AGENDA
SPECIAL CITY COUNCIL MEETING
AUGUST 13, 2018 - 4:00 PM

1. 4:00 P.M. City Council Meeting Agenda

   Documents:
   
   CITY COUNCIL MEETING AGENDA 2018-08-13 400 PM.PDF

2. 4:00 P.M. City Council Meeting Agenda And Packet

   Documents:
   
   CITY COUNCIL MEETING AGENDA AND PACKET 2018-08-13 400 PM.PDF
AGENDA
SPECIAL CITY COUNCIL MEETING
AUGUST 13, 2018

The Portland City Council will hold a Special City Council Meeting at 4:00 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MINUTES:

PROCLAMATIONS:

Proc 2-18/19 (Tab 1) Proclamation Honoring Meagan Letellier, Fire Department, as Employee of the Month for June 2018 – Sponsored by Mayor Ethan K. Strimling.

Proc 3-18/19 (Tab 2) Proclamation Honoring Lori Cordeiro, Health and Human Services Department, Barron Center as Employee of the Month for July 2018 – Sponsored by Mayor Ethan K. Strimling.

Proc 4-18/19 (Tab 3) Proclamation Honoring Evidence Technician Christopher Stearns as Police Officer of the Month for June 2018 – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

CONSENT ITEMS:

Order 33-18/19 (Tab 4) Order Declaring September 21, 2018 the Muscular Dystrophy Association Boots, Brews, and Bites Festival – Sponsored by Jon P. Jennings, City Manager.
This is the first year for this event, which is a fundraiser for the Muscular Dystrophy Association. The event, which will be held from 4:00 p.m. to 8:00 p.m., in conjunction with the 250th Anniversary of the Portland Fire Department & 100th Anniversary of the International Association of Fire Fighters. This event will be a part of the Fire Fighters weekend convention.

The event, which will take place in Payson Park, will feature local breweries, food, and live music. The event will also feature an opportunity for guests to vote on the best boot and best brew. Awards will be presented to both a Fire Department & a brewery. The festival and beer garden area will be organized by Muscular Dystrophy staff/volunteers and Portland Fire Department staff.

The park roadway (west entrance into Payson Park from Baxter Boulevard) will be closed to vehicles a part of the setup and the event from 2:00 p.m. to 9:00 p.m.

Order Declaring September 22, 2018 the Maine State Firefighters and Portland Fire Department 250th Anniversary Parade Festival – Sponsored by Jon P. Jennings, City Manager.

The Portland Fire Department is hosting the 55th Maine State Firefighters Convention, September 21-23, 2018, at the Cross Insurance Arena. This is in conjunction with the 250th anniversary of the Portland Fire Department. On Saturday, September 22, a parade of fire apparatus is being planned, which is a traditional part of the convention. Last year's convention in Boothbay Harbor drew more than 100 trucks to their parade. This year, they anticipate more than 150 trucks for the Portland parade, along with participation by pipe and drum bands. Staging for the parade will begin at 7:00am. The parade is scheduled from 10:00 a.m. to 12:00 p.m. on Saturday, September 22. Spectator attendance is estimated to be 2000 people.

The parade route (Festival Zone) is High Street (all lanes - Spring Street to Congress Street), and Congress Street (both lanes - High Street to Franklin Street). The parade formation area, which is Spring Street (both lanes - High Street to Union Street), Center Street (both lanes – Free Street to Fore Street), Cross Street (Free Street to Spring Street) and Oak Street and Brown Street (from Free Street to Spring Street) is also a part of the Festival Zone. Adjoining sidewalks, parks and squares, including Congress Square Park, Monument Square, and Lincoln Park, are also part of the Festival Zone. A map is included in the agenda backup.
Order 35-18/19  Order Declaring September 30, 2018 the 27th Annual Maine Marathon, Half Marathon and Relay Festival – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the Maine Marathon and Half Marathon Relay to be held on Sunday, September 30. Runners will congregate in the area between Forest Avenue and Preble Street for the start and finish of the races. The three races each start at 7:45 a.m. from the same location. Street closures are included in the agenda backup.

Order 36-18/19  Order Approving Transfer of Firearm Under 15 M.R.S. §§5824(3) and 5826(6) Re: Nicholas Owen Dimott – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of an CZ 9 mm handgun forfeited from the State of Maine to the City of Portland from the case of the State of Maine v. Nicholas Owen Dimott.

The money or assets in all of the forfeiture Orders 36-18/19 to 40-18/19 was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department’s drug investigation account. The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department’s Law Enforcement Addiction Advocacy Program.

Order 37-18/19  Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Elijah Casey – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $1,080 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Elijah Casey.

Order 38-18/19  Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: John Davis – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $1,000 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. John Davis.
Order 39-18/19
(Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Richard Martel – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $611.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Richard Martel.

Order 40-18/19
(Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Theotis James Leonard – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $500.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Theotis James Leonard.

Five affirmative votes are required for passage of the Consent Calendar.

LICENCES:

Order 41-18/19
(Order Granting Municipal Officers’ Approval of Tangible Alchemy dba Urban Farm Fermentory. Renewal application for an Entertainment with Dance at 200 Anderson Street – Sponsored by Michael Russell, Director of Permitting and Inspections.

Original application was filed on 05/02/2016. Applicant holds a current Brewery, Winery, Distillery License with Entertainment with Dance and Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

Order 42-18/19
(Order Granting Municipal Officers’ Approval of LB Kitchen, LLC dba LB Kitchen. Application for Outdoor Dining on Private Property at 249 Congress Street – Sponsored by Michael Russell, Director of Permitting and Inspections.

Application was filed on 7/19/2018. New City and State applications. Location was formerly Outliers Eatery.

Five affirmative votes are required for passage after public comment.

Order 43-18/19
(Order Granting Municipal Officers’ Approval of LB Kitchen, LLC dba LB Kitchen LLC. Application for a Class III & IV FSE at 231 York Street – Sponsored by Michael Russell, Director of Permitting and Inspections.)
Application was filed on 7/19/2018. New City and State applications. Location was formerly Outliers Eatery.

Five affirmative votes are required for passage after public comment.

**Order 44-18/19**

(Order Granting Municipal Officers' Approval of Crunchy Poke LLC dba Crunchy Poke. Application for a Class I FSE at 426 Fore Street – Sponsored by Michael Russell, Director of Permitting and Inspections.)

Application was filed on 7/19/2018. New City and State applications.

Five affirmative votes are required for passage after public comment.

**Order 45-18/19**

(Order Granting Municipal Officers' Approval of Illmadic, LLC dba Illmadic. Application for Outdoor Dining on Private Property at 41 Fox Street – Sponsored by Michael Russell, Director of Permitting and Inspections.)

Application was filed on 7/19/2018. New City application. Applicant currently has a pending application for a Class A Lounge.

Five affirmative votes are required for passage after public comment.

**Order 46-18/19**

(Order Granting Municipal Officers' Approval of Genova & Co. dba Solo Italiano. Application for a Class I FSE with Entertainment without Dance and Outdoor Dining on Public Property at 100 Commercial Street – Sponsored by Michael Russell, Director of Permitting and Inspections.)

Application was filed on 7/23/2018. New City and State applications. This is a change of ownership of an existing business.

Five affirmative votes are required for passage after public comment.

**BUDGET ITEMS:**

**COMMUNICATIONS:**

**Com 2-18/18**

(Communication Re: Board of Harbor Commissioners Revised Rules Sections 21.1 Definitions and 21.5 Special Mooring Agreement – Sponsored by Jon P. Jennings, City Manager.)

In a letter dated July 17, 2018, the Board of Harbor Commissioners notified the Portland City Manager and City Council that, following a public hearing
on July 12, 2018, it had approved a rule that allows a limited number of commercial work docks for lobstering in Portland Harbor. Commercial Work Docks is defined to mean “a limited use dock, on a mooring(s) that is used exclusively for commercial lobstering purposes, including storage and servicing of lobster gear.” The rule change will be effective 45 days after July 17, 2018, unless either the Portland or the South Portland City Councils disapprove of it.

As a Communication this item requires no public comment or formal Council action.

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 20-18/19 (Tab 19)  Order Appropriating $130,000 for Middle School Math Curriculum Expansion and Materials for the Portland Public Schools – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

The Finance Committee met on July 19 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

During the FY2017 budget process, the Chief Academic Officer (CAO) budgeted approximately $150,000 for a new middle school math curriculum. The CAO resigned that position at the end of FY2016 and an Interim CAO was named.

Due to the temporary nature of their position, the Interim CAO did not want to purchase a middle school math curriculum and wanted to wait until a permanent CAO was hired. Unfortunately, the funds lapsed to unassigned fund balance at the end of the fiscal year.

The Superintendent and Staff did highlight to the Board that we would be requesting the use of these funds at a later date and did let them know that it would require City Council approval.

On May 1, 2018 the Assistant Superintendent for Teaching and Learning/Chief Academic Officer, recommended the purchase of a curriculum from Open Up Resources. The materials and cost of professional development for the first year is a minimum of $97,500 but could be up to $130,000 depending on how many teachers are included in the initial training. In her memo to the Board, the Assistant Superintendent of Teaching and Learning noted that we would like to use the FY2017 funds budgeted for this purpose.
Therefore, Portland Public Schools staff, including the Superintendent, Executive Director of Budget & Finance, and the Assistant Superintendent of Teaching and Learning, would like to request the approval from the City Council to use $130,000 of unassigned fund balance, specifically budgeted for in FY2017, to purchase Open Up Resource’s math curriculum.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 21-18/19  Order Approving Three-Party Agreement between Portland, Portland Area Comprehensive Transportation System and Maine Department of Transportation Re: Allen Avenue between Pennell Avenue and Yale Street - Sponsored by Jon P. Jennings, City Manager.

Approving and signing this agreement between Portland Area Comprehensive Transportation System, Maine Department of Transportation, and the City of Portland would confirm the City’s intent to undertake this project and pay 50% of the total project cost. The estimated total project cost is $367,500. The City’s 50% share would be $183,750. A copy of the fully executed agreement will be returned to the City and become the City’s “notice to proceed” with this project.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 22-18/19  Order Approving the Acceptance and Appropriation of Brownfields Cleanup Fund Grant – Sponsored by Jon P. Jennings, City Manager.

This order accepts and authorizes the appropriation of $500,000 in Environmental Protection Agency (EPA) Supplemental Brownfields Revolving Loan Funds (RLF) grant funds, with the exception that the funds will become available on October 1, 2018. These funds will supplement the City’s Brownfield RLF which was recapitalized last year with an $800,000 EPA grant, allowing the provision of greater assistance for remediation of Brownfields sites in Portland.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 23-18/19  Traffic Schedule Amendment Re: Unrestricted to Metered Parking on India and Fore Streets – Sponsored by Jon P. Jennings City Manager.
This order amends the Traffic Schedule to change the west side of India Street, between Middle Street and Newbury Street, from unrestricted to two-hour metered parking.

This would result in four metered parking spaces on this block of India Street. This action would also amend the Traffic Schedule to change the south side of Fore Street between India Street and Hancock Street, from No Parking Anytime to two-hour metered parking, resulting in nine metered parking spaces on this block of Fore Street.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

**Order 24-18/19**  
(Tab 23)  

This order amends the Traffic Schedule in certain locations on Washington Avenue and Allen Avenue to facilitate and extend transportation improvements along both corridors in conjunction with resurfacing and signal work scheduled for the 2018 construction season.

The proposed schedule changes would impact 130 parking spaces on Washington Avenue and 80 parking spaces on Allen Avenue. Graphics are included in the agenda backup.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

**Order 25-18/19**  
(Tab 24)  
Order Appropriating Home Investment Partnerships Program Funds in the Amount of $200,000 to the Avesta Housing Development Corporation Re: Deering Place – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 5, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Avesta Housing Development Corporation (AHDC) is proposing to renovate and construct a seventy-five (75) unit mixed-income rental housing development on a site they own located at 61 Deering Street and 510 Cumberland Avenue. AHDC is requesting additional financial assistance from the City in the form of a HOME Loan in the amount of $200,000. In November 2017, Avesta Housing Development Corporation (AHDC) received a commitment of $300,000 in HOME funding and approval of TIF.
Credit Enhancement Agreement (75% of the increased taxable value over 30 years, average of $147,981/year) for this project. The project was awarded Low Income Housing Tax Credits in March of this year. The developer is seeking additional HOME funding to ensure that the project can move forward. The HOME loan request is detailed in this memo.

The Deering Place project will include:

<table>
<thead>
<tr>
<th></th>
<th>Efficiency Units (15)</th>
<th>1-Bedroom Units (38)</th>
<th>2-Bedroom Units (9)</th>
<th>3-Bedroom Units (13)</th>
<th>Total Units</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>at or below 40% area median income</td>
<td>at or below 40% area median income</td>
<td>at or below 40% area median income</td>
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<td>75</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income</td>
<td>at or below 50% area median income</td>
<td>at or below 50% area median income</td>
<td>at or below 50% area median income</td>
<td>0</td>
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<tr>
<td></td>
<td>at or below 60% area median income</td>
<td>at or below 60% area median income</td>
<td>at or below 60% area median income</td>
<td>at or below 60% area median income</td>
<td>0</td>
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<tr>
<td></td>
<td>Market Rate</td>
<td>Market Rate</td>
<td>Market Rate</td>
<td>Market Rate</td>
<td>0</td>
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As stated in the developer’s application:

“Deering Place will combine the redevelopment of two under-utilized parking lots and the rehabilitation of an existing mixed-use building to create a mixed-income, contextually-appropriate residential community with 75 units and enhanced amenities. The project will include a mix of affordable and market rate units, making it possible to preserve and add affordable units as well as ensure the long term viability of the project. The scope of work includes a rehab and expansion of 510 Cumberland Avenue ("Building A") and the construction of a new building at 61 Deering Street ("Building B"). Upon completion, there will be a total of 75 apartments, of which 62 will be newly constructed units and 15 will meet handicapped accessible standards.”

In total, the development will include 75 apartment units, ranging in size from efficiency to 3 bedrooms. It will include a community room, a telemedical room, laundry facilities in each building, and 64 parking spaces.
The project will serve a mixed income population, with 32 market rate units and 48 affordable units. Thirteen units will continue to serve households at 40% of AMI, per the existing affordability restriction with Maine Housing. The remaining 35 affordable units will serve households at 50% AMI.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is included in the agenda backup.

The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the HOME funding recommendation.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

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**Order 26-18/19 (Tab 25)**

**Order Appropriating Home Investment Partnerships Program Funds in the Amount of $300,000 to the Avesta Housing Development Corporation Re: 977 Brighton Avenue Apartments - Sponsored by the Housing Committee, Jill C. Duson, Chair.**

The Housing Committee met on June 27, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Avesta Housing Development Corporation (AHDC) is proposing to construct 40 1-bedroom units for seniors (55+) on a site they own located at 977 Brighton Avenue. The development will include:

<table>
<thead>
<tr>
<th>977 Brighton Avenue</th>
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</thead>
<tbody>
<tr>
<td><strong>1-Bedroom Units (40)</strong></td>
</tr>
<tr>
<td>at or below 50% area median income</td>
</tr>
<tr>
<td>at or below 60% area median income</td>
</tr>
<tr>
<td>Market Rate</td>
</tr>
<tr>
<td><strong>Total Units</strong></td>
</tr>
</tbody>
</table>
Eight (8) units will have project based rental assistance. As stated in the developer’s application:

"The 0.73-acre site currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction. The project consists of one 4-story building, placed at the front of the property so as to create maximum active street frontage. There will also be a parking lot of 32 cars and an external gathering area or patio for residents. Vegetative screening will be used to create a level of privacy for residents."

AHDC has requested two forms of financial assistance.

(1) HOME funds request: $300,000, 0% interest rate loan, deferred for 30 years.

Total City HOME Investment of $300,000/unit - $7,500.  
Total City HOME Investment of $300,000/affordable unit = $8,824.

(1) Affordable Housing Tax Increment Financing (AHTIF). The AHTIF request was presented as first read on the June 18 council agenda and as a second read with council action on the July 16 council agenda. If approved, the Affordable Housing TIF financing will be provided through a Credit Enhancement Agreement at 75% of the increased taxable value, currently estimated at a 30-year annual average of $65,150, with an estimated total of $1,954,486 in captured revenue returned to the developer to offset project operating costs. The proposed project will be taxable with an estimated annual assessment of $3,200,000 and estimated annual taxes of $69,280. The remaining increased taxable value will be general fund revenue. TIF projections and proposed district map are included in the backup to this memo.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro formas will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below.

The third party underwriting report makes the following recommendations:
Subject to availability of funding, a HOME loan in the amount of no more than $300,000, at zero percent interest, deferred for 30 years.

The HOME Affordable Housing Development Application made funding available in the amount of $1,080,174. The City received four applications requesting $1,741,540 in funding.

The staff recommendation to the Housing Committee did not include HOME funding for the project at 977 Brighton Avenue. The staff recommendation to the Housing Committee included funding for Deering Place at an additional $200,000, Front Street at $510,174 and 178 Kennebec Street at $370,000.

The Housing Committee voted to recommend HOME funding for Deering Place at an additional $200,000, Front Street at $580,174, 178 Kennebec Street at $0 and 977 Brighton Avenue at $300,000.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Staff is requesting that this item be postponed to the September 5, 2018 Council Meeting.

Order 27-18/19 
(Tab 26) 

Order Appropriating Home Investment Partnership Program Funds in the Amount of $580,174 to the Portland Housing Development Corporation Re: Front Street – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 27, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Portland Housing Development Corporation is requesting HOME funding to assist in the re-development of affordable family rental housing on Front Street. The developer is proposing to demolish and re-develop the existing 50 units of housing and add an additional 61 units of mixed-income rental housing.

The development will include:

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<thead>
<tr>
<th></th>
<th>Front Street</th>
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<tr>
<td></td>
<td>at or below 50% area median income</td>
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<tr>
<td>1-Bedroom Units (29)</td>
<td>at or below 50% area median income PBV</td>
</tr>
<tr>
<td></td>
<td>Market Rate</td>
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<tr>
<td>2-Bedroom Units (38)</td>
<td>at or below 50% area median income</td>
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<td></td>
<td>at or below 50% area median income PBV</td>
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<td>Market Rate</td>
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<td>at or below 50% area median income</td>
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<tr>
<td>3-Bedroom Units</td>
<td>(27)</td>
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<tr>
<td>4-Bedroom Units</td>
<td>(13)</td>
</tr>
<tr>
<td>5-Bedroom Units</td>
<td>(4)</td>
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<tr>
<td>Total Units</td>
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</table>

This project is seeking 4% Low Income Housing Tax Credit and tax-exempt debt with Maine Housing. It will not proceed on the same timetable as the other three proposals who will be seeking 9% Low Income Housing Tax Credits. The developer has engaged in significant public outreach in the East Deering Neighborhood. A neighborhood meeting was held on November 7, 2017 and the Planning Board held a workshop on November 14, 2017. The Planning Department has made significant commitments to the neighborhood to ensure that the design of the project is contextual to the neighborhood. To ensure these commitments are met, staff is recommending funding for this project.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below.

The HOME Affordable Housing Development Application made funding available in the amount of $1,080,174. The City received four applications requesting $1,741,540 in funding.

The staff recommendation to the Housing Committee included HOME funding for Deering Place at an additional $200,000, Front Street at $510,174, 178 Kennebec Street at $370,000 and 977 Brighton Avenue at $0.

The Housing Committee voted to recommend HOME funding for Deering Place at an additional $200,000, Front Street at $580,174, 178 Kennebec Street at $0 and 977 Brighton Avenue at $300,000.
This item must be read on two separate days. It was given a first reading on July 16, 2018. Staff is requesting that this meeting be postponed to the September 5, 2018 Council meeting.

Order 30-18/19  
Amendment Zoning Map Re: 1000, 1002/1004, and 1020 Congress Street – Sponsored by the Planning Board, Sean Dundon, Chair.

The applicant, 1006 Congress LLC, requested a zoning map amendment for a 19,800 sq. ft. property at 1006 Congress Street, which is located at the corner of Congress and Westfield Streets. The parcel is in the Industrial- Low Impact IL zone. The requested map amendment is to change the zoning from IL to Business Community B-2. The site is surrounded by I-L to the south, Residential R-6 to the west and north and B-2 on the eastern side. The majority of the buildings within the R-6 areas are multifamily buildings.

At the workshop on May 17, 2018, the Planning Board considered the request and recommended advertising an expanded area of B-2 along Congress Street for consideration at the public hearing. The expanded area included the surrounding properties at 1000, 1002/1004, and 1020 Congress Street (see map below), which would connect to the larger B-2 area in Libbytown. The rezoning to the B-2 zone would allow a wide range of commercial uses not allowed in the IL zone, such as retail, restaurants, neighborhood center and general businesses and professional offices.

On June 26, 2018, the Board held a public hearing and voted unanimously (5-0, Eaton and Whited absent) to recommend to City Council the zoning map amendment from Industrial-Low Impact IL zone to Business Community B-2 zone for the parcels at 1000, 1002/1004, 1006, and 1020 Congress Street.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 31-18/19  
Amendment to Chapter 24 Sewers Re: Industrial Pretreatment Program Transfer to Portland Water District – Sponsored by Danielle West-Chuhta, Corporation Counsel.

In early April, the City Manager and the Portland Water District (PWD) executed a memorandum of understanding (MOU) documenting a plan to transfer responsibility for the administration and management of the Industrial Pretreatment Program (IPP) from the City to PWD. This transfer of responsibility is in line with the arrangement that PWD has with Westbrook and Gorham. The MOU contemplated changes to the City’s Code of Ordinances to effectuate the shift of responsibility to PWD. Those
proposed revisions to Chapter 24 are now being presented to the Council for its consideration. If these amendments to Chapter 24 are approved, the shift contemplated by the MOU will take effect.

The specific changes to Chapter 24: Sewers are as follows:
- Section 24-50 Discharge Permit: Changed requirement to obtain a discharge permit from the Department of Public Works to the Portland Water District.
- Section 24-55 Written Notice Required: Added Portland Water District for written notice under certain scenarios.
- Section 24-57 Appeals: Added a section indicating that the appeals process does not apply to notices of violations or other determinations issued by the Portland Water District under their role as the City’s designee for the Industrial Pretreatment Program.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 32-18/19
Amendment to Portland City Code Chapter 6 Re: Rental Housing Advisory Committee – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 5, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

The Housing Committee voted to recommend changes to the structure and duties of the Rental Housing Advisory Committee which is created under Chapter 6 Buildings and Building Regulations, Article XI, Tenant Housing Rights, Section 6-225, Rental Housing Advisory Committee.

The following recommended changes are from the May 23 meeting of the Housing Committee:

The Committee shall be comprised of nine (9) members, including
three (3) members who are landlords
three (3) members who are tenants
one (1) member who is not a landlord or a tenant
one (1) member experienced in legal rights/interest of tenants nominated by Pine Tree Legal Assistance
one (1) member with experience in legal rights/interests of landlords nominated by the Southern Maine Landlord Association
All members of the Committee shall be residents of the City of Portland and shall serve staggered terms set by City Council order.

