

Order 27-21/22

Passage: 7-0 (Ray, 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 ACCEPTING AN ANDREWS SQUARE EASEMENT
FROM AVESTA BUTLER PAYSON LP**

ORDERED, that the attached Andrews Square easement from Avesta Butler Payson LP for public pedestrian access is hereby approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to record said documents in the Cumberland County Registry of Deeds.

EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that AVESTA BUTLER PAYSON LP, a Maine limited partnership with a place of business in Portland, Maine and mailing address of 307 Cumberland Avenue, Portland, ME, 0410_ (the "Grantor"), FOR CONSIDERATION PAID, hereby GRANTS to the CITY OF PORTLAND, a Maine body corporate and politic, with a mailing address of City Hall, 389 Congress Street, Portland, Maine 04101 (the "Grantee" or the "City"), a non-exclusive easement for the purpose described below, over portions of Grantor's Land on Pine and West Streets in Portland, Maine, more particularly described in Exhibit A attached hereto and as depicted in the drawing attached hereto as Exhibit B and made a part hereof (the "Easement Area"). The Easement Area constitutes portions of the land described in a deed to Grantor dated March 30, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32169, Page 143.

The purpose of the easement granted herein is for public pedestrian access in, on, under, and over the Easement Area which shall function as a sidewalk for pedestrian, bicycle and similar non-motorized pedestrian uses subject, however, to such rules or ordinances as Grantee may adopt from time to time in the interests of public safety. Notwithstanding the foregoing, wheelchair and emergency vehicles as well as snow removal equipment shall be permitted in accordance with applicable federal and/or state laws regulating accessibility for such devices, vehicles or equipment. The City shall have the right, but not the obligation, to install, maintain, replace and repair the sidewalk and other amenities and appurtenances including benches and planters within the Easement Area for public use and enjoyment (collectively the "Amenities"). The Amenities as well as the so-called "Andrews Monument" currently located within the Easement Area shall be the property of Grantee, and may be removed from the Easement Area at any time provided that any damage caused by such removal shall be repaired by Grantee. If the Grantee elects to install the sidewalk and the Amenities, it shall maintain them at all times in reasonably good condition and repair at the Grantee's sole cost and expense, and in any event, Grantee shall keep and maintain the Andrews Monument in good order and repair at Grantee's sole cost and expense. Grantee shall have the right but not the obligation to remove ice and snow from the Easement Area and shall notify Grantor as to whether Grantee will exercise that right. In the absence of such notice, Grantor shall comply with all applicable laws, rules, regulations, and ordinances governing the removal of snow and ice from municipal sidewalks within the Easement Area.

The Easement areas shall, as provided and permitted herein, be maintained as a sidewalk for the uses set forth and described herein and Grantor shall not use or permit any use that would be contrary to or otherwise inhibit such uses.

The provisions of this Agreement shall constitute covenants running with the land hereby affected, and all such provisions shall inure solely to the benefit of and be binding upon the Parties and their respective successors and assigns.

This Agreement may not be amended or terminated except by an instrument in writing signed by both Parties, or their respective successors and/or assigns, and any attempted amendment or termination without all such signatures shall be of no force or effect.

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

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, between the Parties hereto with respect to the subject matter hereof.

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

TO HAVE AND TO HOLD the aforegranted and bargained easement, with all privileges and appurtenances thereof, to the Grantee, its successors and assigns, to its and their use and behoof, forever.

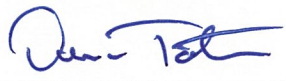
IN WITNESS WHEREOF, Avesta Butler Payson LP, the Grantor has caused this instrument to be executed by Pinecone Housing Corporation, its General Partner thereunto duly authorized, this 15th day of June, 2021.

WITNESS:

AVESTA BUTLER PAYSON LP,
Grantor

BY: Pinecone Housing Corporation, its
General Partner




By: _____
Dana Totman, its President

STATE OF MAINE
CUMBERLAND, ss.

June 15, 2021

Personally appeared the above named Dana Totman, authorized agent of Pinecone Housing Corporation, General Partner of Avesta Butler Payson LP, as aforesaid and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation and limited partnership.

Before me,



Attorney-at-Law/Notary Public

Printed Name: Eric Boucher

Commission expires: 4/22/2027

SEEN AND AGREED TO:

CITY OF PORTLAND

By: _____
Jon P. Jennings, City Manager

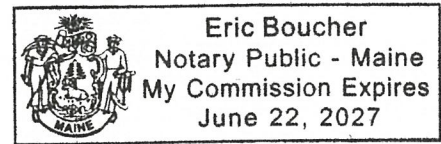


EXHIBIT A

A certain easement across land located in the City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at a drill hole in a 6" x 6" granite monument at the northeast corner of the intersection of the southeasterly 3-foot offset line of Pine Street with the northeasterly 3-foot offset line of Clark Street;

Thence N 86-58-12W one hundred seven and twenty-six hundredths feet (107.26') to a bolt in a 6" x 6" granite monument on the southerly 3-foot offset line of West Street;

