9. Indemnification. This corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director, officer, employee or agent of this corporation, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. §714 as it may

be amended from time to time, and acts additional thereto and supplementary thereof, to which reference is made.

## **ARTICLE VI** **OFFICERS AND AGENTS**

Section 6.1. Officers. The officers of the corporation shall be chosen annually at the Annual Meeting of the Board of Directors, and shall be a President, a Treasurer and a Secretary. One individual may serve in more than one such office. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers.

Section 6.2. Term. Officers shall be elected for a term of one (1) year to serve until the next Annual Meeting of the Board of Directors or until their successors are duly chosen and qualified. Officers may succeed themselves for any period of years. The initial officers shall be appointed by the Board of Directors at their first meeting following incorporation to serve as such until the first Annual Meeting of the Board of Directors.

Section 6.3. Removal. Any officer of the corporation may be removed by the Board of Directors whenever in their judgment the best interests of the corporation will be served thereby.

Section 6.4. Vacancies. Any vacancy in any office (except the office of Director) may be filled by the Board of Directors.

Section 6.5. President. The President of the Corporation shall be elected from among the members of the Board of Directors, provided however that no ex officio member may be permitted to serve as President.

Section 6.6. Treasurer. The Treasurer shall be the chief financial officer of the corporation and, together with the Assistant Treasurer, shall have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Treasurer shall be.

Section 6.7. Secretary. The Secretary shall attend all meetings of Corporation and the Board of Directors and keep minutes of all meetings of the Corporation and the Board of Directors in a book or books kept for that purpose. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Secretary shall be. The Secretary, and any Assistant Secretaries, shall have authority to affix the corporate seal to any instrument which requires it, and when so affixed, it may be attested by the Secretary or by any Assistant Secretary.

Section 6.8. The Assistant Treasurer and Assistant Secretary. One (1) Assistant Secretary shall be appointed by the Board of Directors. The individual appointed Assistant Secretary shall be the Director of [the Housing and](#) Economic Development Department of the City of Portland and shall be the principal staff person for the Corporation. The Assistant Secretary will have



authority to execute documents on behalf of the Corporation should a Board officer not be available to do so. One (1) Assistant Treasurer shall be appointed by the Board of Directors. The individual appointed as the Assistant Treasurer shall be that individual who holds the position of Treasurer for the City of Portland. The Assistant Treasurer shall, together with the Treasurer, have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Assistant Treasurer shall have such other powers and duties as may be prescribed from time to time by the Board of Directors. Assistant Secretaries and Assistant Treasurers shall not be members of the Board of Directors.

Section 6.9. Other Employees. Other employees of the Corporation may be appointed by the Board of Directors, and if so appointed, shall be supervised by, and shall serve under the direction of the Assistant Secretary.

## **ARTICLE VII** **ADOPTION, AMENDMENT**

Section 7.1. Generally. These Bylaws may be amended or repealed or new Bylaws adopted only by the affirmative vote of the Corporation, provided, however, that the Bylaws may not be amended in such a way as to cause the Corporation to lose its status (i) as a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or (ii) as a corporation to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended, or (iii) as a corporation described in Section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, as amended.

Section 7.2. Amendments. These Bylaws may be amended solely by the Corporation.

## **ARTICLE IX** **CONFLICT OF INTEREST**

Section 8.1. Avoidance of Conflict or the Appearance of such Conflict. Every Director shall endeavor to avoid conflicts of interest or the appearance of such conflicts or impropriety as provided by state statute, by full disclosure at all times and by abstention in the appropriate circumstances.

Section 8.1. Disclosure. Any Director who has a direct interest in any matter to be considered by the Board shall fully disclose that interest to the Board. If a Director is unsure whether a direct interest exists in a particular matter or if the issue is otherwise raised in good faith, the Director shall disclose the pertinent facts to the Board, and the Board shall determine the issue.

Section 8.3. Abstention. When the Director has so disclosed and is deemed to have a direct interest in a matter, the Director shall abstain from voting on the matter and from otherwise participating in the decision-making process on the matter. Notation of the disclosure and abstention of the Director shall be recorded in the minutes.

Section 8.4. Direct Interest. For purposes of this Article, direct interest in a matter shall mean:

- A. A substantial financial interest of the Director or of the spouse or dependent child of the Director;
- B. A substantial financial interest of any employer, partner, associate, co-shareholder or other co-venturer of the Director;
- C. A substantial financial interest of the Director in any entity which has a substantial financial interest in the matter; or
- B. Any other substantial interest of the Director which the Director or the Board believes might reasonably impair the Director's ability to act independently.

ATTEST:

DATE:

Assistant Secretary