- All members will be appointed by the City Council.
- The Southern Maine Landlord Association will submit one name for consideration for the landlord representative positions.
- Pine Tree Legal Assistance will submit one name for the tenant representative positions.
- The Committee will be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.
- The City’s Planning and Urban Development Department, through the Housing and Community Development Division, will be the staff liaison to the Rental Housing Advisory Committee, attend all meetings and keep the minutes of the Committee.

The Committee shall meet not less than quarterly and shall undertake the following duties:

1. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues.

2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 47-18/19 (Tab 30) Public Hearing Re: Order of Discontinuance of a Public Way along a Portion of Portland Pier - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

The Economic Development Committee met on June 19, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage. Following the statutorily described process for public right of way discontinuance, the Council voted on July 16 to propose the discontinuance.

The City Council is asked to consider discontinuing a portion of public right of way on Portland Pier while retaining access for the public and commercial marine businesses, including fishing vessels.
The August 13 public hearing is an opportunity for the public and impacted properties to hear and comment on the proposal. A final decision and vote by the Council will take place at a future meeting more than 10 days after the public hearing.

The abutting property owner has been noticed (there is only one at 50 Portland Pier) and the discontinuance has been posted in the City Clerk’s office.

The Department of Economic Development, the Facilities Division, and the Department of Public Works recommend that the City Council hold a public hearing to consider discontinuance of a portion of public right of way at the southerly end of Portland Pier. The portion of right of way considered for discontinuance serves only a single property, 60 Portland Pier, Portland Pier Holdings, LLC. All private properties on Portland Pier, including 60 Portland Pier, will continue to have access from a public right of way and public access rights are to remain in effect for both commercial fishing and pedestrian use of the pier.

City staff and the Economic Development Committee recommend the discontinuance to promote private investment and maintenance of currently degraded pier infrastructure. Only with immediate and continued investment will public and fishing access be retained on the subject portion of right of way.

The subject portion of right of way is occupied by a pile-supported pier structure over submerged lands owned by the State of Maine. Following the proposed discontinuance, the City-owned portion of pier described will transfer to the surrounding property owner, Portland Pier Holdings, LLC, subject to the limits and requirements of the State Submerged Lands program.

Portland Pier Holdings, LLC, at 60 Portland Pier is amenable to the discontinuance and has agreed to waive damages and has further agreed to conduct immediate necessary repairs to the pier to promote continued public and fishing access.

Order Changing Polling Place for District 1 Precinct 3 from the St. Christopher’s Catholic Church to the Peaks Island Kennedy & Carter Family Community Center – Sponsored by Katherine L. Jones, City Clerk.

The City was temporarily using St. Christopher Church as its polling place on Peaks Island while the Peaks Island Community Center was being renovated. It has since been renamed to the Peaks Island Kennedy & Carter Family Community Center.
The Community Center is finished being renovated. The current polling place, St. Christopher's Catholic Church located at 15 Central Avenue Peaks Island, will be moved back to the Peaks Island Kennedy & Carter Family Community Center 129, Island Avenue, Peaks Island, Maine.

Peaks Island Community Center meets ADA requirement and has been inspected by the City’s Trade Supervisor.

Five affirmative votes are required for passage after public comment.

Order Appropriating $2,110,000 from the Sale of City-Owned 0 Hancock Street - Sponsored by the Finance Committee. Councilor Nicholas M. Mavodones, Jr., Chair.

The Finance Committee met on August 2, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

On August 21, 2017, the City Council approved a $3.3 million purchase and sale agreement with 0 Hancock Street, LLC for the sale of 48,000 square feet of the City-owned Thames Street property along the Eastern Waterfront. In October 2017, groundbreaking occurred on the 100,000 square foot, 4-story mixed-use development that will serve as the world headquarters of WEX with additional retail space.

The full $3.3M of property sale proceeds were collected in fiscal year 2018. The City does not typically budget for significant amounts of property sale revenue, so this inflow of funding is above and beyond the FY18 budgeted revenues and will result in an increase in fund balance above the recommended level.

Upon initial discussion of the Finance Committee the Finance Director is formally requesting that the Finance Committee and City Council vote to appropriate $2.11M of these funds the following purposes:

- $1,000,000 to support the rehabilitation of the Allen Avenue Fire Station
- $1,000,000 to support the Housing Trust Fund
- $110,000 to support the Climate Action Plan - the joint venture with South Portland

This item must be read on two separate days. This is its first reading. The Allen Avenue Fire Station is currently closed and needs immediate repairs; therefore, the second reading of this Order will be held at tonight’s 6:00 p.m. Council meeting.

5:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:
AGENDA
SPECIAL CITY COUNCIL MEETING
AUGUST 13, 2018

The Portland City Council will hold a Special City Council Meeting at 4:00 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MINUTES:

PROCLAMATIONS:

Proc 2-18/19 (Tab 1) Proclamation Honoring Meagan Letellier, Fire Department, as Employee of the Month for June 2018 – Sponsored by Mayor Ethan K. Strimling.

Proc 3-18/19 (Tab 2) Proclamation Honoring Lori Cordeiro, Health and Human Services Department, Barron Center as Employee of the Month for July 2018 – Sponsored by Mayor Ethan K. Strimling.

Proc 4-18/19 (Tab 3) Proclamation Honoring Evidence Technician Christopher Stearns as Police Officer of the Month for June 2018 – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

CONSENT ITEMS:

Order 33-18/19 (Tab 4) Order Declaring September 21, 2018 the Muscular Dystrophy Association Boots, Brews, and Bites Festival – Sponsored by Jon P. Jennings, City Manager.
This is the first year for this event, which is a fundraiser for the Muscular Dystrophy Association. The event, which will be held from 4:00 p.m. to 8:00 p.m., in conjunction with the 250th Anniversary of the Portland Fire Department & 100th Anniversary of the International Association of Fire Fighters. This event will be a part of the Fire Fighters weekend convention.

The event, which will take place in Payson Park, will feature local breweries, food, and live music. The event will also feature an opportunity for guests to vote on the best boot and best brew. Awards will be presented to both a Fire Department & a brewery. The festival and beer garden area will be organized by Muscular Dystrophy staff/volunteers and Portland Fire Department staff.

The park roadway (west entrance into Payson Park from Baxter Boulevard) will be closed to vehicles a part of the setup and the event from 2:00 p.m. to 9:00 p.m.

Order Declaring September 22, 2018 the Maine State Firefighters and Portland Fire Department 250th Anniversary Parade Festival—Sponsored by Jon P. Jennings, City Manager.

The Portland Fire Department is hosting the 55th Maine State Firefighters Convention, September 21-23, 2018, at the Cross Insurance Arena. This is in conjunction with the 250th anniversary of the Portland Fire Department. On Saturday, September 22, a parade of fire apparatus is being planned, which is a traditional part of the convention. Last year's convention in Boothbay Harbor drew more than 100 trucks to their parade. This year, they anticipate more than 150 trucks for the Portland parade, along with participation by pipe and drum bands. Staging for the parade will begin at 7:00 am. The parade is scheduled from 10:00 a.m. to 12:00 p.m. on Saturday, September 22. Spectator attendance is estimated to be 2000 people.

The parade route (Festival Zone) is High Street (all lanes - Spring Street to Congress Street), and Congress Street (both lanes - High Street to Franklin Street). The parade formation area, which is Spring Street (both lanes - High Street to Union Street), Center Street (both lanes - Free Street to Fore Street), Cross Street (Free Street to Spring Street) and Oak Street and Brown Street (from Free Street to Spring Street) is also a part of the Festival Zone. Adjoining sidewalks, parks and squares, including Congress Square Park, Monument Square, and Lincoln Park, are also part of the Festival Zone. A map is included in the agenda backup.
Order 35-18/19  (Tab 6)  Order Declaring September 30, 2018 the 27th Annual Maine Marathon, Half Marathon and Relay Festival – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the Maine Marathon and Half Marathon Relay to be held on Sunday, September 30. Runners will congregate in the area between Forest Avenue and Preble Street for the start and finish of the races. The three races each start at 7:45 a.m. from the same location. Street closures are included in the agenda backup.

Order 36-18/19  (Tab 7)  Order Approving Transfer of Firearm Under 15 M.R.S. §§5824(3) and 5826(6) Re: Nicholas Owen Dimott – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of an CZ 9 mm handgun forfeited from the State of Maine to the City of Portland from the case of the State of Maine v. Nicholas Owen Dimott.

The money or assets in all of the forfeiture Orders 36-18/19 to 40-18/19 was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department’s drug investigation account. The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department’s Law Enforcement Addiction Advocacy Program.

Order 37-18/19  (Tab 8)  Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Elijah Casey – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $1,080 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Elijah Casey.

Order 38-18/19  (Tab 9)  Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: John Davis – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $1,000 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. John Davis.
Order 39-18/19 (Tab 10)
Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Richard Martel – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $611.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Richard Martel.

Order 40-18/19 (Tab 11)
Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Theotis James Leonard – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of $500.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Theotis James Leonard.

Five affirmative votes are required for passage of the Consent Calendar.

LICENCES:

Order 41-18/19 (Tab 12)
Order Granting Municipal Officers’ Approval of Tangible Alchemy dba Urban Farm Fermentory. Renewal application for an Entertainment with Dance at 200 Anderson Street – Sponsored by Michael Russell, Director of Permitting and Inspections.

Original application was filed on 05/02/2016. Applicant holds a current Brewery, Winery, Distillery License with Entertainment with Dance and Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

Order 42-18/19 (Tab 13)
Order Granting Municipal Officers’ Approval of LB Kitchen, LLC dba LB Kitchen. Application for Outdoor Dining on Private Property at 249 Congress Street – Sponsored by Michael Russell, Director of Permitting and Inspections.

Application was filed on 7/19/2018. New City and State applications. Location was formerly Outliers Eatery.

Five affirmative votes are required for passage after public comment.

Order 43-18/19 (Tab 14)
Order Granting Municipal Officers’ Approval of LB Kitchen, LLC dba LB Kitchen LLC. Application for a Class III & IV FSE at 231 York Street – Sponsored by Michael Russell, Director of Permitting and Inspections.
Order 44-18/19
Constraint 15
Order Granting Municipal Officers' Approval of Crunchy Poke LLC dba Crunchy Poke. Application for a Class I FSE at 426 Fore Street – Sponsored by Michael Russell, Director of Permitting and Inspections.

Application was filed on 7/19/2018. New City and State applications. Five affirmative votes are required for passage after public comment.

Order 45-18/19
Constraint 16
Order Granting Municipal Officers' Approval of Illmadic, LLC dba Illmadic. Application for Outdoor Dining on Private Property at 41 Fox Street – Sponsored by Michael Russell, Director of Permitting and Inspections.

Application was filed on 7/19/2018. New City application. Applicant currently has a pending application for a Class A Lounge. Five affirmative votes are required for passage after public comment.

Order 46-18/19
Constraint 17
Order Granting Municipal Officers' Approval of Genova & Co. dba Solo Italiano. Application for a Class I FSE with Entertainment without Dance and Outdoor Dining on Public Property at 100 Commercial Street – Sponsored by Michael Russell, Director of Permitting and Inspections.

Application was filed on 7/23/2018. New City and State applications. This is a change of ownership of an existing business. Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

Com 2-18/18
Constraint 18
Communication Re: Board of Harbor Commissioners Revised Rules Sections 21.1 Definitions and 21.5 Special Mooring Agreement – Sponsored by Jon P. Jennings, City Manager.

In a letter dated July 17, 2018, the Board of Harbor Commissioners notified the Portland City Manager and City Council that, following a public hearing
on July 12, 2018, it had approved a rule that allows a limited number of commercial work docks for lobstering in Portland Harbor. Commercial Work Docks is defined to mean “a limited use dock, on a mooring(s) that is used exclusively for commercial lobstering purposes, including storage and servicing of lobster gear.” The rule change will be effective 45 days after July 17, 2018, unless either the Portland or the South Portland City Councils disapprove of it.

As a Communication this item requires no public comment or formal Council action.

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 20-18/19 (Tab 19)  Order Appropriating $130,000 for Middle School Math Curriculum Expansion and Materials for the Portland Public Schools – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

The Finance Committee met on July 19 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

During the FY2017 budget process, the Chief Academic Officer (CAO) budgeted approximately $150,000 for a new middle school math curriculum. The CAO resigned that position at the end of FY2016 and an Interim CAO was named.

Due to the temporary nature of their position, the Interim CAO did not want to purchase a middle school math curriculum and wanted to wait until a permanent CAO was hired. Unfortunately, the funds lapsed to unassigned fund balance at the end of the fiscal year.

The Superintendent and Staff did highlight to the Board that we would be requesting the use of these funds at a later date and did let them know that it would require City Council approval.

On May 1, 2018 the Assistant Superintendent for Teaching and Learning/Chief Academic Officer, recommended the purchase of a curriculum from Open Up Resources. The materials and cost of professional development for the first year is a minimum of $97,500 but could be up to $130,000 depending on how many teachers are included in the initial training. In her memo to the Board, the Assistant Superintendent of Teaching and Learning noted that we would like to use the FY2017 funds budgeted for this purpose.
Therefore, Portland Public Schools staff, including the Superintendent, Executive Director of Budget & Finance, and the Assistant Superintendent of Teaching and Learning, would like to request the approval from the City Council to use $130,000 of unassigned fund balance, specifically budgeted for in FY2017, to purchase Open Up Resource's math curriculum.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 21-18/19 (Tab 20)

Order Approving Three-Party Agreement between Portland, Portland Area Comprehensive Transportation System and Maine Department of Transportation Re: Allen Avenue between Pennell Avenue and Yale Street - Sponsored by Jon P. Jennings, City Manager.

Approving and signing this agreement between Portland Area Comprehensive Transportation System, Maine Department of Transportation, and the City of Portland would confirm the City’s intent to undertake this project and pay 50% of the total project cost. The estimated total project cost is $367,500. The City’s 50% share would be $183,750. A copy of the fully executed agreement will be returned to the City and become the City’s “notice to proceed” with this project.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 22-18/19 (Tab 21)

Order Approving the Acceptance and Appropriation of Brownfields Cleanup Fund Grant – Sponsored by Jon P. Jennings, City Manager.

This order accepts and authorizes the appropriation of $500,000 in Environmental Protection Agency (EPA) Supplemental Brownfields Revolving Loan Funds (RLF) grant funds, with the exception that the funds will become available on October 1, 2018. These funds will supplement the City’s Brownfield RLF which was recapitalized last year with an $800,000 EPA grant, allowing the provision of greater assistance for remediation of Brownfields sites in Portland.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 23-18/19 (Tab 22)

Traffic Schedule Amendment Re: Unrestricted to Metered Parking on India and Fore Streets – Sponsored by Jon P. Jennings City Manager.
This order amends the Traffic Schedule to change the west side of India Street, between Middle Street and Newbury Street, from unrestricted to two-hour metered parking.

This would result in four metered parking spaces on this block of India Street. This action would also amend the Traffic Schedule to change the south side of Fore Street between India Street and Hancock Street, from No Parking Anytime to two-hour metered parking, resulting in nine metered parking spaces on this block of Fore Street.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 24-18/19
(Tab 23)

This order amends the Traffic Schedule in certain locations on Washington Avenue and Allen Avenue to facilitate and extend transportation improvements along both corridors in conjunction with resurfacing and signal work scheduled for the 2018 construction season.

The proposed schedule changes would impact 130 parking spaces on Washington Avenue and 80 parking spaces on Allen Avenue. Graphics are included in the agenda backup.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 25-18/19
(Tab 24)
Order Appropriating Home Investment Partnerships Program Funds in the Amount of $200,000 to the Avesta Housing Development Corporation Re: Deering Place – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 5, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Avesta Housing Development Corporation (AHDC) is proposing to renovate and construct a seventy-five (75) unit mixed-income rental housing development on a site they own located at 61 Deering Street and 510 Cumberland Avenue. AHDC is requesting additional financial assistance from the City in the form of a HOME Loan in the amount of $200,000. In November 2017, Avesta Housing Development Corporation (AHDC) received a commitment of $300,000 in HOME funding and approval of TIF
Credit Enhancement Agreement (75% of the increased taxable value over 30 years, average of $147,981/year) for this project. The project was awarded Low Income Housing Tax Credits in March of this year. The developer is seeking additional HOME funding to ensure that the project can move forward. The HOME loan request is detailed in this memo.

The Deering Place project will include:

<table>
<thead>
<tr>
<th>Deering Place</th>
<th>510 Cumberland Avenue &amp; 61 Deering Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency Units (15)</td>
<td>at or below 40% area median income 0</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income 9</td>
</tr>
<tr>
<td></td>
<td>at or below 60% area median income 0</td>
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<tr>
<td></td>
<td>Market Rate 6</td>
</tr>
<tr>
<td>1-Bedroom Units (38)</td>
<td>at or below 40% area median income 0</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income 14</td>
</tr>
<tr>
<td></td>
<td>at or below 60% area median income 0</td>
</tr>
<tr>
<td></td>
<td>Market Rate 24</td>
</tr>
<tr>
<td>2-Bedroom Units (9)</td>
<td>at or below 40% area median income 5</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income 4</td>
</tr>
<tr>
<td></td>
<td>at or below 60% area median income 0</td>
</tr>
<tr>
<td></td>
<td>Market Rate 0</td>
</tr>
<tr>
<td>3-Bedroom Units (13)</td>
<td>at or below 40% area median income 8</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income 5</td>
</tr>
<tr>
<td></td>
<td>at or below 60% area median income 0</td>
</tr>
<tr>
<td></td>
<td>Market Rate 0</td>
</tr>
<tr>
<td>Total Units</td>
<td>75</td>
</tr>
</tbody>
</table>

As stated in the developer's application:

"Deering Place will combine the redevelopment of two under-utilized parking lots and the rehabilitation of an existing mixed-use building to create a mixed-income, contextually-appropriate residential community with 75 units and enhanced amenities. The project will include a mix of affordable and market rate units, making it possible to preserve and add affordable units as well as ensure the long term viability of the project. The scope of work includes a rehab and expansion of 510 Cumberland Avenue ("Building A") and the construction of a new building at 61 Deering Street ("Building B"). Upon completion, there will be a total of 75 apartments, of which 62 will be newly constructed units and 15 will meet handicapped accessible standards."

In total, the development will include 75 apartment units, ranging in size from efficiency to 3 bedrooms. It will include a community room, a telemedical room, laundry facilities in each building, and 64 parking spaces.
The project will serve a mixed income population, with 32 market rate units and 48 affordable units. Thirteen units will continue to serve households at 40% of AMI, per the existing affordability restriction with Maine Housing. The remaining 35 affordable units will serve households at 50% AMI.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is included in the agenda backup.

The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the HOME funding recommendation.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order Appropriating Home Investment Partnerships Program Funds in the Amount of $300,000 to the Avesta Housing Development Corporation Re: 977 Brighton Avenue Apartments - Sponsored by the Housing Committee, Jill C. Duson, Chair.

The Housing Committee met on June 27, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Avesta Housing Development Corporation (AHDC) is proposing to construct 40 1-bedroom units for seniors (55+) on a site they own located at 977 Brighton Avenue. The development will include:

<table>
<thead>
<tr>
<th>977 Brighton Avenue</th>
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</thead>
<tbody>
<tr>
<td>1-Bedroom Units (40)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Total Units</td>
</tr>
</tbody>
</table>
Eight (8) units will have project based rental assistance. As stated in the developer’s application:

“The 0.73-acre site currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction. The project consists of one 4-story building, placed at the front of the property so as to create maximum active street frontage. There will also be a parking lot of 32 cars and an external gathering area or patio for residents. Vegetative screening will be used to create a level of privacy for residents.”

AHDC has requested two forms of financial assistance.

(1) HOME funds request: $300,000, 0% interest rate loan, deferred for 30 years.

Total City HOME Investment of $300,000/unit - $7,500.
Total City HOME Investment of $300,000/affordable unit = $8,824.

(1) Affordable Housing Tax Increment Financing (AHTIF). The AHTIF request was presented as first read on the June 18 council agenda and as a second read with council action on the July 16 council agenda. If approved, the Affordable Housing TIF financing will be provided through a Credit Enhancement Agreement at 75% of the increased taxable value, currently estimated at a 30-year annual average of $65,150, with an estimated total of $1,954,486 in captured revenue returned to the developer to off-set project operating costs. The proposed project will be taxable with an estimated annual assessment of $3,200,000 and estimated annual taxes of $69,280.

The remaining increased taxable value will be general fund revenue. TIF projections and proposed district map are included in the backup to this memo.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro formas will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below.

The third party underwriting report makes the following recommendations:
Subject to availability of funding, a HOME loan in the amount of no more than $300,000, at zero percent interest, deferred for 30 years.

The HOME Affordable Housing Development Application made funding available in the amount of $1,080,174. The City received four applications requesting $1,741,540 in funding.

The staff recommendation to the Housing Committee did not include HOME funding for the project at 977 Brighton Avenue. The staff recommendation to the Housing Committee included funding for Deering Place at an additional $200,000, Front Street at $510,174 and 178 Kennebec Street at $370,000.

The Housing Committee voted to recommend HOME funding for Deering Place at an additional $200,000, Front Street at $580,174, 178 Kennebec Street at $0 and 977 Brighton Avenue at $300,000.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Staff is requesting that this item be postponed to the September 5, 2018 Council Meeting.

Order 27-18/19 (Tab 26) Order Appropriating Home Investment Partnership Program Funds in the Amount of $580,174 to the Portland Housing Development Corporation Re: Front Street – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 27, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Portland Housing Development Corporation is requesting HOME funding to assist in the re-development of affordable family rental housing on Front Street. The developer is proposing to demolish and re-develop the existing 50 units of housing and add an additional 61 units of mixed-income rental housing.

The development will include:

<table>
<thead>
<tr>
<th></th>
<th>Front Street</th>
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</thead>
<tbody>
<tr>
<td>1-Bedroom Units</td>
<td></td>
</tr>
<tr>
<td>(29)</td>
<td>at or below 50% area median income</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income PBV</td>
</tr>
<tr>
<td></td>
<td>Market Rate</td>
</tr>
<tr>
<td>2-Bedroom Units</td>
<td></td>
</tr>
<tr>
<td>(38)</td>
<td>at or below 50% area median income</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income PBV</td>
</tr>
<tr>
<td></td>
<td>Market Rate</td>
</tr>
<tr>
<td>Units</td>
<td>Income Level</td>
</tr>
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<td>-----------------------</td>
<td>-------------------------------------</td>
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<tr>
<td>3-Bedroom Units (27)</td>
<td>at or below 50% area median income</td>
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<tr>
<td></td>
<td>at or below 50% area median income</td>
</tr>
<tr>
<td></td>
<td>at or below 60% area median income</td>
</tr>
<tr>
<td>4-Bedroom Units (13)</td>
<td>at or below 50% area median income</td>
</tr>
<tr>
<td>5-Bedroom Units (4)</td>
<td>at or below 50% area median income</td>
</tr>
<tr>
<td><strong>Total Units</strong></td>
<td></td>
</tr>
</tbody>
</table>

This project is seeking 4% Low Income Housing Tax Credit and tax-exempt debt with Maine Housing. It will not proceed on the same timetable as the other three proposals who will be seeking 9% Low Income Housing Tax Credits. The developer has engaged in significant public outreach in the East Deering Neighborhood. A neighborhood meeting was held on November 7, 2017 and the Planning Board held a workshop on November 14, 2017. The Planning Department has made significant commitments to the neighborhood to ensure that the design of the project is contextual to the neighborhood. To ensure these commitments are met, staff is recommending funding for this project.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below.