Thence S 0-39-26 W three and zero hundredths feet (3.00') to the southerly street line of West Street and the **Point of Beginning**;

Thence S 89-20-34 E fifty and eighteen hundredths feet (50.18') along said southerly street line of West Street to an angle point in said street line;

Thence S 54-04-40 E twenty and thirty-nine hundredths feet (20.39') along said street line of West Street to the northwesterly street line of Pine Street;

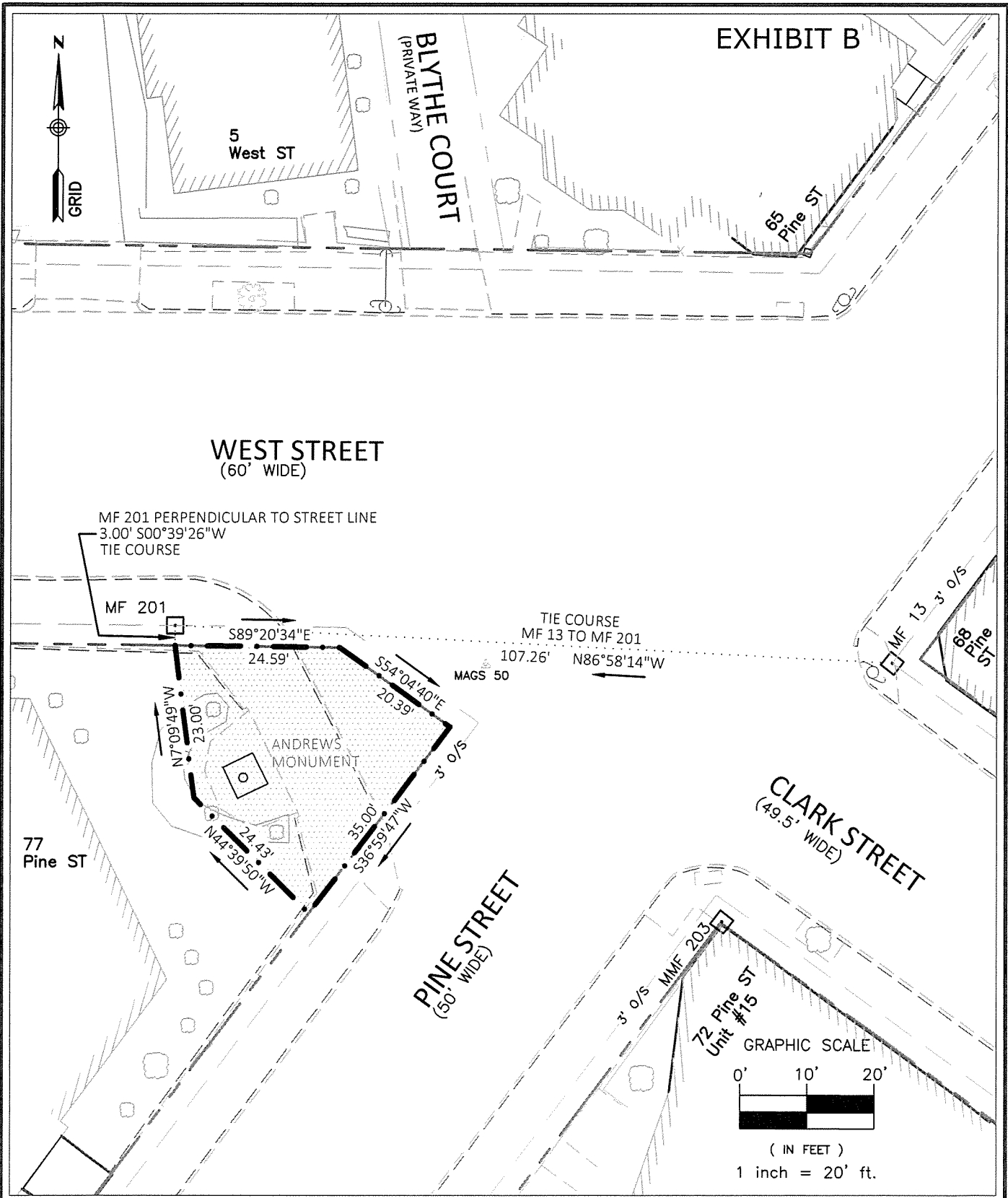
Thence S 36-59-47 W thirty-five and zero hundredths feet (35.00') along said northwesterly street line of Pine Street to a point;

Thence N 44-39-50 W twenty-four and forty-three hundredths feet (24.43') across the land of the grantor to a point;

Thence N 7-09-49 W twenty-three and zero hundredths feet (23.00') to the southerly street line of West Street and the **Point of Beginning**.

Said easement having an area of 1019 square feet, more or less.

Bearing basis is Grid North.



CITY OF PORTLAND
PUBLIC WORKS
ENGINEERING DIVISION

**PROPOSED PUBLIC EASEMENT
FOR ANDREWS SQUARE**

SURVEY DATABASE: ANDREWSSQ_2019_DB
DRAWING: ANDREWSSQ_2019_EASEMENTS.DWG

SCALE:
1" = 20'

DATE:
09/04/2019