

Order 60-15/16

Passage: 8-0 (Suslovic absent) on 9/9/2015

Effective 9/19/2015

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

**ORDER ACCEPTING AN EASEMENT FOR
PUBLIC SIDEWALKS AND GRANTING
A REVOCABLE LICENSE TO THE
PARK-DANFORTH CONDOMINIUM ASSOCIATION**

ORDERED that a revocable license agreement to Park-Danforth Condominium Association to allow raised traffic islands within the street right-of-way at entrances on both Forest Avenue and Stevens Avenue is hereby granted in substantially the form attached hereto as Exhibit A; and

BE IT FURTHER ORDERED, that an easement from Park-Danforth Condominium Association to allow public sidewalks on property owned by Park-Danforth Condominium Association is hereby accepted in substantially the form attached hereto as Exhibit B; and

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

SIDEWALK EASEMENT
TO THE
CITY OF PORTLAND

Park-Danforth Condominium Association, a Maine nonprofit corporation with a mailing address of 777 Stevens Avenue, Portland, Maine 04103 (hereinafter, "GRANTOR"), for one dollar and other good and valuable consideration, pursuant to 33 M.R.S.A. §1603-102(A)(9) and Article 6 of Amended and Restated Declaration of Condominium of Park-Danforth Condominium, dated November 19, 1997, and recorded in the Cumberland County Registry of Deeds in Book 13480, Page 188, as amended from time to time (collectively, the "Declaration"), hereby grants to the CITY OF PORTLAND, Maine, a municipal corporation and body politic, an easement to maintain, replace and repair a sidewalk for public use and enjoyment for pedestrian access only and for no other purpose in, on, under and over the portions of the Common Elements of Park-Danforth Condominium as established under the Declaration that are identified as "Pedestrian Easement" on the plan entitled "The Park Danforth, 777 Stevens Avenue, Portland, Maine," dated October 17, 2014, revised through _____, 2015, prepared by Mitchell & Associates, and recorded in said Registry of Deeds in Plan Book ____, Page ____ (the "Plan").

The easement granted by this instrument shall not be effective, however, unless and until the project shown on the Plan has been completed and issued a Certificate of Occupancy by the City of Portland.

Without limitation, GRANTOR reserves to itself and its members, successors and assigns, the use and enjoyment of the property affected by the easement granted by this instrument for all purposes and at all times not inconsistent with such easement.

IN WITNESS WHEREOF, GRANTOR has caused this instrument to be executed by _____, its _____ thereunto duly authorized as of the ____ day of _____, 2015.

WITNESS:

PARK-DANFORTH CONDOMINIUM
ASSOCIATION

By: _____

Its _____

Print Name:

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

_____, 2015

Personally appeared the above named _____, in his/her capacity as

_____ of Park-Danforth Condominium Association, who acknowledged the foregoing instrument to be his/her free act and deed in his/her capacity and the free act and deed of Park-Danforth Condominium Association.

Before me,

Name:

Notary Public / Attorney at law

My Commission Expires: _____

LICENSE AGREEMENT
FOR
FOREST AVENUE AND STEVENS AVENUE TRAFFIC ISLANDS

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City of Portland, Maine, a municipal corporation and body politic (“Licensor”) hereby grants to Park-Danforth Condominium Association, a Maine nonprofit corporation with an address at 777 Stevens Avenue, Portland, Maine 04103 (“Licensee”) a revocable license to occupy as Common Elements of the Condominium (as defined below) portions of land owned by Licensor on Forest Avenue and Stevens Avenue, which property abuts the Park-Danforth Condominium established by Amended and Restated Declaration of Condominium of Park-Danforth Condominium, dated November 19, 1997, and recorded in the Cumberland County Registry of Deeds in Book 13480, Page 188, as amended from time to time (the “Condominium”), for the purpose of installing and maintaining traffic-control islands into the right of way (each, a “Traffic Control Island” and collectively, the “Traffic Control Islands”) in the locations identified on the plan entitled “The Park Danforth, 777 Stevens Avenue, Portland, Maine,” dated October 17, 2014, revised through _____, 2015, prepared by Mitchell & Associates, and recorded in said Registry of Deeds in Plan Book ____, Page ____ (the “Plan”). Occupancy of such portions of the right of way by Licensee is subject to the following conditions:

1. Licensee, its successors and assigns shall indemnify the City, its officers, agents, and employees from any and all claims which arise out of its use, or the use of others, of the City’s property encroached upon in connection with the installation and maintenance of the Traffic Control Islands.
2. Licensee shall procure and maintain liability insurance in an amount of Four Hundred Thousand Dollars (\$400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage and shall either name the City of Portland as an additional insured with respect to such coverage or shall obtain a contractual liability endorsement covering the obligations of Licensee under the terms of this license.
3. This license is assignable to any subsequent owners of or holders of mortgage interests in the property shown on the Plan or any portion thereof.
4. This license may be revoked as to a particular Traffic Control Island upon six (6) months written notice by the City in the event that: 1) such Traffic Control Island fails to be constructed substantially in accordance with the Plan or any amendments thereto; or 2) such Traffic Control Island is destroyed and not replaced within one year after its destruction or is otherwise removed for a continuous period of one year or more.

CITY OF PORTLAND

By: _____

Jon Jennings
Its City Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

_____, 2015

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

Before me,

Name:
Notary Public / Attorney at law

Seen and Agreed to by:
PARK-DANFORTH CONDOMINIUM ASSOCIATION

Its: _____