The HOME Affordable Housing Development Application made funding available in the amount of $1,080,174. The City received four applications requesting $1,741,540 in funding.

The staff recommendation to the Housing Committee included HOME funding for Deering Place at an additional $200,000, Front Street at $510,174, 178 Kennebec Street at $370,000 and 977 Brighton Avenue at $0.

The Housing Committee voted to recommend HOME funding for Deering Place at an additional $200,000, Front Street at $580,174, 178 Kennebec Street at $0 and 977 Brighton Avenue at $300,000.
This item must be read on two separate days. It was given a first reading on July 16, 2018. Staff is requesting that this meeting be postponed to the September 5, 2018 Council meeting.

Order 30-18/19 (Tab 27)

Amendment Zoning Map Re: 1000, 1002/1004, and 1020 Congress Street – Sponsored by the Planning Board, Sean Dundon, Chair.

The applicant, 1006 Congress LLC, requested a zoning map amendment for a 19,800 sq. ft. property at 1006 Congress Street, which is located at the corner of Congress and Westfield Streets. The parcel is in the Industrial-Low Impact IL zone. The requested map amendment is to change the zoning from IL to Business Community B-2. The site is surrounded by I-L to the south, Residential R-6 to the west and north and B-2 on the eastern side. The majority of the buildings within the R-6 areas are multifamily buildings.

At the workshop on May 17, 2018, the Planning Board considered the request and recommended advertising an expanded area of B-2 along Congress Street for consideration at the public hearing. The expanded area included the surrounding properties at 1000, 1002/1004, and 1020 Congress Street (see map below), which would connect to the larger B-2 area in Libbytown. The rezoning to the B-2 zone would allow a wide range of commercial uses not allowed in the IL zone, such as retail, restaurants, neighborhood center and general businesses and professional offices.

On June 26, 2018, the Board held a public hearing and voted unanimously (5-0, Eaton and Whited absent) to recommend to City Council the zoning map amendment from Industrial-Low Impact IL zone to Business Community B-2 zone for the parcels at 1000, 1002/1004, 1006, and 1020 Congress Street.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 31-18/19 (Tab 28)

Amendment to Chapter 24 Sewers Re: Industrial Pretreatment Program Transfer to Portland Water District – Sponsored by Danielle West-Chuhta, Corporation Counsel.

In early April, the City Manager and the Portland Water District (PWD) executed a memorandum of understanding (MOU) documenting a plan to transfer responsibility for the administration and management of the Industrial Pretreatment Program (IPP) from the City to PWD. This transfer of responsibility is in line with the arrangement that PWD has with Westbrook and Gorham. The MOU contemplated changes to the City’s Code of Ordinances to effectuate the shift of responsibility to PWD. Those
proposed revisions to Chapter 24 are now being presented to the Council for its consideration. If these amendments to Chapter 24 are approved, the shift contemplated by the MOU will take effect.

The specific changes to Chapter 24: Sewers are as follows:
- Section 24-50 Discharge Permit: Changed requirement to obtain a discharge permit from the Department of Public Works to the Portland Water District.
- Section 24-55 Written Notice Required: Added Portland Water District for written notice under certain scenarios.
- Section 24-57 Appeals: Added a section indicating that the appeals process does not apply to notices of violations or other determinations issued by the Portland Water District under their role as the City’s designee for the Industrial Pretreatment Program.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

Order 32-18/19
Amendment to Portland City Code Chapter 6 Re: Rental Housing Advisory Committee – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on June 5, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

The Housing Committee voted to recommend changes to the structure and duties of the Rental Housing Advisory Committee which is created under Chapter 6 Buildings and Building Regulations, Article XI, Tenant Housing Rights, Section 6-225, Rental Housing Advisory Committee.

The following recommended changes are from the May 23 meeting of the Housing Committee:

The Committee shall be comprised of nine (9) members, including
three (3) members who are landlords
three (3) members who are tenants
one (1) member who is not a landlord or a tenant
one (1) member experienced in legal rights/interest of tenants nominated by Pine Tree Legal Assistance

one (1) member with experience in legal rights/interests of landlords nominated by the Southern Maine Landlord Association
All members of the Committee shall be residents of the City of Portland and shall serve staggered terms set by City Council order.

- All members will be appointed by the City Council.
- The Southern Maine Landlord Association will submit one name for consideration for the landlord representative positions.
- Pine Tree Legal Assistance will submit one name for the tenant representative positions.
- The Committee will be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.
- The City's Planning and Urban Development Department, through the Housing and Community Development Division, will be the staff liaison to the Rental Housing Advisory Committee, attend all meetings and keep the minutes of the Committee.

The Committee shall meet not less than quarterly and shall undertake the following duties:

1. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues.

2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

This item must be read on two separate days. It was given a first reading on July 16, 2018. Five affirmative votes are required for passage after public comment.

**ORDERS:**

**Order 47-18/19 (Tab 30)**

Public Hearing Re: Order of Discontinuance of a Public Way along a Portion of Portland Pier - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

The Economic Development Committee met on June 19, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage. Following the statutorily described process for public right of way discontinuance, the Council voted on July 16 to propose the discontinuance.

The City Council is asked to consider discontinuing a portion of public right of way on Portland Pier while retaining access for the public and commercial marine businesses, including fishing vessels.
The August 13 public hearing is an opportunity for the public and impacted properties to hear and comment on the proposal. A final decision and vote by the Council will take place at a future meeting more than 10 days after the public hearing.

The abutting property owner has been noticed (there is only one at 50 Portland Pier) and the discontinuance has been posted in the City Clerk's office.

The Department of Economic Development, the Facilities Division, and the Department of Public Works recommend that the City Council hold a public hearing to consider discontinuance of a portion of public right of way at the southerly end of Portland Pier. The portion of right of way considered for discontinuance serves only a single property, 60 Portland Pier, Portland Pier Holdings, LLC. All private properties on Portland Pier, including 60 Portland Pier, will continue to have access from a public right of way and public access rights are to remain in effect for both commercial fishing and pedestrian use of the pier.

City staff and the Economic Development Committee recommend the discontinuance to promote private investment and maintenance of currently degraded pier infrastructure.

Only with immediate and continued investment will public and fishing access be retained on the subject portion of right of way.

The subject portion of right of way is occupied by a pile-supported pier structure over submerged lands owned by the State of Maine. Following the proposed discontinuance, the City-owned portion of pier described will transfer to the surrounding property owner, Portland Pier Holdings, LLC. subject to the limits and requirements of the State Submerged Lands program.

Portland Pier Holdings, LLC, at 60 Portland Pier is amenable to the discontinuance and has agreed to waive damages and has further agreed to conduct immediate necessary repairs to the pier to promote continued public and fishing access.

Order 48-18/19
Order Changing Polling Place for District 1 Precinct 3 from the St. Christopher's Catholic Church to the Peaks Island Kennedy & Carter Family Community Center – Sponsored by Katherine L. Jones, City Clerk.

The City was temporarily using St. Christopher Church as its polling place on Peaks Island while the Peaks Island Community Center was being renovated. It has since been renamed to the Peaks Island Kennedy & Carter Family Community Center.
The Community Center is finished being renovated. The current polling place, St. Christopher’s Catholic Church located at 15 Central Avenue Peaks Island, will be moved back to the Peaks Island Kennedy & Carter Family Community Center 129, Island Avenue, Peaks Island, Maine.

Peaks Island Community Center meets ADA requirement and has been inspected by the City’s Trade Supervisor.

Five affirmative votes are required for passage after public comment.

Order Appropriating $2,110,000 from the Sale of City-Owned 0 Hancock Street - Sponsored by the Finance Committee. Councilor Nicholas M. Mavodones, Jr., Chair.

The Finance Committee met on August 2, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

On August 21, 2017, the City Council approved a $3.3 million purchase and sale agreement with 0 Hancock Street, LLC for the sale of 48,000 square feet of the City-owned Thames Street property along the Eastern Waterfront. In October 2017, groundbreaking occurred on the 100,000 square foot, 4-story mixed-use development that will serve as the world headquarters of WEX with additional retail space.

The full $3.3M of property sale proceeds were collected in fiscal year 2018. The City does not typically budget for significant amounts of property sale revenue, so this inflow of funding is above and beyond the FY18 budgeted revenues and will result in an increase in fund balance above the recommended level.

Upon initial discussion of the Finance Committee the Finance Director is formally requesting that the Finance Committee and City Council vote to appropriate $2.11M of these funds the following purposes:

- $1,000,000 to support the rehabilitation of the Allen Avenue Fire Station
- $1,000,000 to support the Housing Trust Fund
- $110,000 to support the Climate Action Plan - the joint venture with South Portland

This item must be read on two separate days. This is its first reading. The Allen Avenue Fire Station is currently closed and needs immediate repairs; therefore, the second reading of this Order will be held at tonight’s 6:00 p.m. Council meeting.

5:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:
WHEREAS: Meagan Letellier of the Fire Department, has been named the City of Portland Employee of the Month by a committee of her peers and selected for this distinct honor from a workforce of over 1,300; and

WHEREAS: This award is presented in recognition of Meagan's work as a Firefighter/EMT-P with over 10 years of service. Meagan is recognized as an exemplary Firefighter and Paramedic. Meagan is enthusiastic and energetic about all aspects of her job (EMS & Fire) and puts forth her best effort in all responsibilities and tasks asked of her, no matter which Company she is assigned to; and

WHEREAS: Meagan works well with a multitude of different coworkers ranging from IT, supervisors, hospital staff, medical facility staff, medical directors, etc. Meagan finds ways to improve the safe and efficient operation of the Fire Department, the Portland EMS System, and Maine EMS. Meagan has gone above and beyond several times in being a Clinician with students from EMT classes. The students rave about working with Meagan and enthusiastically wish to emulate her professionalism, positive personality and skills; and

WHEREAS: Additionally, Meagan has become a Community Paramedic working with the homeless; helping them, the Department, City, and State by going over and above duties required during Emergency Medical Services. Meagan is a phenomenal employee who strives to do the best she can in every aspect of her work, whether it is patient care, mentoring coworkers, or doing community outreach.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to Meagan Letellier as City Employee of the Month, June 2018.

Signed and Sealed this 14th day of August, 2018

Ethan K. Strimling, Mayor
City of Portland, Maine
PROCLAMATION

Honoring

Lori Cordeiro

Employee of the Month

July 2018

WHEREAS: Lori Cordeiro of the Health and Human Services Department, Barron Center, has been named the City of Portland Employee of the Month by a committee of her peers and selected for this distinct honor from a workforce of over 1,300; and

WHEREAS: This award is presented in recognition of Lori's work as a CNA with over two years of service. Lori is recognized as an extraordinary Certified Nursing Assistant; and

WHEREAS: Lori is known for her ability to care for the most demanding elders with grace, patience, compassion and competence. Lori's ability to treat everyone with dignity and respect in the most trying of circumstances is well known and has earned her the respect and admiration of her peers and supervisors; and

WHEREAS: Lori's remarkable dedication and commitment was demonstrated last winter, during a blizzard, when Lori walked over three miles to get to work to make sure her residents received the care they needed.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to Lori Cordeiro as City Employee of the Month, July 2018.

Signed and Sealed this 14th day of August, 2018

[Signature]

Ethan K. Strimling, Mayor
City of Portland, Maine
PROCLAMATION

HONORING

EVIDENCE TECHNICIAN CHRISTOPHER STEARNS

WHEREAS, Officer Stearns is a veteran officer of the department, serving for over 20 years. He currently works as an evidence technician in the criminal investigation division, and

WHEREAS, Officer Stearns plays a crucial role in managing both the police department and METRO crime labs for the department. He handles all the supply ordering for the on-site lab as well as tracking maintenance contracts for equipment and software, and

WHEREAS, Officer Stearns has served as the primary evidence technician on almost every homicide for the past two years. As the lead on the most recent homicide, Officer Stearns gave up vacation time to ensure a quick response on the scene. He also came in on two occasions immediately following the incident to work on processing and documenting evidence that he knew would be needed for lab examination, and

WHEREAS, Officer Stearns is commended for his exemplary performance and clear commitment to a higher standard of public service and public safety.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to Evidence Technician Christopher Stearns as Officer of the Month for June 2018.

Signed and sealed this 13th day of August 2018

Ethan K. Strimling, Mayor
City of Portland, Maine
ORDER DECLARING SEPTEMBER 21, 2018
THE MUSCULAR DYSTROPHY ASSOCIATION
BOOTS, BREWS & BITES FESTIVAL

ORDERED, that September 21, 2018 is hereby declared to be the Muscular Dystrophy Association Boots, Brews & Bites Festival, sponsored by the Muscular Dystrophy Association; and

BE IT FURTHER ORDERED, that the Muscular Dystrophy Association Boots, Brews & Bites Festival area shall be the lower section of Payson Park next to Baxter Boulevard; and

BE IT FURTHER ORDERED, that the Park Roadway at the West entrance to Payson Parkway will be closed to vehicles and the day of the Festival from approximately 2:00 p.m. to 9 p.m. and shall be posted No Parking on Festival day; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the Muscular Dystrophy Association Boots, Brews & Bites Festival Area shall be closed to licensed street vendors as provided in §§19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Muscular Dystrophy Association under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Muscular Dystrophy Association shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of $400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Muscular Dystrophy Association shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area except within a Beer Garden that shall be monitored by City Staff;

3. The Muscular Dystrophy Association shall comply with all Public Assembly Facilities Division Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to, but the Public Assembly Facilities Division fees for the use of the park are waived;

4. The Muscular Dystrophy Association shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Muscular Dystrophy Association Boots, Brews & Bites Festival;

5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and concert licenses for the Festival to those vendors the Muscular Dystrophy Association has agreed shall participate;

6. Any and all amplified music and public announcements shall be maintained at a reasonable noise level (under 92 decibels) and be configured by the event organizer to focus volume away from residential housing and neighboring business, limiting any impact in the area by the sound level;

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.
I am requesting that the following order be placed on the next City Council agenda:

**Order declaring the MDA Benefit: “Boots, Brews, & Bites”**

**Friday September 21st, 2018 @ Payson Park, as a festival.**

This is the 1st year for this event and is a fundraiser for MDA (Muscular Dystrophy Association). The event is being held in conjunction with the 250th Anniversary of the Portland Fire Department & 100th Anniversary of the International Association of Fire Fighters. This event will be a part of the Fire Fighters weekend convention.

The event will feature local breweries, food, & live music. The event will also feature an opportunity for guests’ to vote on the “Best Boot & Best Brew”. Awards will be presented to both a Fire Department & brewery. The festival & beer garden area will be organized by Muscular Dystrophy staff / volunteers & Portland Fire Department staff.

The Beer Garden is staffed by an Event Manager and security staff from the city’s Public Assembly Facilities Division. Number of expected guests will be 250.

The Beer Garden & event location makes use of the lower section of Payson Park, adjacent to Baxter Boulevard. The event will take place from 4pm-8pm. The load in & set up time will start at 10:00am.

The Order should include the following items:

The “Boots, Brews, & Bites Festival” shall be authorized for Friday, September 21st, 2018, from 10:00am – 10:00pm (actual event time: 4pm-8pm), to be held in Portland, specifically: **Festival & Beer Garden area (Payson Park)**

This area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and are reserved for the use of MDA for the purpose of conducting the “Boots, Brews, & Bites” Festival & Beer Garden,” subject to the direction and control of the City Manager.

The City Manager is authorized to issue a revocable permit under Sections 25-26 thru 25-30 of Portland City Code to Muscular Dystrophy Association subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event, other than what is approved by City (continued)
Portland, Maine

Gregory A. Mitchell
Director, Economic Development Department

Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

- Council/Business Licensing Office (a beer garden is proposed for the Festival/Area at Payson Park). MDA is the non-profit associated with the application. City staff will monitor the Beer Garden.
- MDA shall indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage in the amount of at least $400,000 combined single limit for personal or bodily injury, death, or property for said purposes (and include Alcohol liability as well).
- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division Office, shall be adhered to.
- Event organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival, as well as charge a fee for guests attending the Festival/Beer Garden.
- City license fees, permit fee for use of grounds, tent permit fee, and costs for city staff assistance, will be paid by organizer, MDA.
- Amplified sound & PA Speakers will be directed away from residential housing. Any & all amplified music/ public announcements shall be maintained at a reasonable level (under 92dBs), and be configured by the event organizer to focus volume away from residential housing, limiting any sound impacts in the area.
- The Park Roadway (West Entrance into Payson Park from Baxter Blvd.) will be closed to vehicles as part of the setup and the event (approx. 2 - 9pm).

The City Manager is also authorized to waive any other fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Attachments: Park Use Application

Document prepared by Chris Farwell, PAFD Event Manager
For uses of city property, there are typically:
1. fees charged for use of the area
2. a security deposit required
3. insurance required
(There may be fees due and applications required from other City Departments)

<table>
<thead>
<tr>
<th>TODAY'S DATE</th>
<th>ORGANIZATION NAME</th>
<th>ORGANIZATION ADDRESS</th>
<th>HOME #</th>
<th>WORK</th>
<th>cell</th>
<th>EMAIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/30/2018</td>
<td>Muscular Dystrophy Association &amp; L740 Portland Fire Department</td>
<td>39 Mechanic Street, Suite 100</td>
<td>207-854-3749</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONTACT NAME(S)</th>
<th>EMAIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ashley King, Executive Director, <a href="mailto:aking@mdausa.org">aking@mdausa.org</a>,</td>
<td><a href="mailto:aking@mdausa.org">aking@mdausa.org</a>, <a href="mailto:imcloughlin@mdausa.org">imcloughlin@mdausa.org</a></td>
</tr>
<tr>
<td>Jasmine McLoughlin, Fundraising Coordinator, <a href="mailto:imcloughlin@mdausa.org">imcloughlin@mdausa.org</a>,</td>
<td></td>
</tr>
<tr>
<td>Casey Bunker, Portland Fire L740 MDA Coordinator, <a href="mailto:caseybunker@yahoo.com">caseybunker@yahoo.com</a>,</td>
<td><a href="mailto:caseybunker@yahoo.com">caseybunker@yahoo.com</a>, bunkercr,-,1nortlandmaine.arov</td>
</tr>
</tbody>
</table>

| PARK AREA OR PUBLIC SPACE REQUESTED | Payson Park-lower section adjacent to Baxter Boulevard. |

**EVENT DAY & DATE(S)**
Friday, September 21 2018

**EVENT START TIME**
10:00 AM

**EVENT END TIME**
(i.e. when event cleanup is complete)
10:00 PM

**ACTUAL START & END TIME OF EVENT**
4:00 pm – 8:00 pm

**EVENT NAME**
2nd Annual Boots, Brews & Bites (In conjunction with Fire Fighters Convention)

**EXPECTED ATTENDANCE**
250

**DESCRIPTION OF EVENT:**
"Boots, Brews, & Bites" is an event that brings together area fire departments across the state, partnered alongside a craft brewery (and raises money for MDA). Attendees vote on the "Best Boot" and "Best Brew" award that is presented to both a Fire Department and a Brewery. The 2nd annual event in 2018 falls on the 250th Anniversary of the Portland Fire Department and 100th Anniversary of the International Association of Fire Fighters. This event will be in the featured "schedule of events" for the convention being held over the weekend.

A ticketed event (21+ for beer garden). The event celebrates the 64 year partnership of the MDA and the IAFF/Fire fighters. Money raised helps families living with muscle disease.

The event will be outdoor under a large tent at Payson Park. A Beer Garden TENT area will be set up. Breweries will fill in section 3 of the State of Maine Tasting License fee. Some canopies, tables and chairs also set up. A PA system used for DJ + music. ELEC needed.

Food Trucks licensed in the city of Portland will be invited to sell food outside of the tent area as they would normally to the general public. The Registration fee provides guests samples of the featured brew and snacks/water.

The street adjacent to lower section of Payson Park & the unpaved parking lot will be closed for Food trucks.
IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?

<table>
<thead>
<tr>
<th>Please check:</th>
<th>X FEES</th>
<th>PLEDGES</th>
</tr>
</thead>
</table>

IF YES FOR FEES, HOW MUCH?

<table>
<thead>
<tr>
<th>FEE</th>
<th>STUDENT FEE</th>
</tr>
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<tbody>
<tr>
<td>$45/$55</td>
<td>N/A</td>
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</table>

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? Parking lots within Payson Park

PLEASE CHECK OFF AND ANSWER:
PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

<table>
<thead>
<tr>
<th>X-YES</th>
<th>X-NO</th>
<th>X-NOT SURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Are you setting up a canopy(s)? (canopy is 10x10 size) How many: 1 or 2</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Do you wish to set up a tent(s)? A canopy or tent larger than 10x10 needs to be approved by PAFD Office and a Tent Permit issued from Building Inspections. Please call Inspections – 874-8703 – (<a href="mailto:buildinginspections@portlandmaine.gov">buildinginspections@portlandmaine.gov</a>) for information on their application process. PLEASE give them a 2-week notice. PAFD will contact Inspections once the tent location is approved so that the Tent Permit Application may go forward. State size(s): Exact Location(s) of Tent Placement Requested: Payson Park In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Will you be setting up tables and/or chairs? How many tables: 10-20 chairs: 20</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Will there be refreshments at the event? Pre-Packaged snacks, food trucks will be contacted not as part of event, but as opportunity to sell outside of event Do you wish to sell food? NO (If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office) List food and drink / Food Trucks, etc.: Beer Tasting – Special Tasting License will be applied for by all participating brewers as was done last year to comply with City/State Guidelines PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food &amp; drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served PLEASE give the BL Office at least a 2-week notice (874-8557). A TFSL is needed when food vendors are not licensed, or when food is being prepared and cooked at the event.</td>
<td>X</td>
<td></td>
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<tr>
<td>* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)?</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Are you setting up a PA (sound) system? Yes Amplified Music? Band? DJ? X Boom Box? If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks &amp; Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Will your event require electricity? Electricity is available at some of the parks &amp;</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Are you planning on bringing a Grill for a Barbecue?</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>* Will the event require reserved parking spaces / parking meters? *Unpaved</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>
**Parking Lot Adjacent to the Lower Section of Payson Park**

- Will your event need safety vests, signs, barricades and/or cones? (Please list what you would like to borrow/rent.)
  - A few orange vests and cones may usually be borrowed/rented from PAFD Office. Barricades and signs are borrowed/rented from Public Works, Customer Service.
- Will your event require street closures? (Please be specific under "Description of Event").
- Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance.
- Will your event require Fire/EMS assistance? (For a large walk/race, it is recommended.)
- Will your event require Parking Control assistance?
- Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a $25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated.
- Do you wish to have a banner over the street to advertise your event? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to PAFD: 808-5400 x0.

**Insurance Certificate Information**

- Will your event require liability Insurance? *(Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)*

* If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions.

* Both the Certificate of Insurance and Additional Insured Endorsement shall be sent to tvm@portlandmaine.gov and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).

**Public Assembly Facilities Division Policies**

**Electricity**

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you not use electricity, unless all connections and equipment are covered and protected from the elements.

**Porta-Restrooms / Bathroom Facilities**

Porta-Restrooms are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (Preble Street Grass Area at the Preble Street Parking Lot – across from Hannafords, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach). Winter & Early Spring: Just EEB.

If over 150 people are expected to attend the event, a $25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.
TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash.
Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Event Organizers must not use Spray Paint or Spray Chalk when marking city property.
Children’s Art Chalk can be used with permission from PAFD Office.

ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). $10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.

SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- The City reserves the unconditional right to revoke or revise an issued permit.

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an “as is” condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an “as is” condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement

DATE

EE SCHEDULE – UPDATED JULY 1, 2015

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): $50/hour
Event with registration or pledges & attendance 25 - 300: $100/hr
Event with registration or pledges & attendance 301+: $100/hr or more.
Impact/Street Closure Fee (variable based on impact): $0-$500
Admin/Staff Fee (support for events): $30/hour or more.
Porta Restroom User Fee (if attendance is 150+): $25
$200/hr
Public Space/Park Security Deposit/Sound Security  
Deposit: $100 - $1000

**CREDIT CARD INFORMATION**

Visa or MasterCard Number  
Exp Date (Mon/Yr)

*Credit Card Will Only Be Charged For Security Deposit(s) As Needed*

**PLEASE MAKE CHECKS PAYABLE TO “CITY OF PORTLAND”**

- Please make out security deposit checks separate from permit fees.

**TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION**

(Please make all security deposit checks out separately)

| Permit Fee for use of area: $50 - $200 per hour (i.e. a 3 hour event at $50 totals $150) includes use of elec. | $1,200 | Vest/Cone Deposit: $15 per item  
Barricade Deposit: $25 per item  
Single Concert (Amplified Sound) License Fee  
($36 per event - if applicable) |
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<td>If your event is rained out / cancelled, the bulk of the fee is returned (however $50 is non-refundable)</td>
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| Number of Hours of Use: **Approx. 12 hours**  
**EVENT 4 hours** | $TBD | Public Space/Park Security Deposit:  
Sound Security Deposit $100 - $1000 |
| Admin/Staff Fee (support for events): $30/hour | $25 |  
| Key Deposit: $50 per key | $25 |  
| Impact/Street Closure Fee (variable based on impact): $100-$500 | |  
| Other (Porta-Restroom User Fee: $25, etc.)  
NP Signs: $1 / $15 each  
Cone Rental: $2 each  
Barricade Rental: $5 each  
Bike Rack: $10 each |  |

**PLEASE BE SURE AND INITIAL, DATE AND/OR ANSWER ANY HIGH-LIGHTED YELLOW BOXES.**

**FOR OFFICE USE ONLY**

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ORDER DECLARING SEPTEMBER 22, 2018
THE MAINE STATE FIREFIGHTERS AND PORTLAND FIRE DEPARTMENT
250TH ANNIVERSARY PARADE FESTIVAL

ORDERED, that September 22, 2018 is hereby declared to be the Maine State Firefighters and Portland Fire Department 250th Anniversary Parade Festival, sponsored by the Portland Fire Department; and

BE IT FURTHER ORDERED, that the Maine State Firefighters and Portland Fire Department 250th Anniversary Parade Festival area shall be the High Street from Spring Street to Congress Street and Congress Street from High Street to Franklin Street, and Spring Street from High Street to Union Street, Center Street from Free Street to Fore Street, Cross Street from Free Street to Spring Street and Oak and Brown Streets from Free Street to Spring Street, as well as sidewalks and Congress Square Park, Monument Square and Lincoln Park; and

BE IT FURTHER ORDERED, that the following streets in the Festival Area may be posted No Parking on Festival days and closed during the hours listed;

Spring Street from High Street to Union Street, Center Street from Free Street to Fore Street, Cross Street from Free Street to Spring Street and Oak and Brown Streets from Free Street to Spring Street from 7:00 a.m. to 10:00 a.m.;

High Street from Spring Street to Congress Street and Congress Street from High Street to Franklin Street from 9:45 a.m. to noon;

Side streets leading to the Congress Street parade route will be barricaded, with the barricades removed after the parade has moved past;

Federal Street Extension from Congress Street to Temple Street from 9:00 a.m. to noon; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and
BE IT FURTHER ORDERED, that the Maine State Firefighters and Portland Fire Department 250th Anniversary Parade Festival Area shall be closed to licensed street vendors as provided in §19-17 and §19-22 of the Portland City Code; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Portland Fire Department under §§25-26—25-28 of the Portland City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. The Portland Fire Department shall comply with all Public Assembly Facilities Division conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in its permit;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;

3. The City of Portland will provide police officers, barricades and prepare Monument Square as a viewing area.

4. The Public Assembly Facilities Division shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Maine State Firefighters and Portland Fire Department 250th Anniversary Parade Festival;

5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and concert licenses for the Festival to those vendors the Public Assembly Facilities Division has agreed shall participate;

6. The Organizer shall have the authority to control the festival grounds, including authority to request police assistance if necessary, in order to maintain the festival area in the best interests of the festival; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.
I am requesting that the following order be placed on the next City Council agenda:

Order declaring “Maine State Firefighters/Portland Fire Department 250th Anniversary Parade,” Saturday, September 22, 2018, as a Festival.

The Portland Fire Department is hosting the 55th Maine State Firefighters Convention, September 21-23, 2018, at the Cross Insurance Arena. This is in conjunction with the 250th anniversary of the Portland Fire Department. On Saturday September 22, a parade of fire apparatus is being planned, which is a traditional part of the convention. Last year’s convention in Boothbay Harbor drew more than 100 trucks to their parade. This year, they anticipate more than 150 trucks for the Portland parade, along with participation by pipe and drum bands. Staging for the parade will begin at 7:00am, with the parade scheduled from 10:00am – 12:00pm on Saturday September 22. The parade will draw many onlookers; spectator attendance is estimated to be 2000 people.

The Order should include the following items:

The Maine State Firefighters/Portland Fire Department 250th Anniversary Parade be authorized for Saturday, September 22, 2018, from 10am - Noon, to be held in Portland.

The parade route (Festival Zone) is High Street (all lanes - Spring Street to Congress Street), and Congress Street (both lanes - High Street to Franklin Street). The parade formation area, which is Spring Street (both lanes - High Street to Union Street), Center Street (both lanes – Free Street to Fore Street), Cross Street (Free Street to Spring Street) and Oak Street and Brown Street (from Free Street to Spring Street) is also a part of the Festival Zone. Adjoining sidewalks, parks and squares, including Congress Square Park, Monument Square, and Lincoln Park, are also part of the Festival Zone. Please see attached MAP (attachment A).

At 10am, Saturday, September 22, the parade moves out onto High Street (from Spring Street), then travels north up High Street, taking a right turn onto Congress Street, travels east on Congress Street, ending at Pearl Street. Some apparatus will continue out of the area, other units will park nearby in parking lots, or on other sections of streets that have been previously reserved for such purpose. Lincoln Park may also be used as a resting area for the parade marching units. The parade should be wrapped up by Noon, with the majority of streets opening up to vehicle traffic soon after.

(continued)
The City of Portland will provide police officers (at least 2 officers: lead and tail car), barricades, and prepare Monument Square for the viewing area. Parade organizers (Portland Firefighters, Convention organizers, and volunteers) will staff many of the parade intersections.

The parade route and Festival area will also be closed to street vendors pursuant to Section 19 -17 of the Portland City Code and is reserved for the use of the City's Public Assembly Facilities Division for the purpose of permitting vendors for the event, subject to the direction and control of the City Manager. In addition, event organizers will have authority to control the Festival grounds, including the authority to request Police assistance if necessary, in order to maintain the festival area in the best interest of the festival.

Parade organizers will work with METRO to set up a bus detour plan for the Congress Street corridor.

During the Maine State Firefighters/Portland Fire Department 250th Anniversary Parade, streets listed below will be closed to vehicular traffic, Saturday, September 22, 2018:

**For Parade Assembly:**
- Spring Street (both lanes - High Street to Union Street) – 7am to 10am
- Center Street (both lanes – Free Street to Fore Street) - 7am to 10am
- Cross Street (Free Street to Spring Street) – 7am to 10am
- Oak Street and Brown Street (from Free Street to Spring Street) – 7am to 10am.

**For Parade itself:**
- High Street (all lanes - Spring Street to Congress Street) – 9:45am to 11:45am
- Congress Street (both lanes - High Street to Franklin Street) – 9:45am to Noon. (It is thought that vehicles moving east on Congress Street, when reaching High Street, will be able to turn left onto High Street, i.e. detoured away from the parade. Traffic headed west on Congress Street, will all be detoured at Franklin Street.)

Side Streets leading onto the Parade Route, will need to be closed back a block away from Congress Street or High Street (9:45am to Noon). Those include:
- Spring Street (at Park Street), Forest Avenue (at Cumberland Ave.), Casco Street (at Shepley Street), Preble Street (at Cumberland Ave.), Temple Street (at Federal Street), Chestnut Street (at Cumberland Ave.), Market Street (at Federal Street), and Pearl Street (at Cumberland Ave. and also at Federal Street).

(As the parade moves forward on Congress Street, the barricaded side streets where the parade has passed by, will open back up again to vehicle traffic.)

**For Monument Square (viewing stand area):**
- Federal Street Ext. (Congress Street to Temple Street) – 9am to Noon.

The above streets may be posted "No Parking" at the discretion of parade organizers, so that the assembly area and the parade route can be free of vehicles. Vehicles in violation of the “No Parking” signs shall be towed (at owner’s expense).
The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Parade Organizers for the use of the above-described area for said parade, subject to the following conditions:

- Conditions for use of streets and requirements for food service, vending sales, and other items specified in a permit issued from PAFD shall be adhered to, and
- Under no circumstances may alcoholic beverages be sold on the streets or public property of said area during said parade and ceremony.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Attachments: MAP

Document prepared by Jen Hale, Event Manager (revised by Ted Musgrave)
Parade Route and Staging Areas

Parade Route
Pre-Parade Staging Areas
Review Stand
Post-Parade Antique Display Area

- [ xxx ] Line of cones
- [ O ] Officer
- [ V ] Volunteer
- [ B ] Barricade
ORDER DECLARING SEPTEMBER 30, 2018 THE
27TH ANNUAL MAINE MARATHON, HALF MARATHON &
RELAY FESTIVAL

ORDERED, that September 30, 2018 from 5:00 a.m. to 3:00 p.m. is hereby declared to
be the 27th Annual Maine Marathon, Half Marathon & Relay Festival, sponsored
by the Maine Marathon Committee; and

BE IT FURTHER ORDERED, that the 27th Annual Maine Marathon, Half Marathon
& Relay Festival area shall be Baxter Boulevard Extension from Forest Avenue to
Preble Street, Baxter Boulevard, the Back Cove Trail, and Payson Park; and

BE IT FURTHER ORDERED, that during the 27th Annual Maine Marathon, Half
Marathon & Relay Festival the following streets shall be closed to traffic at the
following times:

Baxter Boulevard Extension from Forest Avenue to Preble Street: 5:00 a.m. to
3:00 p.m.;

Baxter Boulevard from Preble Street to Washington Avenue: 5:00 a.m. to 2:00
p.m.;

Preble Street from Forest Avenue to Baxter Boulevard: 5:00 a.m. to 2:00 p.m.; and

Payson Park Roads including the West Kidder Street and Fernald Street entrances
from Washington Avenue: 5:00 a.m. to 2:00 p.m.; and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in
the Festival Area (interior roadways) shall be towed at owner's expense; and

BE IT FURTHER ORDERED, that the 27th Annual Maine Marathon, Half Marathon
& Relay Festival area shall be closed to licensed street vendors as provided in
§19-17 of the City Code; and
BE IT FURTHER ORDERED, that admission to run in the races of the 27th Annual Maine Marathon, Half Marathon & Relay Festival inside the Festival Area shall be charged by the Maine Marathon Committee; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to the Maine Marathon Committee under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. Maine Marathon Committee shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of $400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Maine Marathon Committee shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival Area;

3. Maine Marathon Committee shall be responsible for all fees for a permit issued from the Public Assembly Facilities Division, as well as for fees for city licenses and the cost of assistance from city staff. Conditions for use of grounds, and requirements for food service, vending sales, tent and stage installations and other items specified in that permit shall be adhered to;

4. Maine Marathon Committee shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Maine Marathon, Half Marathon & Relay Festival;

5. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and concert licenses for the Festival to those vendors the Maine Marathon Committee has agreed shall participate;

6. The route of the course is subject to change, depending on construction projects along the course and police recommendations leading up to the race; and

BE IT FURTHER ORDERED, that the City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.
TO: Jon Jennings, City Manager  
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management  
DATE: July 25, 2018  
RE: Council Agenda Item – 27th Annual Maine Marathon / Half Marathon & Relay

I am requesting that the following order be placed on the next City Council agenda:

**Order declaring “27th Annual Maine Marathon, Half Marathon & Relay,” Sunday, September 30, 2018, as a festival.**

This is the 27th year that the Maine Marathon Committee has sponsored/organized the Maine Marathon. The event continues to increase in size drawing many participants from all areas of the state and New England. Expected number of registered runners this year is expected to reach 4,500. Audience attendance is also on the rise, with spectators lining much of the sidewalks, parks, and pathways along the route of the road race. Since 1997, more than 4 million dollars has been raised for local charities and cancer research. The following non-profits are the main beneficiaries of the 2018 Marathon proceeds: The Locker Project, Ronald McDonald House, and Portland Community Health Center.

The Order should include the following items:

The Maine Marathon / Half Marathon & Relay be authorized for **Sunday, September 30, 2018, from 5am - 3pm**, to be held in Portland, specifically, Baxter Blvd. Ext. from Forest Avenue to Preble Street, (and continuing on to Washington Avenue). Runners will congregate on Baxter Blvd. Ext. (the area between Forest and Preble), for the start and finish of race. The 3 races (Marathon, Half Marathon & Relay) each start at 7:45am from the same location.

This area at Baxter Blvd. Ext., as well as **Payson Park and Baxter Blvd. itself (and the Back Cove Trail)**, will also be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of the Maine Marathon Committee, for the purpose of conducting the Maine Marathon, subject to the direction and control of the City Manager.

The route of the race takes runners around Baxter Blvd., taking a left onto Bates Street, then crossing over Washington Ave. onto Veranda Street, continuing on Veranda to Route One, crossing Martins Point Bridge and into Falmouth. When runners return, they

(continued)
cross Martin's Point Bridge and when reaching Sherwood Street, take a right onto Sherwood, then cross Presumpscot Street, then take a left onto East Kidder, then cross over Washington Ave., continuing on West Kidder, down through Payson Park and back onto Baxter Blvd., continuing around the cove, finishing back at the start/finish line: Baxter Blvd. at Pedro Field area.

During the Maine Marathon / Half Marathon & Relay, streets listed below will be closed to vehicular traffic, **Sunday, September 30, 2018:**

- Baxter Blvd. Ext. (From Forest Avenue to Preble Street) – 5am to 3pm,
- Baxter Blvd. (From Preble Street to Washington Avenue) – 5am to 2pm
- Preble Street (From Forest Ave to Baxter Blvd.) – 5am to 2pm,
- Payson Park roads (including West Kidder Street, Fernald Street entrances into Payson Park from Washington Avenue) – 5am to 2pm,

**Times when runners will be filling the streets:**

Washington Avenue at Veranda Street - inbound traffic may be detoured back at Ocean Ave.: 7:45 – 8am / outbound traffic on 295 Ramp (Washington Ave.), will be held back for the few minutes that runners cross over Washington Ave. There will also be traffic delays on Washington Ave. during the race (9am – 2pm) due to returning runners (from the Falmouth side) crossing over Washington Ave. from East Kidder Street to West Kidder Street and into Payson Park). Police units will let cars through when runners not crossing.

The City Manager is authorized to issue a revocable permit under Sections 25-26 thru 25-30 of Portland City Code to the Maine Marathon Committee subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event,
- The Maine Marathon Committee shall indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage in the amount of at least $400,000 combined simple limit for personal or bodily injury, death, or property for said purposes,
- Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division, shall be adhered to,
- Marathon organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival,
- **City permit fees, license fees, and costs for city staff assistance will be paid by Marathon Committee,** and

(continued)
TODAY'S DATE: 6-12-2018
Revised: 7-23

ORGANIZATION NAME: Maine Marathon

ORGANIZATION ADDRESS: PO Box 10836
CITY: Portland
STATE: ME
ZIP:

CONTACT NAME(S):
Bob Dunfey - Race Director;
Bob Aube - Co Race Director;
Steve Lee - President of Maine Track Club

EMAIL: mainemarathon@gmail.com
bobaube@mainetrackclub.com
slee@mainetrackclub.com

PARK AREA OR PUBLIC SPACE REQUESTED: Baxter Blvd; Payson Park and Portland streets

EVENT DAY & DATE(S): Sunday, September 30, 2018
RAIN DAY & DATE(S): NA

EVENT START TIME: 6 AM (i.e. set-up start time)
EVENT END TIME: 5 PM (i.e. when event cleanup is complete)

ACTUAL START & END TIME OF EVENT: 6 AM - 3 PM

EVENT NAME: Maine Marathon, Half Marathon and Relay

EXPECTED ATTENDANCE: 4,500 runners, 800 volunteers and hundreds of spectators

The primary beneficiaries for 2018 are the Locker Project, Ronald McDonald House and Portland Community Health Center. Each nonprofit will receive a $20,000 donation except for Locker Project which will receive $9,000 since its revenues are not great enough to qualify for a $20,000 donation. Over 30 other charities will receive smaller donations for the many volunteers and other services they provide for the event.

BLVD/PAYSON PARK WEST KIDDER ST: CLOSED 5AM TO 2PM, BAXTER FROM FOREST AVE TO PREBLE ST EXT CLOSED UNTIL 5PM. RACE ROUTE START AT FOREST AVE & BAXTER, OUT BAXTER LEFT ONTO BATES TO VERANDA TO MARTINS POINT BRIDGE....RETURN MARTINS POINT BRIDGE TO VERANDA STREET, THEN RIGHT ON SHERWOOD TO LEFT ON EAST KIDDER ST TO PAYSON PARK TO BAXTER BLVD TO FINISH.

The 3 races have the same start time: 7:45am. There is an early start time of 6am, but that if for 100 or so National Guardsmen + women. Baxter Blvd + Payson Park closed to vehicles: 5am – 2pm. Preble Street (from Hannaford to Baxter) closed. The section of street (Baxter Blvd) between Pedro Field and Hannaford Entrance is the Start Finish Line area and where lots of TENTS, refreshments, music will be.

Route: start line: Baxter Blvd + Preble St, intersection, runners head north on Blvd., turn left onto Bates St., continue across Washington Ave. and onto Veranda Street, continuing on down across Martin's Point Bridge and into Falmouth/Yarmouth. Runners then return via Rt. One, Martin's Point Bridge, and Veranda Street, but then turn right onto Sherwood Street, then cross over Presumpscot St., then take a left onto East Kidder St., then cross over Washington Ave., continue on West Kidder St., and then veer left down into Payson Park, back on the park road to Baxter Blvd., where runners take a right turn onto Baxter, then continuing around the cove, finishing on Baxter Blvd. beside Pedro Field.

More Detailed list: During the Maine Marathon / Relay and Half Marathon, streets listed below will be closed to vehicular traffic, Sunday, September 30, 2018:
Preble Street (From Forest Ave. to Baxter Blvd.) – 5am – 2pm,
Baxter Blvd. Ext. (From Forest Avenue to Preble Street) – 5am to 3pm,
Baxter Blvd. (From Preble Street to Bates Street/Washington Avenue) – 5am to 2pm,

Payson Park roads (including West Kidder Street, Fernald Street entrances into Payson Park, from Washington
Times when runners will be filling the streets:
Washington Avenue (inbound traffic may be detoured onto Ocean Ave.; 7:45 – 8am / outbound traffic on 295 Washington Ave. ramp will just be held back while runners cross. There will also be traffic delays on Washington Ave. during the race (9am – 2pm) due to returning runners (from the Falmouth side – the return trip) crossing over Washington Ave. from East Kidder to West Kidder to run down into Payson Park.

Start / Finish Line set up on Baxter Blvd. near Pedro Field. That area needs to be posted “No Parking.”
PA system for music and announcements at Start/Finish.
Some bands may set up and play along the race route. Some electricity may be needed.

Large Tents to be set up in and on Pedro Field.
Water Stations placed along the route (as well as some porta-restrooms).

From 2017’s Race, there were recommendations made from City Staff, that organizers should put into place. Most recommendations concerned safety: needing more volunteers at race intersections, coning off turning lanes, command post supervisor starting an hour earlier.

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<th>IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?</th>
<th>Please check:</th>
</tr>
</thead>
<tbody>
<tr>
<td>IF YES FOR FEES, HOW MUCH?</td>
<td>FEE $50/75/120 up to $75/95/180</td>
</tr>
<tr>
<td>STUDENT FEE $ same</td>
<td></td>
</tr>
</tbody>
</table>

**WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?**
AAA PARKING LOT, USM PARKING GARAGE AS WELL AS GROUND LOTS, WATER SIDE LOT ACROSS FROM HANNAFORD

**PLEASE CHECK OFF AND ANSWER:**

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

<table>
<thead>
<tr>
<th>Are you setting up a canopy(s)? (canopy is 10x10 size)</th>
<th>How many:</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

| Do you wish to set up a tent(s)? A canopy or tent larger than 10x10 needs to be approved by PAFD Office and a Tent Permit issued from Building Inspections. Please call Inspections – 874-8703 (buildinginspections@portlandmaine.gov) for information on their application process. PLEASE give them at least a 2-week notice. PAFD will contact Inspections once the tent location is approved so that the Tent Permit Application may go forward. |
| State size(s): About two 20 by 40 |
| Exact Location(s) of Tent Placement Requested: On grass in Pedro Field |
| In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233. |
| X                                                     |

| Will you be setting up tables and/or chairs? | How many tables: 30 chairs: 50 |
| X                                                     |

| Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) | Please List: |
| X                                                     |

| Will there be refreshments at the event? | Yes |
| Do you wish to sell food? Runner food – free; Food trucks selling their products (If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office) |
| List food and drink / Food Trucks, etc.: | PLEASE NOTE: A Temporary Food Service License is NOT needed when: |
| 1. Food Vendors have a current City of Portland Food License |
| 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment |
| 3. Bottled water / water is served |
| PLEASE give the BL Office at least a 2-week notice (874-8557). A TFSL is needed when food vendors are not licensed, or when food is being prepared and cooked at the event. |
| X                                                     |

| Do you wish to sell non-food items (like T-shirts, crafts, cd’s, etc.)? |
| X                                                     |

| Are you setting up a PA (sound) system? | Are you planning on having Amplified Music? Band? DJ? Boom Box? |
| X                                                     |

| If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. |
| X                                                     |

| Will your event require electricity? Electricity is available at some of the parks & squares |
| X                                                     |

| Are you planning on bringing a Grill for a Barbecue? |
| X                                                     |
### MARKING OF GROUNDS

Event Organizers must not use Spray Paint or Spray Chalk when marking city property.

Children’s Art Chalk can be used with permission from PAFD Office.

### TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

### PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

#### ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you not use electricity, unless all connections and equipment are covered and protected from the elements.

#### PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-RESTROOMS are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms from Associated Septic on site (Preble Street Grass Area at the Preble Street Parking Lot – across from Hannafords, *Entrance to Dyer’s Flat – beside Payson Park*). If over 150 people are expected to attend the event, a $25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic on site (*Preble Street Grass Area at the Preble Street Parking Lot*). Banner inquiries directed to PAFD: 808-5400 x0.

#### TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

### ADA COMPLIANCE

Event Organizers must not use Spray Paint or Spray Chalk when marking city property.

Children’s Art Chalk can be used with permission from PAFD Office.
Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES
PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). $10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.

SMOKE-FREE ZONES
By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants/spectators at the event.

NOTIFICATION
Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCLABLE PERMIT
• The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
• The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES TYPE INITIALS BD DATE 6-12-18

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form (should permission be granted to use city property), the above parties agree to indemnify, defend, and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement TYPE INITIALS BD DATE 6-12-18

FEE SCHEDULE – UPDATED JULY 1, 2015

| Simple Event (no registration fee): $50/hour | Impact/Street Closure Fee (variable based on impact): $0-$500 |
| Event with registration or pledges & attendance 25 – 300: | Admin/Staff Fee (support for events): $30/hour or more. |
| $100/hr | Porta Restroom User Fee (if attendance is 150+): $25 |
| Event with registration or pledges & attendance 301+: $200/hr | |
| Public Space/Park Security Deposit/Sound Security Deposit: | |
| $100-$1000 | |

CREDIT CARD INFORMATION

Visa or MasterCard Number Exp Date (Mon/Yr)

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

• Please make sure security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)

| Permit Fee for use of area: $50 - $200 per hour (i.e. a 3 hour event at $50 totals $150) includes use of elec. | Vest/Cone Deposit: $15 per item |
| If your event is rained out / cancelled, the bulk of the fee is returned (however $50 is non-refundable) | Barricade Deposit: $25 per item |
| Number of Hours of Use: Approx. 9 Hours | Single Concert (Amplified Sound) License Fee ($35 per event - if applicable) |
| Admin/Staff Fee (support for events): $30/hour | $1800 due | $ N/A |
| Key Deposit: $50 per key | Public Space / Park Security Deposit: Sound Security Deposit: $100 - $1000 |
| $ TBD | $ TBD | $ 250 due |

$ 250 due | Other (Porta-Restroom User Fee: $25, etc.) |

Date (Mon/Yr)
Impact/Street Closure Fee (variable based on impact): $100-$500

- NP Signs: $1 / $15 each
- Cone Rental: $2 each
- Barricade Rental: $5 each
- Bike Rack: $10 each

$500 due

<table>
<thead>
<tr>
<th>FOR OFFICE USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE REC'D APPLICATION</td>
</tr>
<tr>
<td>PAYMENT TYPE</td>
</tr>
</tbody>
</table>
ORDER APPROVING TRANSFER OF HANDGUN UNDER 15 M.R.S. §§ 5824(3) and 5826(6)  
RE: NICHOLAS OWEN DIMOTT

ORDERED, that the City Council hereby accepts one CZ 9-mm handgun, Serial Number B423212 in forfeited assets in the case of State of Maine vs. Nicholas Owen Dimott from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached “Approval of Transfer.”
MEMORANDUM  
City Council Agenda Item

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

FROM: Vernon W. Malloch, Interim Chief of Police

DATE: July 26, 2018

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading ___ next available ___ Final Action ___

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

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

I. ONE SENTENCE SUMMARY: The State requires Council approval of the transfer of forfeited firearms to the Portland Police Department. (See attached approval form)

II. AGENDA DESCRIPTION State v. Nicholas Owen Dimott CR-18-2821 one CZ 9mm handgun, Serial #B423212

III. BACKGROUND: The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED: Forfeited firearms may be transferred to the Portland Police Department for destruction.

V. FINANCIAL IMPACT: No financial impact.

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

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by: Catherine Hooper
Date: July 26, 2018
RE: State of Maine vs. Nicholas Owen Dimott  
Cumberland County Unified Criminal Court Doc. No. CR-18-2821  
**Criminal Forfeiture**  
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Sauschuck:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) if subsequently ordered forfeited by the Court;

B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture “approval” and a “continuing resolution” of approval cannot be accepted;

C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) *In Rem* will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body’s approval only signifies that, if the Defendant(s) *In Rem* are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) *In Rem* to a Department, Agency, County or Municipality based upon the “substantial contribution” of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) *In Rem* or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or...
municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are cautioned that they should not encumber funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is “embossed” with the seal of the municipality. Then, please return the original to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Johanna Gauvreau
Assistant Attorney General
CRIMINAL DIVISION

Enclosure
STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-18-2821

State of Maine

v.

Nicholas Owen Dimott,
Defendant

AND

ONE CZ 9-MM HANDGUN, SERIAL NUMBER B423212
DEFENDANT IN REM

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant In Rem, namely one CZ 9-mm handgun, Serial Number B423212, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) In Rem, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6), as approved on August 13, 2018.

Dated: __________

Mayor

(Impress Legislative Body Seal Here)
ORDER APPROVING TRANSFER OF FUNDS
UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: ELIJAH CASEY

ORDERED, that the City Council hereby accepts $1,080 in forfeited assets in the case of State of Maine vs. Elijah Casey from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached “Approval of Transfer.”
MEMORANDUM
City Council Agenda Item

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

FROM: Vernon W. Malloch, Interim Chief of Police

DATE: July 26, 2018

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading____ next available ________ Final Action _______

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

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

I. ONE SENTENCE SUMMARY: The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)

II. AGENDA DESCRIPTION State v. Elijah Casey CR-17-4821 and one thousand and eighty dollars ($1,080 US Currency)

III. BACKGROUND: The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED: Funds may be transferred to the Portland Police Department for deposit in the drug investigations account.

V. FINANCIAL IMPACT: The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.

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

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by: Catherine Hooper
Date: July 26, 2018
Portland Police Department
Chief Michael Sauschuck
109 Middle Street
Portland, ME 04101

RE: State of Maine vs. Elijah Casey
Cumberland County Unified Criminal Court Doc. No. CR-17-4821

Criminal Forfeiture
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Sauschuck:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) if subsequently ordered forfeited by the Court;

B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture “approval” and a “continuing resolution” of approval cannot be accepted;

C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) In Rem will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body’s approval only signifies that, if the Defendant(s) In Rem are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) In Rem to a Department, Agency, County or Municipality based upon the “substantial contribution” of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) In Rem or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or
municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are cautioned that they should not encumber funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is “embossed” with the seal of the municipality. Then, please return the original to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

[Signature]

Johanna Gauvreau
Assistant Attorney General
CRIMINAL DIVISION

Enclosure
STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-17-4821

State of Maine

v.

Elijah Casey,
Defendant

AND

$1,080.00 U.S. CURRENCY
DEFENDANT IN REM

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant In Rem, namely $1,080.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) In Rem, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6) on August 13, 2018.

Dated: __________

Mayor

(Inpress Legislative Body Seal Here)
ORDER APPROVING TRANSFER OF FUNDS
UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: JOHN DAVIS

ORDERED, that the City Council hereby accepts $1,000 in forfeited assets in the case of State of Maine vs. John Davis from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."
MEMORANDUM
City Council Agenda Item

Distribute to: City Manager, Mayor, Sonia Bean, Nancy English, Danielle West-Chuhta, Deivy Periana,

From: Vernon W. Malloch, Interim Chief of Police

Date: July 26, 2018

Subject: Approval of Transfer

Sponsor: Police Department

Council Meeting Date Action Is Requested:
1st Reading __ next available __ Final Action ___

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

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

I. One Sentence Summary: The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)

II. Agenda Description: State v. John Davis CR-17-5960 and one thousand dollars ($1,000 US Currency)

III. Background: The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.

IV. Intended Result and/or Council Goal Addressed: Funds may be transferred to the Portland Police Department for deposit in the drug investigations account.

V. Financial Impact: The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.

VI. Staff Analysis and Background That Will Not Appear in the Agenda Description

VII. Recommendation

VIII. List Attachments

Please remember that backup items have to be single sided.

Prepared by: Catherine Hooper
Date: July 26, 2018
Dear Chief Sauschuck:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) if subsequently ordered forfeited by the Court;

B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture “approval” and a “continuing resolution” of approval cannot be accepted;

C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) In Rem will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body’s approval only signifies that, if the Defendant(s) In Rem are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) In Rem to a Department, Agency, County or Municipality based upon the “substantial contribution” of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) In Rem or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or
municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are cautioned that they should not encumber funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is "embossed" with the seal of the municipality. Then, please return the original to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Johanna Gauvreau
Assistant Attorney General
CRIMINAL DIVISION

Enclosure
STATE OF MAINE  
Cumberland, SS


UNIFIED CRIMINAL DOCKET  
Criminal Action  
Docket No. CR-17-5960


City of Portland  
Approval of Transfer  
15 M.R.S. §5824(3)  
and §5826(6)


State of Maine  
v.  

John Davis,  
Defendant

AND  
$790.00 U.S. CURRENCY  
DEFENDANT IN REM #1

$5,000.00 U.S. CURRENCY  
DEFENDANT IN REM #2


NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant In Rem #2, namely $1,000.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) In Rem, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6) on August 13, 2018.

Dated: ____________________  

Mayor  

(Inpress Legislative Body Seal Here)
ORDER APPROVING TRANSFER OF FUNDS
UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: RICHARD MARTEL

ORDERED, that the City Council hereby accepts $611.00 in forfeited assets in the case of State of Maine vs. Richard Martel from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached “Approval of Transfer.”
MEMORANDUM
City Council Agenda Item

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

FROM: Vernon W. Malloch, Interim Chief of Police

DATE: July 26, 2018

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading next available Final Action _____

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

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

I. ONE SENTENCE SUMMARY: The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)

II. AGENDA DESCRIPTION State v. Richard Martel CR-17-6925 and six hundred and eleven dollars ($611.00 US Currency)

III. BACKGROUND: The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED: Funds may be transferred to the Portland Police Department for deposit in the drug investigations account.

V. FINANCIAL IMPACT: The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.

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

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by: Catherine Hooper
Date: July 26, 2018
July 19, 2018

Portland Police Department
Chief Michael Sauschuck
109 Middle Street
Portland, ME 04101

RE: State of Maine vs. Richard Martel
Cumberland County Unified Criminal Court Doc. No. CR-17-6925

Criminal Forfeiture
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Sauschuck:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) if subsequently ordered forfeited by the Court;

B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture “approval” and a “continuing resolution” of approval cannot be accepted;

C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) In Rem will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body’s approval only signifies that, if the Defendant(s) In Rem are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) In Rem to a Department, Agency, County or Municipality based upon the “substantial contribution” of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) In Rem or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or...
municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are cautioned that they should not encumber funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is “embossed” with the seal of the municipality. Then, please return the original to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

[Signature]

Johanna Gauvreau
Assistant Attorney General
CRIMINAL DIVISION

Enclosure
STATE OF MAINE
Cumberland, SS

State of Maine

v.

Richard Martel,
Defendant

AND

$611.00 U.S. CURRENCY
DEFENDANT IN REM

NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant In Rem, namely $611.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) In Rem, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6) on August 13, 2018.

Dated: __________

Mayor

(Impress Legislative Body Seal Here)
ORDER APPROVING TRANSFER OF FUNDS
UNDER
15 M.R.S. §§ 5824(3) and 5826(6)
RE: THEOTIS JAMES LEONARD

ORDERED, that the City Council hereby accepts $500.00 in forfeited assets in the case of State of Maine vs. Theotis James Leonard from the State of Maine to the City of Portland, pursuant to 15 M.R.S. § 5824(3) and § 5826(6) and as provided in the attached “Approval of Transfer.”
MEMORANDUM
City Council Agenda Item

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

FROM: Vernon W. Malloch, Interim Chief of Police

DATE: July 26, 2018

SUBJECT: Approval of Transfer

SPONSOR: Police Department

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading next available Final Action

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

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

I. ONE SENTENCE SUMMARY: The State requires Council approval of the transfer of forfeited cash to the Portland Police Department. (See attached approval form)

II. AGENDA DESCRIPTION State v. Theotis James Leonard CR-18-506 and five hundred dollars ($500.00 US Currency)

III. BACKGROUND: The State Forfeiture Statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a State agency, County or municipality, the legislative body of that entity must publicly vote to accept the item.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED: Funds may be transferred to the Portland Police Department for deposit in the drug investigations account.

V. FINANCIAL IMPACT: The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor.

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

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

Please remember that backup items have to be single sided.

Prepared by: Catherine Hooper
Date: July 26, 2018
July 17, 2018

Dear Chief Sauschuck:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) if subsequently ordered forfeited by the Court;

B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture “approval” and a “continuing resolution” of approval cannot be accepted;

C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) In Rem will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body’s approval only signifies that, if the Defendant(s) In Rem are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) In Rem to a Department, Agency, County or Municipality based upon the “substantial contribution” of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) In Rem or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or
municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are cautioned that they should not encumber funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is “embossed” with the seal of the municipality. Then, please return the original to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

[Signature]
Johanna Gauvreau
Assistant Attorney General
CRIMINAL DIVISION

Enclosure
NOW COMES the City of Portland, Maine, by and through its legislative body, the City Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes, to the transfer of any portion of the above captioned Defendant In Rem, namely $500.00 U.S. Currency, on grounds that the City of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Portland City Council does hereby approve of the transfer of the Defendant(s) In Rem, to the City of Portland, Maine pursuant to 15 M.R.S. §5824(3) and §5826(6) on August 13, 2018.
CITY OF PORTLAND
IN THE CITY COUNCIL

ORDER
GRANTING MUNICIPAL OFFICERS' APPROVAL OF:

Tangible Alchemy dba Urban Farm Fermentory. Renewal application for an Entertainment with Dance at 200 Anderson Street.
Supplemental Application for Dancing and Entertainment License
License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

<table>
<thead>
<tr>
<th>Option</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entertainment without Dancing</td>
<td>$281</td>
</tr>
<tr>
<td>Entertainment with Dancing</td>
<td>$504</td>
</tr>
<tr>
<td>After-Hours (1 a.m. to 3 a.m.)</td>
<td>$667</td>
</tr>
</tbody>
</table>

### Business Information

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name (d/b/a)</td>
<td>Urban Farm Fermentation</td>
</tr>
<tr>
<td>Location Address</td>
<td>200 Anderson St.</td>
</tr>
<tr>
<td>Phone</td>
<td>207 773 8331</td>
</tr>
<tr>
<td>Zip</td>
<td>04101</td>
</tr>
</tbody>
</table>

### About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:

- Brewery / winery
- DJ's or musicians for special events

Will music be electric, acoustical, or both? (Circle) **Electric**

Will amplification be used? **Yes**

If yes, where and at what level? **Minimally. Below 79 decibels at the front door.**

Will music be played (Circle all that apply): **Inside**

Will you permit dancing on the premises? **Yes**

Will you permit dancing after 1:00 a.m.? **Yes**

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? **1000 FT.**

What is your targeted opening date? **We are open.**

Does the issuance of this license directly or indirectly benefit any City employee(s)? **Yes**

If Yes, list name(s) of employee(s) and department(s): [List here]

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

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

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

Signature: [Signature]
Title: [President]
Date: 5/2/16

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov
OPEN PARKING AREA
4 PARKING SPOTS MIN. PER ZONING
(4,000 SF x 1,000 sf / space = 4 spaces)
June 11, 2018

Urban Farm Fermentory
200 Anderson Street
Portland ME 04101

Dear Business Owner:

Enclosed is the renewal application for your City of Portland Brewery, Winery, Distillery with Entertainment license. Your current license expires on August 26, 2018.

Pursuant to the City of Portland Code of Ordinances (“City Code”) § 15-21. You are being notified of the need to appear before the City Council for a Public Hearing regarding your renewal of an Entertainment License.

You will be scheduled to appear at the August 13, 2018 Council Meeting. Your deadline to return your renewal paperwork to me is July 16, 2018.

Please return the Supplemental Application for Dancing and Entertainment with your renewal packet you received in the mail.

If you have any questions, please do not hesitate to contact me by phone at 874-8557 or by email at bl@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator
July 23, 2018

Urban Farm Fermentory
200 Anderson Street
Portland ME 04101

Re: Tangible Alchemy dba Urban Farm Fermentory. Renewal application for an Entertainment with Dance at 200 Anderson Street.

Dear Eli Cayer,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday August 13, 2018 at 4:00 p.m.**, for the review of application for a renewal application for an Entertainment with Dance at 200 Anderson Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator
Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on August 13, 2018 at 4:00 P.M., in City Council Chambers, 389 Congress St., Tangible Alchemy dba Urban Farm Fermentory. Renewal application for an Entertainment with Dance at 200 Anderson Street. Sponsored by Michael Russell, Director of Permitting and Inspections.
ORDER
GRANTING MUNICIPAL OFFICERS’ APPROVAL OF:

LB Kitchen, LLC dba LB Kitchen. Application for Outdoor Dining on Private Property at 249 Congress Street.
Bryna Gootkind
LB Kitchen, LLC
249 Congress St.
Portland, ME 04101

7/19/18

Mayor Ethan Strimling
City Hall
389 Congress St.
Portland, ME 04101

Dear Mayor Strimling,
This is a letter of intent that is requesting city permits for LB Kitchen to open a second business location at 231 York St in Portland, ME. This second location will serve food, beer and wine 7 days a week from 8AM – 5PM.

Thank you for your consideration.

Bryna Gootkind
Application for Food Service Establishment with Alcoholic Beverages License

<table>
<thead>
<tr>
<th>Business Information</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name (dba):</td>
<td>LB KITCHEN LLC</td>
</tr>
<tr>
<td>Location Address:</td>
<td>231 YORK ST. PORTLAND ME 04101</td>
</tr>
<tr>
<td>If new, what was formerly at this location:</td>
<td></td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>2 HIGH BLUFF LN. SCARBOROUGH, ME 04074</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>BRYNA GOOTKIND</td>
</tr>
<tr>
<td>Contact Person Email:</td>
<td><a href="mailto:BGOOTKIND@GMAIL.COM">BGOOTKIND@GMAIL.COM</a></td>
</tr>
<tr>
<td>Manager of Establishment:</td>
<td>BRYNA GOOTKIND</td>
</tr>
<tr>
<td>Owner of Premises (Landlord):</td>
<td>231 YORK LLC</td>
</tr>
<tr>
<td>Address of Premises Owner:</td>
<td>254 COMMERCIAL ST. PORTLAND ME 04101</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Name of Owner(s)</th>
<th>Date of Birth</th>
<th>Residence Address</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Corporate Name</th>
<th>Corporate Mailing Address</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>LB KITCHEN LLC</td>
<td>2 HIGH BLUFF LANE SCARBOROUGH, ME 04074</td>
<td></td>
</tr>
<tr>
<td>Contact Person:</td>
<td>BRYNA GOOTKIND</td>
<td></td>
</tr>
<tr>
<td>Principal Officers</td>
<td>Title</td>
<td>Date of Birth</td>
</tr>
<tr>
<td>ELAINE PARRINGTON, MGR</td>
<td>1/16/69</td>
<td>2 HIGH BLUFF LANE SCARBOROUGH, ME</td>
</tr>
<tr>
<td>BRYNA GOOTKIND</td>
<td>MGR</td>
<td>9/2/1980</td>
</tr>
</tbody>
</table>
About Your Establishment

Class of Liquor License: CLASS III - IV

Type of food served: HEALTHY FOOD, SMOOTHIES, JUICES, TOASTS

Please circle all that will be served: Beer Wine Liquor

Projected percentage of sales: Generated from Food: 95 Generated from Alcohol: 5

Hours & days of operation: 8AM - 8PM EVERYDAY

QUESTIONS

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Y/N

If No, please explain:__________________________________________

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Y/N

If yes, give the distance:__________________________________________

Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.) Y/N

Will you permit dancing on the premises? Y/N

Will you permit dancing after 1:00 a.m.? Y/N

Will you have outside dining? (If yes, an Outdoor Dining Application is required) Y/N

If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one). PUBLIC

Will you have any amusement devices (pinball, video games, juke box)? Y/N

If yes, please list: # of pinball machines: __________ # of pool tables: __________

What is your targeted opening date? 10/15

Does the issuance of this license directly or indirectly benefit any City employee(s)? Y/N

If Yes, list name(s) of employee(s) and department(s): ____________________________

Have any of the applicants, including the corporation (If applicable), ever held a business license with the City of Portland? Y/N

If Yes, please list business name(s) and location(s):

18 KITCHEN, 249 CONGRESS ST. PORTLAND, ME

Is any principal officer under the age of 21? Y/N

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law? Y/N

If Yes, please explain:__________________________________________

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

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

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

Signature __________________________ Title _______ Date __________

NBW application: ☐ Yes ☐ No

PRESENT LICENSE EXPIRES __________________________

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:
☐ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPMIONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

<table>
<thead>
<tr>
<th>Corporation Name:</th>
<th>Business Name (D/B/A):</th>
</tr>
</thead>
<tbody>
<tr>
<td>LB KITCHEN LLC</td>
<td>LB KITCHEN LLC</td>
</tr>
</tbody>
</table>

APPLICANT(S) –(sole Proprietor)

<table>
<thead>
<tr>
<th>Corporation Name:</th>
<th>Business Name (D/B/A):</th>
</tr>
</thead>
<tbody>
<tr>
<td>LB KITCHEN LLC</td>
<td>LB KITCHEN LLC</td>
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<tr>
<th>Corporation Name:</th>
<th>Business Name (D/B/A):</th>
</tr>
</thead>
<tbody>
<tr>
<td>LB KITCHEN LLC</td>
<td>LB KITCHEN LLC</td>
</tr>
</tbody>
</table>

City/Town State Zip Code

2 HIGH BLUFF LANE SCARBOROUGH ME 04079

Phone Number Fax Number

(207) 790-9151 207-949-9151

If business is NBW or under new ownership, indicate starting date: 10/15/18

Business hours: ______________________

Requested inspection date: ______________________

1. If a premise is a hotel, indicate number of rooms available for transient guests: ______________________

2. State amount of gross income from period of last license: ROOMS $ __________ FOOD $ __________ LIQUOR $ __________

5. Is applicant a corporation, limited liability company or limited partnership? YES ☐ NO ☐

If YES, complete Supplementary Questionnaire

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

7. If manager is to be employed, give name: BEYNA GOOTVIND

9. Business records are located at: ______________________

10. Is/are applicants(s) citizens of the United States? YES ☐ NO ☐
11. Is/are applicant(s) residents of the State of Maine? YES ☐ NO ☐

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

<table>
<thead>
<tr>
<th>Name in Full (Print Clearly)</th>
<th>DOB</th>
<th>Place of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Residence address on all of the above for previous 5 years (Limit answer to city & state)

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

Name: ___________________________ Date of Conviction: ___________________

Offense: _________________________ Location: _______________________

Disposition: _____________________

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

Yes ☐ No ☐ If Yes, give name: ___________________________

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☐ If No give name and address of owner: ___________________________

17. Describe in detail the premises to be licensed: (On Premise Diagram Required)

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

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? __________________ Which of the above is nearest? __________________

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

If YES, give details:

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

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

Dated at: ____________________________ on ____________________________ , 20___

Signature of Applicant or Corporate Officer(s) ____________________________

Print Name ____________________________

Dated at: ____________________________ on ____________________________ , 20___

Signature of Applicant or Corporate Officer(s) ____________________________

Print Name ____________________________
**NOTICE - SPECIAL ATTENTION**

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

**THIS APPROVAL EXPIRES IN 60 DAYS.**

**FEE SCHEDULE**

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Spirituous, Vinous and Malt; Class I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.</td>
<td>$900.00</td>
</tr>
<tr>
<td>I-A</td>
<td>Spirituous, Vinous and Malt, Optional Food (Hotels Only)</td>
<td>$1,100.00</td>
</tr>
<tr>
<td>II</td>
<td>Spirituous Only</td>
<td>$550.00</td>
</tr>
<tr>
<td>III</td>
<td>Vinous Only</td>
<td>$220.00</td>
</tr>
<tr>
<td>IV</td>
<td>Malt Liquor Only</td>
<td>$220.00</td>
</tr>
<tr>
<td>V</td>
<td>Spirituous, Vinous and Malt (Clubs without Catering, Bed &amp; Breakfasts)</td>
<td>$495.00</td>
</tr>
<tr>
<td>X</td>
<td>Spirituous, Vinous and Malt – Class A Lounge</td>
<td>$2,200.00</td>
</tr>
<tr>
<td>XI</td>
<td>Spirituous, Vinous and Malt – Restaurant Lounge</td>
<td>$1,500.00</td>
</tr>
</tbody>
</table>

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

All fees must accompany application, made payable to the Treasurer of Maine. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station, Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.
State of Maine
Division of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement

Corporate Information Required for Business Entities Who Are Licensees

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

1. Exact legal name: **LB KITCHEN LLC**

2. Doing Business As, if any: **4/24/2016**

3. Date of filing with Secretary of State: **4/24/2016** State in which you are formed: **MAINE**

4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: 

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS (5 YEARS)</th>
<th>Date of Birth</th>
<th>TITLE</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bryna Goodwin</td>
<td>38 Cranbrook Ave, Elizabeth, ME</td>
<td>9/2/50</td>
<td>MGR/ MEMBER</td>
<td>50%</td>
</tr>
<tr>
<td>Elaine Farrington</td>
<td>2 High Bluff, Scarborough, ME</td>
<td>1/16/59</td>
<td>MGR/ MEMBER</td>
<td>50%</td>
</tr>
</tbody>
</table>

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

6. If Co-Op # of members: ______________________ (list primary officers in the above boxes)
7. Is any principal person involved with the entity a law enforcement official?
   Yes ☐ No ☒ If Yes, Name: ___________________ Agency: ___________________

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?
   Yes ☐ No ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed).
   Name: ____________________________
   Date of Conviction: _______________
   Offense: __________________________
   Location of Conviction: ______________
   Disposition: _________________________
   Signature: _________________________
   Signature of Duly Authorized Person
   Date 7/19/18
   Print Name of Duly Authorized Person

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

PANCAKE
Gluten free
Golden Milk Grass Fed Butter.
Maple Syrup.
*Vegan Option available + $0.50

EGGS & TOAST
Gluten free
Coconut Oil Fried Eggs, Organic Greens, Choice of Toast, Organic White or GF Gluten Free Toast (2-2.50)

SWEET & SALTY OATS
Organic Maine-Grain Oats, Coconut Oil, Almond Butter, Honey, Cacao Nibs, Mulberries, Sea Salt.

MACA FRENCH TOAST
Organic Maine-Grain Oats, Cinnamon, Virile, Mala, Maple Syrup, *Gluten free option + $1

SASSY SAVORY OATS
Organic Maine-Grain Oats, Liquid Gold Bone Broth, Fried Egg, Hemp Seeds

LE GRANOLA
Organic Maine-Grain Oats, Beji Berries, Coconut, Maple Syrup, *Choose Almond Milk or Organic Yogurt

Add the following to any bowl, toast or sandwich:
Grilled Chicken $3
Secret Marinated Tofu $3
Faroe Island Salmon $5
Beet-Cured Gravlax $4
Local Bacon $4
Coconut Oil Fried Egg $1.60
Avocado Mash $3
Sliced Avocado $2
Sautéed Veg of the Day $3

BOWLS

THE BREAKFAST SALAD
Organic Greens, Coconut Oil Fried Egg, Pickled Veg, Citrus Vinaigrette.

HELL YES KALE CAESAR
Local Kale, Romaine, Cashew Creek, Chishoise Cream.

THE CHOPPED
Organic Lettuce Blend, Local Bacon, Avocado, Tomato, Radish, Cucumber, Blue Cheese, Oj Jon Vinaigrette.

THE MAMM HU

THE AVOCADO ADDICTION
Truffle Oil, African Smoke, Greens.
*Add a Coconut Oi Fried Egg $1.50

THE NEW YORKER
Beet-Cured Gravlax, Heirloom Tomato, Caper Schmear.

THE ORIGINAL BARBATA SANDWICH
Coconut Oil Fried Egg, House-Made Kimchi, Cashew Crek, Arugula.

THE LB SANDWICH
Avocado, Local Bacon, Tomato, Lettuce, Pickled Jalapeno, Vegan Sriracha Mayo.
*Add a Coconut Oi Fried Egg $1.50

THE SUPER BASIC SANDWICH
Avocado, local Bacon, Tomato, Lettuce, Pickled Jalapeno, Vegan Sriracha Mayo.

THE SUPER BASIC SANDWICH +
Coconut Oil Fried Egg, local Bacon, Provolone, Vegan Sriracha Mayo.

THE SATURDAY
Pesto Farro, Coconut Oil Fried Egg, Organic Greens, Local Bacon.

SUPERFOOD NOODS
Bookwhaat Soba Noodles, Parsley & Superfood Pesto, Nutritional Yeast, Lemon.

M Amyas

THE SATURDAY
Farro Ferro, Coconut Oil Fried Egg, Organic Greens, Ricotta, Local Bacon.

SUPERFOOD NOODS
Bookwhaat Soba Noodles, Parsley & Superfood Pesto, Nutritional Yeast, Lemon.

M Amyas

BROTH

LIQUID GOLD
Chicken Bone Broth, Turmeric, CHI Oil, Maine Sea Salt.

TOASTS & SANDWICHES

*We proudly use Standard Baking Company Organic Flour. House Made Gluten Free Avail. + $0.50

ALL THE VEJ
Vegan, Gluten Free
(Choose) Quinoa, Ferro or Brown Rice, Seasonal Vegetables, Organic Greens, Kimchi.

THE SATURDAY
Farro Ferro, Coconut Oil Fried Egg, Organic Greens, Ricotta, Local Bacon.

SUPERFOOD NOODS
Bookwhaat Soba Noodles, Parsley & Superfood Pesto, Nutritional Yeast, Lemon.

M Amyas

We cook everything in Coconut Oil. Please let us know if you have an allergy!
## COFFEE
- Brewed Coffee, 12 oz. $2.50
- Espresso $2.76
- Americano, 12 oz. $2.76
- Cappuccino, 12 oz. $3.00
- Latte, 12 oz. $4
- Nitro Cold Brew, 16 oz. $4
- Cortado $3.50

## WELLNESS LATTES
Available hot or iced!
- Matcha, 8 oz. $4.50
- The Mint, 16 oz. $6
- Matcha, Butterfly Pea Flower, MCT Oil, Coconut Sugar, Mint *Iced only! $4.50
- Golden Milk, 8 oz. $4.50
- Dirty Golden, 8 oz. $8
- Butter Coffee, 8 oz. $5

## BEER & WINE
- Local Draft Beer $8
- Wine $9

## SUPERFOOD SMOOTHIES & BOWLS
- Purple Rain $7
  Blueberries, Banana, Almond Butter, Almond Milk, Acai Powder, Bee Pollen
  *Suggested Superfood: Acai +.75c
- Green Machine $7
  Kale, Spinach, Banana, Almond Milk, Ginger, Avocado, Dates, Hemp Seeds
  *Suggested Superfood: Chlo +.75c
- Strawberry Fields $7
  Strawberries, Watermelon, Beet Root Powder, Banana, Lime, Chia Seeds
  *Suggested Superfood: MCT Oil +.75c
- Acai Bowl $10
  Banana, Blueberries, Acai, Almond Milk
  Toppings: Coconut, Almonds, LB Granola, Peanut Butter

## KOMBUCHA $5
- OT’s. Assorted Flavors. 16 oz.

## ALL THE REST
- La Croix Sparkling Water $2.05
- LB Lemon Water $2
- LB Black Water $3
- Activated Charcoal, Lemon
- Bitter Love $3.05
- Toasted Pineapple, Tart Cherry, Peppered Grapefruit
Re: LB Kitchen LLC

Kevin Cashman <kevindc@portlandmaine.gov>
To: Jessica Hanscombe <j hanscombe@portlandmaine.gov>
Cc: Benjamin Pearson <bp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <js@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Katharine Cahoon <kcahoon@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

PD has no objections.
Kevin C.

On Thu, Jul 19, 2018 at 1:22 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for LB Kitchen LLC. They will be going before council on 8/13. The information is in Energov. Thank you Jessica

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

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

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-19):

Inquiries Name(s)  BRYNA GOOTKIND (1980-09-02)

NO MATCH WAS FOUND FOR YOUR REQUEST.
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-19):
Inquiries Name(s)  ELAINE FARRINGTON (1969-01-16)

NO MATCH WAS FOUND FOR YOUR REQUEST.
July 24, 2018

LB Kitchen LLC
2 High Bluff Lane
Scarborough ME 04074

Re: LB Kitchen, LLC dba LB Kitchen LLC. Application for a Class III & IV FSE at 231 York Street.

Dear Bryna Gootkind,

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday August 13, 2018 at 4:00 p.m., for the review of application for a Class III & IV FSE at 231 York Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator
Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on August 13, 2018 at 4:00 P.M., in City Council Chambers, 389 Congress St., LB Kitchen, LLC dba LB Kitchen LLC. Application for a Class III & IV FSE at 231 York Street. Sponsored by Michael Russell, Director of Permitting and Inspections.
ORDER
GRANTING MUNICIPAL OFFICERS’ APPROVAL OF:

LB Kitchen, LLC dba LB Kitchen LLC. Application for a Class III & IV FSE at 231 York Street.
Dear Mayor Strimling,
This is a letter of intent that is requesting city permits for LB Kitchen to open a second business location at 231 York St in Portland, ME. This second location will serve food, beer and wine 7 days a week from 8AM – 5PM.

Thank you for your consideration.

Bryna Gootkind
Application for Food Service Establishment with Alcoholic Beverages License

<table>
<thead>
<tr>
<th>Business Information</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name (d/b/a):</td>
<td>LB KITCHEN LLC</td>
</tr>
<tr>
<td>Phone:</td>
<td></td>
</tr>
<tr>
<td>Location Address:</td>
<td>231 YORK ST. PORTLAND ME 04101</td>
</tr>
<tr>
<td>Zip:</td>
<td></td>
</tr>
<tr>
<td>If new, what was formerly at this location:</td>
<td></td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>2 HIGH BLUFF LN SCARBOROUGH ME 04074</td>
</tr>
<tr>
<td>Zip:</td>
<td></td>
</tr>
<tr>
<td>Contact Person:</td>
<td>BRYNA GOOTKIND</td>
</tr>
<tr>
<td>Phone:</td>
<td>978 270.9151</td>
</tr>
<tr>
<td>Contact Person Email:</td>
<td><a href="mailto:BGOOTKIND@GMAIL.COM">BGOOTKIND@GMAIL.COM</a></td>
</tr>
<tr>
<td>Manager of Establishment:</td>
<td>BRYNA GOOTKIND</td>
</tr>
<tr>
<td>Date of Birth:</td>
<td>9/2/1980</td>
</tr>
<tr>
<td>Phone:</td>
<td>978 270.9151</td>
</tr>
<tr>
<td>Owner of Premises (Landlord):</td>
<td>231 YORK UC</td>
</tr>
<tr>
<td>Address of Premises Owner:</td>
<td>254 COMMERCIAL ST PORTLAND ME 04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sole Proprietor/Partnership Information (if Corporation, leave blank)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Owner(s):</td>
<td></td>
</tr>
<tr>
<td>Date of Birth:</td>
<td></td>
</tr>
<tr>
<td>Residence Address:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Corporate/LLC/Non-Profit Organization Applicants (if Sole Proprietor or Partnership, leave blank)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate Name</td>
<td>LB KITCHEN LLC</td>
</tr>
<tr>
<td>Corporate Mailing Address</td>
<td>2 HIGH BLUFF LN SCARBOROUGH ME 04074</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>BRYNA GOOTKIND</td>
</tr>
<tr>
<td>Phone:</td>
<td>978 270.9151</td>
</tr>
<tr>
<td>Principal Officers</td>
<td></td>
</tr>
<tr>
<td>Title</td>
<td></td>
</tr>
<tr>
<td>Date of Birth</td>
<td></td>
</tr>
<tr>
<td>Residence Address</td>
<td></td>
</tr>
<tr>
<td>ELAINE PARRINGTON, MGR</td>
<td>1/16/69</td>
</tr>
<tr>
<td>BRYNA GOOTKIND</td>
<td>9/2/1980</td>
</tr>
</tbody>
</table>
### About Your Establishment

<table>
<thead>
<tr>
<th>Class of Liquor License:</th>
<th>CLASS III • IV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of food served:</td>
<td>HEALTHY FOOD, SMOOTHIES, JUICES, TOASTS</td>
</tr>
<tr>
<td>Please circle all that will be served:</td>
<td>Beer, Wine, Liquor</td>
</tr>
<tr>
<td>Projected percentage of sales:</td>
<td>Generated From Food: 95, Generated from Alcohol: 5</td>
</tr>
<tr>
<td>Hours &amp; days of operation:</td>
<td>8AM - 5PM EVERY DAY</td>
</tr>
</tbody>
</table>

### QUESTIONS

**Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?**

Y/N

**If No, please explain:**

**Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?**

Y/N

**If yes, give the distance:**

**Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)**

Y/N

**Will you permit dancing on the premises?**

Y/N

**Will you permit dancing after 1:00 a.m.?**

Y/N

**Will you have outside dining? (If yes, an Outdoor Dining Application is required)**

Y/N

**If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).**

PRIVATE

**Will you have any amusement devices (pinball, video games, Juke box)?**

Y/N

**If yes, please list: # of pinball machines: # of amusements: # of pool tables:**

**What is your targeted opening date?**

10/15

**Does the issuance of this license directly or indirectly benefit any City employee(s)?**

Y/N

**If Yes, list name(s) of employee(s) and department(s):**

**Have any of the applicant(s), including the corporation (if applicable), ever held a business license with the City of Portland?**

Y/N

**If Yes, please list business name(s) and location(s):**

U.K. KITCHEN, 249 CONGRESS ST. PORTLAND, ME

**Is any principal officer under the age of 21?**

Y/N

**Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?**

Y/N

**If Yes, please explain:**

---

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

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

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

Signature

Title

Date 5/30/19


REVISED 3/18/15
NEW application: ☐ Yes ☐ No

PRESENT LICENSE EXPIRES __________________________

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:
☐ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTJNATIONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

REREFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

<table>
<thead>
<tr>
<th>Corporation Name:</th>
<th>Business Name (D/B/A):</th>
</tr>
</thead>
<tbody>
<tr>
<td>LB KITCHEN LLC</td>
<td>LB KITCHEN LLC</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPLICANT(S) – Sole Proprietor</th>
<th>City/Town</th>
<th>State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PORTLAND</td>
<td>ME</td>
<td>04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address</th>
<th>State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 HIGH BLUFF LN SCARBOROUGH ME</td>
<td>ME</td>
<td>04104</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Telephone Number</th>
<th>Fax Number</th>
<th>Business Telephone Number</th>
<th>Fax Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>(978) 270. 9151</td>
<td></td>
<td>(978) 270. 9151</td>
<td></td>
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</table>

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<thead>
<tr>
<th>Federal I.D. #</th>
<th>Seller Certificate # or Sales Tax #</th>
</tr>
</thead>
<tbody>
<tr>
<td>012425991</td>
<td>1102314</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Email Address:</th>
<th>Website:</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:BDOTKIND@GMAIL.COM">BDOTKIND@GMAIL.COM</a></td>
<td>LBKITCHENPORTLANDME.COM</td>
</tr>
</tbody>
</table>

If business is NEW or under new ownership, indicate starting date: 10/15/18

Requested inspection date: __________________________ Business hours: __________________________

3. If a premise is a hotel, indicate number of rooms available for transient guests: __________________________

4. State amount of gross income from period of last license: ROOMS $ _____ FOOD $ _____ LIQUOR $ ______

5. Is applicant a corporation, limited liability company or limited partnership? YES ☐ NO ☐

If YES, complete Supplementary Questionnaire

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

7. If manager is to be employed, give name: BRYNA GOOTKIND

9. Business records are located at: __________________________

10. Is/are applicants(s) citizens of the United States? YES ☐ NO ☐
11. Is/are applicant(s) residents of the State of Maine? YES ☐ NO ☐

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

<table>
<thead>
<tr>
<th>Name in Full (Print Clearly)</th>
<th>DOB</th>
<th>Place of Birth</th>
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<tbody>
<tr>
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</tbody>
</table>

Residence address on all of the above for previous 5 years (Limit answer to city & state)

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

Name: ___________________________ Date of Conviction: ____________

Offense: ________________________ Location: ____________________

Disposition: ____________________

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes ☐ No ☐ If Yes, give name: ______________________________

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☐ If No give name and address of owner: ____________________________

17. Describe in detail the premises to be licensed: (On Premises Diagram Required)

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

19. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? ______________ Which of the above is nearest? ______________

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

If YES, give details:

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

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

Dated at: ________________________ on ________________________ Date: ____________

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name
NOTICE – SPECIAL ATTENTION

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

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

FILING FEE: (must be included on all applications) ........................................................................... $ 10.00

Class I Spirituous, Vinous and Malt ........................................................................... $ 900.00

CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) ........................................................................... $1,100.00

CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only ........................................................................... $ 550.00

CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only ........................................................................... $ 220.00

CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only ........................................................................... $ 220.00

CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) ........................................................................... $ 495.00

CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt -- Class A Lounge ........................................................................... $2,200.00

CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt – Restaurant Lounge ........................................................................... $1,500.00

CLASS XI: Restaurant/Lounge; and OTB.

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

All fees must accompany application, made payable to the Treasurer of Maine. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station, Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.
Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752. Please clearly complete this form in its entirety.

1. Exact legal name: LB KITCHEN LLC

2. Doing Business As, if any: 4/24/2016

3. Date of filing with Secretary of State: 4/24/2016

4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: 

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS (5 YEARS)</th>
<th>Date of Birth</th>
<th>TITLE</th>
<th>Ownership %</th>
</tr>
</thead>
<tbody>
<tr>
<td>BRYNA GOTTINO</td>
<td>38 CRAMBROOK</td>
<td>9/2/80</td>
<td>MGR/MEMBER</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>CAPE ELIZABETH, ME</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2 HIGH BLUFF LN</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>SOUTHBOROUGH, ME</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ELAINE FARRINGTON</td>
<td>&quot;</td>
<td>1/16/69</td>
<td>MGR/MEMBER</td>
<td>50</td>
</tr>
</tbody>
</table>

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

6. If Co-Op # of members: ________________ (list primary officers in the above boxes)
7. Is any principal person involved with the entity a law enforcement official?
   Yes [ ] No [x] If Yes, Name: ________________________ Agency: ________________________

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?
   Yes [ ] No [x]

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed).
   Name: __________________________________________
   Date of Conviction: _____________________________
   Offense: ________________________________________
   Location of Conviction: ___________________________
   Disposition: _____________________________________

Signature: ________________________________________
Signature of Duly Authorized Person

[Signature]
7/19/18
Date

Print Name of Duly Authorized Person

[Print Name]

Submit Completed Forms To:

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

PANCAKE $8
*Vegan Option avail. +.50

EGGS & TOAST $8
Coconut Oil Fried Eggs. Organic Greens. Choice of Sourdough, Organic White or LB Gluten Free Toast (+.75)

SWEET & SALTY OATS $7
VEGAN

MACA FRENCH TOAST $8
*Gluten Free option + $1

SASSY & SAVORY OATS $7.50

LB GRANOLA $7
VEGAN
*Choose Almond Milk or Organic Yogurt

Add the following to any Bowl, Toast or Sandwich:
Grilled Chicken $3
Secret Marinade Tofu $3
Frisco Island Salmon $5
Bread-Cured Gravlax $4
Local Bacon $4
Coconut Oil Fried Egg $1.50
Avocado Mash $3
Sliced Avocado $2
Sauteed Veg of the Day $3

BOWLS

THE BREAKFAST SALAD $10

HELL YES KALE CAESAR $11
VEGAN, GLUTEN FREE

THE CHOPPED $12
VEGAN, GLUTEN FREE

THE BAHN MI $11
VEGAN, GLUTEN FREE

(EAT)

ALL DAY MENU

TOASTS & SANDWICHES

* We Proudly Use Standard Baking Company Organic Bread. House Mades Gluten Free Avail. +.15

THE AVOCADO ADDICTION $9
*Add a Coconut Oil Fried Egg + $1.50

THE NEW YORKER $9

THE ORIGINAL GANGSTA SANDWICH $8

THE LB SANDWICH $6
*Add a Coconut Oil Fried Egg + $1.50

THE SUPER BASIC SANDWICH $8

BROTH

LIQUID GOLD $7
CHICKEN, DUKKU FREE

ALL THE VEG $13
VEGAN, GLUTEN FREE

THE SATURDAY $13

SUPERFOOD NOODS $12
VEGAN

HARISSA HASH $12
VEGAN, GLUTEN FREE

We cook everything in Coconut Oil. Please tell us if you have an allergy!
COFFEE
Brewed Coffee, 12 oz. $2.50
Espresso $2.76
Americano, 12 oz. $2.76
Cappuccino, 10 oz. $3.50
Latte, 12 oz. $4
Nitro Cold Brew, 16 oz. $4
Cortado $3.50

WELLNESS LATTES
Available hot or iced!
Matcha, 6 oz. $4.50
Matcha, Almond Milk
The Mint, 16 oz. $6
Matcha, Butterfly Pea Flower, MCT Oil, Coconut Sugar, Mint
* Iced only!
Golden Milk, 8 oz. $4.50
Turmeric, Black Pepper, Cardamom, Almond Milk, Ginger
Dirty Golden, 6 oz. $6
Golden Milk with a shot of Espresso
Butter Coffee, 8 oz. $6
Brewed Coffee blended with Grass Fed Butter & MCT Oil

BEER & WINE
Local Draft Beer $8
Wine $8

SUPERFOOD SMOOTHIES & BOWLS
Purple Rain $7
Blueberries, Banana, Almond Butter, Almond Milk, Acai Powder, Bee Pollen
*Suggested Superfood: MCT Oil + .75

Green Machine $7
Kelp, Spinach, Banana, Almond Milk, Ginger, Avocado, Dates, Hemp Seeds
*Suggested Superfood: Chia + .75

Strawberry Fields $7
Strawberries, Watermelon, Beet Root Powder, Banana, Lime, Chia Seeds
*Suggested Superfood: MCT Oil + .75

Acai Bowl $10
Banana, Blueberries, Acai, Almond Milk
Toppings: Coconut, Almonds, LB Granola, Peanut Butter

KOMBUCHA $5
OT's Assorted Flavors, 16 oz.

ALL THE REST
La Croix Sparkling Water $2.05
LB Lemon Water $2
LB Black Water $3
Activated Charcoal, Lemon

Bitter Love $3.05
Toasted Pineapple, Tart Cherry, Peppercorn, Grapfruit
Re: LB Kitchen LLC

Kevin Cashman <kevindc@portlandmaine.gov>
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>
Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <js@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Katharine Cahoon <kcahoon@portlandmaine.gov>, Laurie Carlson <lcar@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>

PD has no objections.

Kevin C.

On Thu, Jul 19, 2018 at 1:22 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for LB Kitchen LLC. They will be going before council on 8/13. The information is in Energov. Thank you Jessica

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

---

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

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-19):

Inquiries Name(s)  BRYNA GOOTKIND (1980-09-02)

NO MATCH WAS FOUND FOR YOUR REQUEST.
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-19):
Inquiries Name(s)  ELAINE FARRINGTON (1969-01-16)

NO MATCH WAS FOUND FOR YOUR REQUEST.
July 24, 2018

LB Kitchen LLC
2 High Bluff Lane
Scarborough ME 04074

Re: LB Kitchen, LLC dba LB Kitchen LLC. Application for a Class III & IV FSE at 231 York Street.

Dear Bryna Gootkind,

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday August 13, 2018 at 4:00 p.m., for the review of application for a Class III & IV FSE at 231 York Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator
Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on August 13, 2018 at 4:00 P.M., in City Council Chambers, 389 Congress St., LB Kitchen, LLC dba LB Kitchen LLC. Application for a Class III & IV FSE at 231 York Street. Sponsored by Michael Russell, Director of Permitting and Inspections.
ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Crunchy Poke LLC dba Crunchy Poke. Application for a Class I FSE at 426 Fore Street.
To Liquor Licensing Authority – Requesting Permit to Serve Liquor at Crunchy Poke

07/17/2018

Crunchy Poke
426 Fore street #1
Portland, ME 04101

Dear City of Portland,

Re: Liquor Permit Application

We have planned to serve beer bottle, couple type of cocktails and Wine at the Crunchy Poke restaurant. So, we request you kindly to allow us to serve at this location.

Please find these enclosed documents with this letter

1. Application
2. Menu
3. Floor plan
4. Servsafe Certificate
5. Lease agreement
6. Permit Fee – $

You can contact us at – 2075230311, should you require any additional information. Please inform us when you approve our application.

Thank you very much for your support.

Sincerely,

[Tien Nguyen]
Application for Food Service Establishment with Alcoholic Beverages License

<table>
<thead>
<tr>
<th>Business Information</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name (d/b/a):</td>
<td>CRUNCHY POKE</td>
</tr>
<tr>
<td>Location Address:</td>
<td>426 FORE ST. #1, PORTLAND</td>
</tr>
<tr>
<td>If new, what was formerly at this location:</td>
<td></td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>1 LADD DR, SCARBOROUGH ME</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>TIEN NGUYEN</td>
</tr>
<tr>
<td>Contact Person Email:</td>
<td><a href="mailto:TIEN.G.NGUYEN@GMAIL.COM">TIEN.G.NGUYEN@GMAIL.COM</a></td>
</tr>
<tr>
<td>Manager of Establishment:</td>
<td></td>
</tr>
<tr>
<td>Date of Birth:</td>
<td></td>
</tr>
<tr>
<td>Phone:</td>
<td>207.523.0311</td>
</tr>
<tr>
<td>Phone:</td>
<td>207.523.0311</td>
</tr>
<tr>
<td>Zip:</td>
<td>04101</td>
</tr>
<tr>
<td>Zip:</td>
<td>04074</td>
</tr>
<tr>
<td>Owner of Premises (Landlord):</td>
<td>SoleSky LLC</td>
</tr>
<tr>
<td>Address of Premises Owner:</td>
<td>100 Commercial St/Ste 101</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Name of Owner(s)</th>
<th>Date of Birth</th>
<th>Residence Address</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Corporate Name</th>
<th>Corporate Mailing Address</th>
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<tbody>
<tr>
<td>CRUNCHY POKE LLC</td>
<td>1 LADD DR, SCARBOROUGH ME</td>
</tr>
<tr>
<td>Phone:</td>
<td>207.523.0311</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Title</th>
<th>Date of Birth</th>
<th>Residence Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>TIEN NGUYEN</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# About Your Establishment

<table>
<thead>
<tr>
<th>Class of Liquor License:</th>
<th>Class A Restaurant (Class I)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of food served:</td>
<td>Japanese</td>
</tr>
<tr>
<td>Please circle all that will be served:</td>
<td>Beer, Wine, Liquor</td>
</tr>
<tr>
<td>Projected percentage of sales:</td>
<td>Generated from Food: 90%, Generated from Alcohol: 10%</td>
</tr>
<tr>
<td>Hours &amp; days of operation:</td>
<td>Sun - Thur: 11am - 9:30pm, Fri - Sat: 11am - 10:30pm</td>
</tr>
</tbody>
</table>

## Questions

<table>
<thead>
<tr>
<th>Question</th>
<th>YES/NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?</td>
<td>Y/N</td>
</tr>
<tr>
<td>Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?</td>
<td>Y/N</td>
</tr>
<tr>
<td>Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing &amp; Entertainment is required.)</td>
<td>Y/N</td>
</tr>
<tr>
<td>Will you permit dancing on the premises?</td>
<td>Y/N</td>
</tr>
<tr>
<td>Will you permit dancing after 1:00 a.m.?</td>
<td>Y/N</td>
</tr>
<tr>
<td>Will you have outside dining? (If yes, an Outdoor Dining Application is required)</td>
<td>Y/N</td>
</tr>
<tr>
<td>Will you have any amusement devices (pinball, video games, juke box)?</td>
<td>Y/N</td>
</tr>
<tr>
<td>What is your targeted opening date?</td>
<td>Sept 2018</td>
</tr>
<tr>
<td>Does the issuance of this license directly or indirectly benefit any City employee(s)?</td>
<td>Y/N</td>
</tr>
<tr>
<td>Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?</td>
<td>Y/N</td>
</tr>
<tr>
<td>Is any principal officer under the age of 21?</td>
<td>Y/N</td>
</tr>
<tr>
<td>Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?</td>
<td>Y/N</td>
</tr>
</tbody>
</table>

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

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

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

Signature: [Signature]  Title: [Title]  Owner: [Owner]  Date: [07/12/18]

**NEW application:** Yes □ No

**PRESENT LICENSE EXPIRES**

<table>
<thead>
<tr>
<th>INDICATE TYPE OF PRIVILEGE:</th>
<th>MALT</th>
<th>VINOUS</th>
<th>SPIRITUOUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ RESTAURANT (Class I, II, III, IV)</td>
<td>□ RESTAURANT/LOUNGE (Class X)</td>
<td>□ CLASS A LOUNGE (Class X)</td>
<td></td>
</tr>
<tr>
<td>□ HOTEL (Class I, II, III, IV)</td>
<td>□ HOTEL, FOOD OPTIONAL (Class I-A)</td>
<td>□ BED &amp; BREAKFAST (Class V)</td>
<td></td>
</tr>
<tr>
<td>□ CLUB w/o Catering (Class V)</td>
<td>□ CLUB with CATERING (Class I)</td>
<td>□ GOLF COURSE (Class I, II, III, IV)</td>
<td></td>
</tr>
<tr>
<td>□ TAVERN (Class IV)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**INDICATE TYPE OF LICENSE:**
- □ RESTAURANT/LOUNGE (Class X)
- □ HOTEL, FOOD OPTIONAL (Class I-A)
- □ CLASS A LOUNGE (Class X)
- □ BED & BREAKFAST (Class V)
- □ GOLF COURSE (Class I, II, III, IV)

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

<table>
<thead>
<tr>
<th>Corporation Name:</th>
<th>Business Name (D/B/A):</th>
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<tbody>
<tr>
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</tr>
</tbody>
</table>

**APPLICANT(S) — (Sole Proprietor):** Tien Nguyen

**DOB:**
- Tien Nguyen: 05/09/87

**Address:** 1 Ladd Dr

**City/Town:** Scarborough

**State:** ME

**Zip Code:** 04074

**Telephone Number:**

<table>
<thead>
<tr>
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**Local Telephone Number:**

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**426 Fore Street ME 04101**

**City/Town:**

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**State:** ME

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**Zip Code:** 04101

**Mailing Address:**

**City/Town:** Scarborough

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**Fax Number:**

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**Mailing Address:**

**City/Town:** Scarborough

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**Zip Code:** 04074

**Business Telephone Number:**

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**Fax Number:**

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**Federal I.D. #:** 83-1216210

<table>
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</thead>
<tbody>
<tr>
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<td>CRUNCHY POKE</td>
</tr>
</tbody>
</table>

**Email Address:** Tien&Nguyen95@gmail.com

<table>
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<tr>
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<th>Business Name (D/B/A):</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRUNCHY POKE LLC</td>
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</tbody>
</table>

**Website:** http://crunchypoke.com

If business is new or under new ownership, indicate starting date: **Sept 2018**

**Requested inspection date:** 09/2018 **Business hours:** 11 - 9:30 pm

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: **N/A**

2. State amount of gross income from period of last license: ROOMS $ FOOD $ LIQUOR $

3. Is applicant a corporation, limited liability company or limited partnership? YES □ NO □

   If yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you own or have any interest in any another Maine Liquor License? □ Yes □ No

   If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

<table>
<thead>
<tr>
<th>License #</th>
<th>Name of Business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

**Physical Location:**

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<tr>
<td>CRUNCHY POKE LLC</td>
<td>CRUNCHY POKE</td>
</tr>
</tbody>
</table>

**Zip Code:**

<table>
<thead>
<tr>
<th>Corporation Name:</th>
<th>Business Name (D/B/A):</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRUNCHY POKE LLC</td>
<td>CRUNCHY POKE</td>
</tr>
</tbody>
</table>

**On Premise Rev. 10-2017**
5. Do you permit dancing or entertainment on the licensed premises? YES □ NO □

6. If manager is to be employed, give name: N/A

7. Business records are located at: ____________________________________________________________________________

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

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

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

<table>
<thead>
<tr>
<th>Name in Full (Print Clearly)</th>
<th>DOB</th>
<th>Place of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tien Nguyen</td>
<td>05/09/87</td>
<td>Vietnam</td>
</tr>
<tr>
<td>Van Lam</td>
<td>08/03/87</td>
<td>Vietnam</td>
</tr>
</tbody>
</table>

Residence address on all of the above for previous 5 years (Limit answer to city & state)

Scarborough, Maine
Portland, Maine

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

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date of Conviction:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Offense:</th>
<th>Location:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Disposition: _________________ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? YES □ NO □ If Yes, give name: ____________________________

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

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

Soletsky LLC - 100 Commercial St, Portland ME 04101

15. Describe in detail the premises to be licensed: (On Premise Diagram Required) Small fast food (Chipotle style) restaurant, serving Japanese food, wine & beer.

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

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

Which of the above is nearest? ____________________________

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

If YES, give details: ____________________________

On Premise Rev. 10-2017
The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

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

---

**FEE SCHEDULE**

**FILING FEE:** (must be included on all applications) ................................................................. $ 10.00

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Spirituous, Vinous and Malt</td>
</tr>
<tr>
<td>II</td>
<td>Spirituous Only</td>
</tr>
<tr>
<td>III</td>
<td>Vinous Only</td>
</tr>
<tr>
<td>IV</td>
<td>Malt Liquor Only</td>
</tr>
<tr>
<td>V</td>
<td>Spirituous, Vinous and Malt (Clubs without Catering, Bed &amp; Breakfasts)</td>
</tr>
<tr>
<td>X</td>
<td>Spirituous, Vinous and Malt – Class A Lounge</td>
</tr>
<tr>
<td>XI</td>
<td>Spirituous, Vinous and Malt – Restaurant Lounge</td>
</tr>
</tbody>
</table>

**UNORGANIZED TERRITORIES** $10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.
Division of Alcoholic Beverages and Lottery Operations  
Division of Liquor Licensing and Enforcement

Corporate Information Required for Business Entities Who Are Licensees

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

Please clearly complete this form in its entirety.

1. Exact legal name: CRUNCHY POKE LLC

2. Doing Business As, if any: CRUNCHY POKE

3. Date of filing with Secretary of State: 06/2018 State in which you are formed: Maine

4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS (5 YEARS)</th>
<th>Date of Birth</th>
<th>TITLE</th>
<th>Ownership %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tien Nguyen</td>
<td>1 Ladd Dr Scarborough ME 04074</td>
<td>05/09/87</td>
<td>Owner</td>
<td>100%</td>
</tr>
</tbody>
</table>

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

6. If Co-Op # of members: ____________________ (list primary officers in the above boxes)
7. Is any principal person involved with the entity a law enforcement official?

   Yes ☐ No ☑ If Yes, Name: ___________________________ Agency: _______________________

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

   Yes ☐ No ☑

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

   Name: ____________________________________________
   Date of Conviction: _________________________________
   Offense: __________________________________________
   Location of Conviction: ________________________________
   Disposition: _________________________________________

   Signature: ___________________________ 07/18/2018

   Signature of Duly Authorized Person  Date

   Print Name of Duly Authorized Person

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, ME 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov
In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.
CRUNCHY POKE-DRAFT MENU

Signature Bowls: Base / Lettuce, Avocado, Cucumber, Carrot, Sweet Corn, Calamari Salad, Seaweed Salad, Red Radish, Red cabbage, green onion, Fried Shallot, Tenkasu, Vegetables Chip, Masago, Microgreens

Maguro Poke  Unagi  Fit Paleo
Spicy Tuna  Maine Lobster  Inari Veg
Hamachi  King Crab  Creamy Salmon

Build your own poké bowl or Burrito Sushi

CHOOSE A BASE
- White Rice
- Brown Quinoa Rice
- Spring Mix
- Iceberg Lettuce

PICK YOUR PROTEIN
- Ahi Tuna
- Spicy Ahi Tuna
- Salmon
- Shrimp
- Eel
- Lobster
- Scallop
- Inari Tofu

GET SAUCY
- Yuzu Ponzu
- Creamy Wasabi
- Garlic Mayo
- Spicy Mayo
- Sweet Teriyaki
- Creamy Mango

TOPPING
- Avocado
- Cucumber
- Edamame
- Carrot
- Sweet Corn
- Masago
- Red Radish
- Crab Salad
- Seaweed Salad
- Calamari Salad
- White Onion
- Green Onion
- Pineapple
- Mango
- Ginger/Wasabi

CRUNCH/ TOP IT OFF
- Sesame Seed
- Furi kakes
- Shredded Coconut
- Fried Onion
- Fried Garlic
- Tenkasu Crunch
- Cashew Nut/Peanut
- Wasabi cracker
- Microgreen

Ramens: (Rice Noodle)
Miso Soup
Veg Ramen
Seafood Ramen
Re: Crunchy Poke

Kevin Cashman <kevindc@portlandmaine.gov> Sat, Jul 21, 2018 at 4:49 PM

PD has no objections.

Kevin C.

On Fri, Jul 20, 2018 at 8:38 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application. This will be going before council on 8/13. Please advise. Thanks

Jessica

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

--

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

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-20):
Inquiries Name(s)  
TIEN NGUYEN (1987-05-09)

NO MATCH WAS FOUND FOR YOUR REQUEST.
July 24, 2018

Crunchy Poke LLC
1 Ladd Dr
Scarborough ME 04074

Re: Crunchy Poke LLC dba Crunchy Poke. Application for a Class I FSE at 426 Fore Street.

Dear Tien Nguyen,

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday August 13, 2018 at 4:00 p.m., for the review of application for a Class I FSE at 426 Fore Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator
Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on August 13, 2018 at 4:00 P.M., in City Council Chambers, 389 Congress St., Crunchy Poke LLC dba Crunchy Poke. Application for a Class I FSE at 426 Fore Street. Sponsored by Michael Russell, Director of Permitting and Inspections.
ORDER GRANTING MUNICIPAL OFFICERS’ APPROVAL OF:

Illmadic, LLC dba Illmadic. Application for Outdoor Dining on Private Property at 41 Fox Street.
Mayor / City Council:

My name is Mark Miller, and I am a resident in Portland, ME. I am writing to you all today to address my intention to open a Beer Garden at 41 Fox Street (Unit A) Portland, ME 04101. I am targeting September 1, 2018 as an opening date. My resume consists of working with Beer, Wine, and Spirits at both the wholesaler level as well as Supplier level.

My hopes are to help progress the Portland beer scene, with emphasizing small-scale production to dive into more depth on Hop Terroir along with other beer microbes, which drive drastically different beer styles through production, and also have the ability to taste them side by side.

The Beer Garden portion is to help provide an educational factor to enjoy other World Class Beers along with Maine Beers and bring people together in a communal setting.

I look forward to working with the City/State, as well as being a positive member to the city with ambitions to be an asset to fundraisers.

If you would like to ask any questions or hear more detail, please feel free to reach out.

Thank you,

Mark Miller
785.845.2263
markmills24@gmail.com
Outdoor Dining Permit on Private Property
Supplemental Application

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

Outdoor Dining on Private Property $125.00  Legal Advertisement Deposit $100.00

<table>
<thead>
<tr>
<th>Business Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business Name (d/b/a):</strong></td>
</tr>
<tr>
<td><strong>Location Address:</strong></td>
</tr>
<tr>
<td><strong>Mailing Address:</strong></td>
</tr>
<tr>
<td><strong>Contact Person:</strong></td>
</tr>
<tr>
<td><strong>Contact Person Email:</strong></td>
</tr>
<tr>
<td><strong>Manager of Establishment:</strong></td>
</tr>
<tr>
<td><strong>Contact Phone:</strong></td>
</tr>
<tr>
<td><strong>Owner of Premises (Landlord):</strong></td>
</tr>
<tr>
<td><strong>Address of Premises Owner:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Owner Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Corporate Name:</strong></td>
</tr>
<tr>
<td><strong>Corporate Mailing Address:</strong></td>
</tr>
<tr>
<td><strong>Contact Person:</strong></td>
</tr>
<tr>
<td><strong>Phone:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Principal Officers</th>
<th>Title</th>
<th>Date of Birth</th>
<th>Residence Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark Miller</td>
<td>sole member</td>
<td>07/19/87</td>
<td>32 Brackett St. Portland, ME 04102</td>
</tr>
</tbody>
</table>
About Your Establishment

<table>
<thead>
<tr>
<th>Class of License:</th>
<th>CLASS A, Lounge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of food served:</td>
<td>Chips, Snacks, Peanuts</td>
</tr>
<tr>
<td>Please circle all that will be served:</td>
<td>Beer, Wine, Liquor</td>
</tr>
<tr>
<td>Hours &amp; days of operation:</td>
<td>11 AM - 9 PM Wed-Sun</td>
</tr>
<tr>
<td>Number of Tables</td>
<td>5</td>
</tr>
<tr>
<td>Number of Chairs</td>
<td>20</td>
</tr>
</tbody>
</table>

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

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

Signature ____________________ Title ____________________ Date 07/11/18

For Administrative Use Only

| Amount: |  |  |
| Date Paid: |  |  |
| CC | CA | CK |

| Amount: |  |  |
| Date Paid: |  |  |
| CC | CA | CK |

FD: ____________________ Request Date / Approval: ____________________ Notes: ____________________
Health: ____________________  
PD: ____________________  
PR: ____________________  
Treasury: ____________________  
Zoning: ____________________
Table 1 begins 10ft N of existing brewery building structure. The table will end at the barrier and there will be 4ft distance from Table 1 to Table 2.

Table 2 is 15ft from the N fence line, and located next to the barrier. There is a 4ft gap between each table.

Table 3 begins 12ft from the N fence line and 4ft from existing garage.

Table 4 begins 4ft away from Table 3, and 4ft from existing garage.

Table 5 begins 4ft away from Table 4, 4ft from existing garage, and 10ft N of existing brewery building structure.

Barrier will be put in place on the W property line with (6) ½ BBL Kegs and rope weaved between each keg to create a safe, functional fence line to keep alcoholic drinks within private property. These kegs will be placed on the W property line each day before business hours are open, and stowed away after hours.

Barrier begins 5ft N of existing brewery providing a 5ft opening for egress. Barrier continues 56ft along W property line. The barrier turns E for 17ft, and is a 6ft gap S of the N property line. The barrier turns S for 12ft until hitting the existing garage structure. The existing garage structure is 28ft along the E. And there is a 6ft barrier added in the SE corner to connect from existing garage to existing brewery.

**Barrier Sq Footage:** 1,056 sq ft.
**Egress:** 5ft width from existing brewery

**NOTES:**
In between each table there is a 4ft gap.
Each table is 3ft wide, 6ft long, and 3ft height.
Seat 4 people each per table.
Re: Illmadic

Kevin Cashman <kevindc@portlandmaine.gov>  Sat, Jul 21, 2018 at 4:49 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>
Cc: Danielle Buck <dbuck@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <js@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Katharine Cahoon <kcahoon@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Keri Ouellette <kouellette@portlandmaine.gov>

PD has no objections.

Kevin C.

On Fri, Jul 20, 2018 at 8:58 AM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application for Illmadic to add outdoor dining on Private Property. This will go before council on 8/13. Please note they have not been issued their Class A Lounge license yet, its pending approvals. Please advise. Thanks Jessica

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

Lt. Kevin Cashman
Portland Police Department
Patrol Division
108 Middle St
Portland, Maine 04101
(O) 207-768-6294
kevindc@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)
July 24, 2018

Illmadic LLC
41 Fox Street
Portland ME 04101

Re: Illmadic, LLC dba Illmadic. Application for Outdoor Dining on Private Property at 41 Fox Street.

Dear Mark Miller,

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday August 13, 2018 at 4:00 p.m., for the review of application for Outdoor Dining on Private Property at 41 Fox Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator
Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on August 13, 2018 at 4:00 P.M., in City Council Chambers, 389 Congress St., Illmadic, LLC dba Illmadic. Application for Outdoor Dining on Private Property at 41 Fox Street. Sponsored by Michael Russell, Director of Permitting and Inspections.
ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Genova & Co. dba Solo Italiano. Application for a Class I FSE with Entertainment without Dance and Outdoor Dining on Public Property at 100 Commercial Street.
July 23, 2018
City of Portland
389 Congress St, Room 307
Portland, ME

Dear Mayor and Members of City Council,

We are writing to you in the effort to secure food and liquor licensing for our well-established restaurant, Solo Italiano. Already a member of the Portland food community for over two years, we are completing a transfer of ownership from Angelo Ciocca to the executive chef, Paolo Laboa. Paolo’s reputation begets itself, with over forty years in the ‘cucina’. Mercedes, his wife and co-owner, parallels his experience with over 20 years in the kitchen. Jesse Bania, the general manager, rounds out the management team with over 15 years in the front of house.

The operation will otherwise maintain itself—a 120-seat restaurant (plus 12 seats seasonally outside) for occasional lunch and regular dinner service. We will sell alcohol (wine, beer and liquor) year-round. We would love the opportunity to continue serving Portland’s residents and visitors for the indefinite future and look forward to sitting with you to discuss any questions or concerns you might have.

Sincerely yours,

[Signature]

Jesse Bania (general manager)

[Signature]

Paolo Laboa (owner/executive chef)

[Signature]

Mercedes Laboa (co-owner/operator)
Application for Food Service Establishment with Alcoholic Beverages License

<table>
<thead>
<tr>
<th>Business Information</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name (d/b/a):</td>
<td>Solo Italians</td>
</tr>
<tr>
<td>Location Address:</td>
<td>100 Commercial St</td>
</tr>
<tr>
<td>Zip:</td>
<td>04101</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>100 Commercial St</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>Mercedes Laba</td>
</tr>
<tr>
<td>Contact Person Email:</td>
<td><a href="mailto:solaitaliansme@gmail.com">solaitaliansme@gmail.com</a></td>
</tr>
<tr>
<td>Manager of Establishment:</td>
<td>Deesi Baria 12/10/82</td>
</tr>
<tr>
<td>Owner of Premises (Landlord):</td>
<td>Soley Wharf LLC</td>
</tr>
<tr>
<td>Address of Premises Owner:</td>
<td>100 Commercial St, Suite 306</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Name of Owner(s)</th>
<th>Date of Birth</th>
<th>Residence Address</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th>Corporate Name</th>
<th>Corporate Mailing Address</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Genova &amp; Co.</td>
<td>100 Commercial St</td>
<td>04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Principal Officers</th>
<th>Title</th>
<th>Date of Birth</th>
<th>Residence Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paolo Labor</td>
<td>Exec. Chef</td>
<td>11/11/1963</td>
<td>Le Alder St, 04106</td>
</tr>
<tr>
<td>Mercedes Laba</td>
<td>Co-owner</td>
<td>1/31/1980</td>
<td>Le Alder St, 04106</td>
</tr>
<tr>
<td>Deesi Baria</td>
<td>General Manager</td>
<td>12/10/82</td>
<td>10 Abbott St, 04103</td>
</tr>
</tbody>
</table>
**About Your Establishment**

**Class of Liquor License:**
- Class Aarest (Class I)

**Type of food served:**
- Italian

**Please circle all that will be served:**
- Beer
- Wine
- Liquor

**Projected percentage of sales:**
- Generated from Food: 65
- Generated from Alcohol: 35

**Hours & days of operation:**
- Mon-Thu: 11-10p
- Fri-Sat: 11-2am
- Sun-Thu: 11-10p
- Fri-Sat: 11-2am

**Questions**

- Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? **YN**
  - If No, please explain:

- Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? **YN**
  - If Yes, give the distance:

- Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.) **YN**
  - If Yes, list name(s) of employee(s) and department(s):

- Will you permit dancing on the premises? **YN**

- Will you permit dancing after 1:00 a.m.? **YN**

- Will you have outside dining? (If yes, an Outdoor Dining Application is required) **YN**
  - If Yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).

- Will you have any amusement devices (pinball, video games, juke box)? **YN**

- If yes, please list:
  - # of pinball machines:
  - # of amusements:
  - # of pool tables:

- What is your targeted opening date? **REvised 3/18/15**

- Does the issuance of this license directly or indirectly benefit any City employee(s)? **YN**
  - If Yes, list name(s) of employee(s) and department(s):

- Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland? **YN**
  - If Yes, list business name(s) and location(s):

- Is any principal officer under the age of 21? **YN**

- Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law? **YN**
  - If Yes, please explain:

**Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license. It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. We hereby waive any rights to privacy with respect thereto.

**Signature** ___________________________  **Title** General Manager  **Date** 7/21/16

_for more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.main.gov._
Supplemental Application for Dancing and Entertainment License
License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

1. Entertainment without Dancing: $295  
   Entertainment with Dancing: $529  
   After-Hours (1 a.m. to 3 a.m.): $595

2. Business Information
<table>
<thead>
<tr>
<th>Business Name (d/b/a):</th>
<th>Phone:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sob Italiano</td>
<td>207-780-0227</td>
<td>04101</td>
</tr>
</tbody>
</table>

3. About Your Establishment
   Describe in detail the type and nature of the business and proposed entertainment:
   Fine dining restaurant serving covered meals and alcohol. Entertainment is occasional (once per week in off-season) jazz.
   Will music be electric, acoustic, or both? (Circle)  
   Electric  
   Will amplification be used? (Circle)  
   Yes  
   If yes, where and at what level? Low  
   Think dinner, jazz  
   Will music be played (Circle all that apply):  
   Inside  
   Outside
   Will you permit dancing on the premises? (Circle)  
   Yes  
   Will you permit dancing after 1:00 a.m.? (Circle)  
   Yes
   What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 2100 ft.
   What is your targeted opening date? 9/1/18
   Does the issuance of this license directly or indirectly benefit any City employee(s)? (Circle)  
   Yes
   If Yes, list name(s) of employee(s) and department(s):

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

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

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

Signature:  
Title: General Manager  
Date: 7/2/18

For more information, refer to the City Code of Ordinances: Chapter 4 Amusements, at www.portlandmaine.gov

REVISED 3/10/15
Outdoor Dining Permit on Public Property
Supplemental Application

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

```
☐ Legal Advertisement Deposit $100.00
☒ Outdoor Dining on Public Property $84.00 plus $2.00 per Square foot $2.00 X 175 SF = 434
☐ Outdoor Dining on Public Property in a City Park $64.00 plus $6.30 per Square foot $6.30 X __ SF = ______
```

### Business Information

<table>
<thead>
<tr>
<th>Business Name (d/b/a):</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solo Italiano</td>
<td>207 780 0227</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location Address:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 Commercial St.</td>
<td>04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mailing Address:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 Commercial St.</td>
<td>04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jesse Bania</td>
<td>207 780 0227</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contact Person Email:</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:SoloItalianome@gmail.com">SoloItalianome@gmail.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Manager of Establishment:</th>
<th>Date of Birth:</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jesse Bania</td>
<td>12/10/92</td>
<td>207 780 0227</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Owner of Premises (Landlord):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seley Wharf LLC</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address of Premises Owner:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 Commercial St, Suite 306</td>
<td>04101</td>
</tr>
</tbody>
</table>

### Owner Information

<table>
<thead>
<tr>
<th>Corporate Name:</th>
<th>Corporate Mailing Address:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Genova &amp; Co</td>
<td>100 Commercial St</td>
<td>04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mercedes Laboa</td>
<td>207 780 0227</td>
</tr>
</tbody>
</table>

```
<table>
<thead>
<tr>
<th>Principal Officers</th>
<th>Title</th>
<th>Date of Birth</th>
<th>Residence Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paolo Laboa</td>
<td>Exec Chef</td>
<td>11/1/1963</td>
<td>10 Allen St, ME 04106</td>
</tr>
<tr>
<td>Mercedes Laboa</td>
<td>Co-owner</td>
<td>1/31/1980</td>
<td>10 Allen St, ME 04106</td>
</tr>
<tr>
<td>Jesse Bania</td>
<td>General Mgr</td>
<td>12/10/1982</td>
<td>10 Abbott St, ME 04103</td>
</tr>
</tbody>
</table>
```

1
### About Your Establishment

| Class of License:         | Fast Class A (Class 1) |
| Type of food served:     |                             |
| Please circle all that will be served: | Beer Wine Liquor |
| Hours & days of operation: | Sun-Thurs 12-10pm / Fri & Sat 12-10:30pm |
| Number of Tables         | 4 (outside), 3 (inside) |
| Number of Chairs         | 120 (inside), 12 (outside) |

### Design and Construction

<table>
<thead>
<tr>
<th>Existing Sidewalk Width (property line to curb)</th>
<th>Sidewalk Dining Allowed?</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 8'0&quot;</td>
<td>No</td>
</tr>
<tr>
<td>≥ 8'0&quot;</td>
<td>Yes – up to 60% of sidewalk</td>
</tr>
</tbody>
</table>

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

### Barriers

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

### Example barrier types that meet regulation
Maintenance and Operations

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

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

Signature

Title General Manager Date 7/21/18

For Administrative Use Only

<table>
<thead>
<tr>
<th>Amount:</th>
<th>Date Paid:</th>
<th>Request Date</th>
<th>Approval</th>
<th>Notes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>CC CA CK</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount:</th>
<th>Date Paid:</th>
<th>FD:</th>
<th>Health:</th>
<th>PD:</th>
<th>Treasury:</th>
<th>Zoning:</th>
</tr>
</thead>
<tbody>
<tr>
<td>CC CA CK</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
NEW application: Yes ☐ No ☐
Transfer of Ownership: ☐

INDICATE TYPE OF PRIVILEGE: ☑ MALT ☑ VINOUS ☑ SPIRITUOUS

PRESENT LICENSE EXPIRES 10/21/18

INDICATE TYPE OF LICENSE:

 lawful, ☑ RESTAURANT (Class I,II,III,IV)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB with Catering (Class V)
☐ TAVERN (Class IV)

ALL QUESTIONS MUST BE ANSWERED IN FULL

<table>
<thead>
<tr>
<th>Corporation Name:</th>
<th>Solo Italiano</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name (D/B/A)</td>
<td>Solo Italiano</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPLICANT(S) - (Sole Proprietor)</th>
<th>DOB:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Physical Location:</th>
<th>100 Commercial St</th>
</tr>
</thead>
<tbody>
<tr>
<td>City/Town</td>
<td>Portland</td>
</tr>
<tr>
<td>State</td>
<td>ME</td>
</tr>
<tr>
<td>Zip Code</td>
<td>04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address</th>
<th>100 Commercial St</th>
</tr>
</thead>
<tbody>
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<td>City/Town</td>
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<tr>
<td>State</td>
<td>ME</td>
</tr>
<tr>
<td>Zip Code</td>
<td>04101</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Telephone Number</th>
<th>207 760 0227</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fax Number</td>
<td>207 760 0227</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Seller Certificate #:</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>or Sales Tax #:</td>
<td>1170804</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Email Address:</th>
<th><a href="mailto:soloitalianorestaurant@gmail.com">soloitalianorestaurant@gmail.com</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Website:</td>
<td>Soloitalianorestaurant.com</td>
</tr>
</tbody>
</table>

If business is NEW or under new ownership, indicate starting date: 9/11/18

Requested inspection date: Business hours: Sun-Thurs 10-12 / Fri-Sat 12-10 P.M.

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests:

2. State amount of gross income from period of last license: ROOMS $ FOD $ LIQUOR $

3. Is applicant a corporation, limited liability company or limited partnership? YES ☑ NO ☐

If yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☑ No

If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License # ☑ Name of Business ☑

Physical Location ☑ City / Town ☑

(Use an additional sheet(s) if necessary.)
5. Do you permit dancing or entertainment on the licensed premises? YES □ NO □

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

7. Business records are located at: ________________

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

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

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

<table>
<thead>
<tr>
<th>Name in Full (Print Clearly)</th>
<th>DOB</th>
<th>Place of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paolo Laboa</td>
<td>11/1/1963 Genoa, Italy</td>
<td></td>
</tr>
<tr>
<td>Mercedes Laboa</td>
<td>1/31/1980 Boston MA</td>
<td></td>
</tr>
<tr>
<td>Jesse Bania</td>
<td>12/10/1982 Cumberland, WI</td>
<td></td>
</tr>
</tbody>
</table>

Residence address on all of the above for previous 5 years (Limit answer to city & state)

11. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES □ NO □
    Name: ____________________________ Date of Conviction: ________________
    Offense: __________________________ Location: _______________________
    Disposition: ______________________ (use additional sheet(s) if necessary)

12. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? YES □ NO □ If Yes, give name: __________________________

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

14. Does/do applicant(s) own the premises? YES □ NO □ If No give name and address of owner: __________________________

15. Describe in detail the premises to be licensed: (On Premise Diagram Required)
    ________ square feet of rental restaurant space ________ attached.

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

17. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? __________ mile ____________
    Which of the above is nearest? __________________________

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

On Premise Rev. 10-2017
The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

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

Dated at: Portland, ME on July 23, 2018

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

FEE SCHEDULE

FILING Fee: (must be included on all applications) ................................................................. $ 10.00

Class I  Spirituous, Vinous and Malt ............................................................................................. $ 900.00

CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A  Spirituous, Vinous and Malt, Optional Food (Hotels Only) ....................................... $1,100.00

CLASS I-A: Hotels only that do not serve three meals a day.

Class II  Spirituous Only ............................................................................................................. $ 550.00

CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III  Vinous Only ................................................................................................................ $ 220.00

CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV  Malt Liquor Only .......................................................................................................... $ 220.00

CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V  Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) ................... $ 495.00

CLASS V: Clubs without catering privileges.

Class X  Spirituous, Vinous and Malt – Class A Lounge ........................................................... $2,200.00

CLASS X: Class A Lounge

Class XI  Spirituous, Vinous and Malt – Restaurant Lounge ...................................................... $1,500.00

CLASS XI: Restaurant/Lounge; and OTB.

UNORGANIZED TERRITORIES $10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.
Corporate Information Required for Business Entities Who Are Licensees

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

Please clearly complete this form in its entirety.

1. Exact legal name: Genova & Co.

2. Doing Business As, if any: Solo Italians

3. Date of filing with Secretary of State: June 2018 State in which you are formed: ME

4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS (5 YEARS)</th>
<th>Date of Birth</th>
<th>TITLE</th>
<th>Ownership %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paolo Laban</td>
<td>Gloucester, MA</td>
<td>1/1/1963</td>
<td>Executive</td>
<td>50%</td>
</tr>
<tr>
<td></td>
<td>Naples, CA</td>
<td></td>
<td>Chef</td>
<td></td>
</tr>
<tr>
<td></td>
<td>So. Portland, ME</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mercedes Laban</td>
<td>Gloucester, MA</td>
<td>1/8/1980</td>
<td>Owner</td>
<td>50%</td>
</tr>
<tr>
<td></td>
<td>Naples, CA</td>
<td></td>
<td>Manager</td>
<td></td>
</tr>
<tr>
<td></td>
<td>So. Portland, ME</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

6. If Co-Op # of members: ___________________(list primary officers in the above boxes)
7. Is any principal person involved with the entity a law enforcement official?

Yes [x]  No [ ]  If Yes, Name: ______________________ Agency: ______________________

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

Yes [ ]  No [x]

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

Name: __________________________________________

Date of Conviction: ______________

Offense: __________________________________________

Location of Conviction: __________________________________

Disposition: __________________________________________

Signature:

______________________________  7/21/18  Gerald Manager

Signature of Duly Authorized Person  Date  

Print Name of Duly Authorized Person: Jesse Bania

Submit Completed Forms to:

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

Insalata di Granchino* 15
Jonah Crab salad with fresh julienne apple, orange segments, lemon aioli, farm greens

Tonnino in Insalata 17
Lightly-seared bluefin tuna, sun-dried tomatoes, artichokes, mixed farm greens, confit potatoes, green garlic vinaigrette

Carpaccio di Salmone 17
Thinly-sliced and rosemary-brined sockeye salmon, spring pea puree, smoked carrot aioli, pickled fennel

Tonnino Tonnato* 18
Wild Atlantic bluefin tuna, toasted pine nuts, olives, capers, radish, tonnato

ANTIPASTI STARTER COURSE

Tagliere del Contadino con Gnocco Fritto 24
Italian Farm Board: finocchiona, salumi Toscano, mortadella tartufo, stravecchio, speck, cappa picante, mostarda, crostini Toscani, primo sale
Pairing: Valpolicella Classico

• Mucchetta della Valle d’Aoste 18
House-cured venison loin, smoked mascarpone, anguila, chamomile flowers
Pairing: Valpolicella Classico or Soave

Culatello con Mozzarella Tenere e Nero 24
Imported culatello prosciutto, tender mozzarella di Giuseppe, extra virgin olive oil, grated Norcia black truffle
Pairing: Soave

Giardiniera di Polpo 18
Beef-taunted Spanish octopus, sausage, fregoliet beans, dandelion greens, saffron fingerlings, greens, squid ink pastina puree

Muscoli alla Genovese 15
Local Bangs Island mussels in white wine, extra virgin olive oil, parsley, garlic, sourdough crostini

FOCACCIA DI REcco
Traditional focaccia from Recco, baked thin with Stracchino cheese imported from Italy

• Nomale 18
Pizzata
Tomato, capers, olives, anchovy

• Con Prosciutto Legato 20
A Donna Scala Margherita
Traditional Napoletana Pizza
Sourdough pizza, San Marzano tomato, mozzarella di Giuseppe, basil

INSALATA SALAD COURSE

Misticanza di Campo con Pecorino 11
Organic farm greens & chicories, shaved pecorino, dressed with a rosemary garlic olive oil and balsamic vinegar

Barbabietole 12
Organic roasted beet salad with Stonecutter Farm beets, gorgonzola dolce, Dandolo Farm greens spicy greens, dressed with honey, lemon, olive oil and sea salt

PRIMI PASTA COURSE
Our pasta is hand crafted in house daily

Mandilli di Vero Pesto Genovese** 23
Hand-rolled pesto pasta tossed in an authentic Genovese basil pesto

Lasagne con Tocco alla Genovese 24
Lasagne, béchamel, Two Cove Farm ramp roast sugo, 36-month Farmigiana-Reggiano
Pairing: Valpolicella Classico or Ripasso

Tagliatini all’Albese 34
60 yolk angel hair pasta, Misty Brook egg yolk, grated Norcia black truffle
Pairing: Valpolicella Classico or Ripasso

Lasagne al Colpo di Mare 28
Lasagne, local calamari, fresh Maine lobster and San Marzano tomato sugo, béchamel, pecorino stagionato

• Maccheroncelli alla Campidinense 24
Turmeric maccheroncelli, Two Cove Farm lamb and beef sugo, light San Marzano tomato sauce and smoked pepperoncino, pecorina
Pairing: Valpolicella Classico or Ripasso

Gnocchi Saffiati di Salmone 25
Traditional puffed sockeye salmon gnocchi, gulf shrimp, basil pesto, light tomato, speck

SECONDI MAIN COURSE

• Chicimnas Tagliatelle all’Erbette 55
Sixteen ounce. Two Cove Farm ribeye, sautéed Dandelion Farm greens, Tuscan style fregoliet beans, Barbera sauce
Pairing: Amarone della Valpolicella

Filetto di Manzo in Crosta 45
Two Cove Farm beef tenderloin wrapped in puff pastry with duck liver paste, black truffle and prosciutto, served with duck fat confit farm potatoes, grated Norcia black truffle
Pairing: Valpolicella Ripasso

Petta d’Andra alla Baccalà 36
Hudson Valley duck breast, Northspore king trumpet mushrooms, crarel, wild huckleberry
Pairing: Amarone della Valpolicella or Ripasso

Baccalafisso en Chiaretto 30
Yoking shockfish, capers, white wine, onions, parsley and farm potatoes
Pairing: Soave

Capesante Bagneto alla Zafferano 32
Diver sea scallops, crispy parmesan, saffron ‘bagna cauda’, creamy Maine Grain polenta
Pairing: Soave or Valpolicella Classico

• Add grated Norcia black truffle 8

*Consuming raw or undercooked meats, poultry, seafood, shellfish, eggs or unpasteurized milk may increase your risk of foodborne illness*

**$1 from each one sold goes to Full Plates.org, which aims to end child hunger in Maine**

Gratuity of 20% is added to parties of six or more.
Re: Solo Italiano

Kevin Cashman <kevindc@portlandmaine.gov>  
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>  
Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Petruccelli <petruccellld@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sneath <js@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Katherine Cahoon <kcahoon@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>  

PD has no objections.
Kevin C.

On Mon, Jul 23, 2018 at 2:51 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Solo Italiano for a change of ownership. This will be going before council on 8/13. Information is in energov. Please advise. Thanks Jessica

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

---

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

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-24):

Inquiries Name(s) PAOLO LABOA (1963-11-01)

NO MATCH WAS FOUND FOR YOUR REQUEST.
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-24):

Inquiries Name(s)  JESSE BANIA (1982-12-10)

NO MATCH WAS FOUND FOR YOUR REQUEST.
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2018-07-24):
Inquiries Name(s)  MERCEDES LABOA (1980-01-31)

NO MATCH WAS FOUND FOR YOUR REQUEST.
July 24, 2018

Genova & Co
100 Commercial Stret
Portland ME 04101

Re: Genova & Co. dba Solo Italiano. Application for a Class I FSE with Entertainment without Dance and Outdoor Dining on Public Property at 100 Commercial Street.

Dear Jesse Bania

This letter shall serve as a reminder of the public hearing before the Portland City Council on Monday August 13, 2018 at 4:00 p.m., for the review of application for a Class I FSE with Entertainment without Dance and Outdoor Dining on Public Property at 100 Commercial Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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

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

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator
Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on August 13, 2018 at 4:00 P.M., in City Council Chambers, 389 Congress St., Genova & Co. dba Solo Italiano. Application for a Class I FSE with Entertainment without Dance and Outdoor Dining on Public Property at 100 Commercial Street. Sponsored by Michael Russell, Director of Permitting and Inspections.
MEMORANDUM
City Council Agenda Item

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

FROM: Jennifer Thompson

DATE: August 1, 2018

SUBJECT: Communication Re: Board of Harbor Commissioners Revised Rules Sections 21.1, Definitions, and 21.5, Special Mooring Agreement

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading ________ Final Action ______ No action required.

Can action be taken at a later date: ____ Yes  _X_ No (If no why not?) No action is required. However, the Council may reject the rule change if it wishes.

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

I. ONE SENTENCE SUMMARY

This Communication reports to the City Council that on July 12, 2018, the Board of Harbor Commissioners approved a rule that allows a limited number of commercial work docks for lobstering in Portland Harbor.

II. AGENDA DESCRIPTION (This is all that will be included of the agenda.)

In a letter dated July 17, 2018, the Board of Harbor Commissioners notified the Portland City Manager and City Council that, following a public hearing on July 12, 2018, it had approved a rule that allows a limited number of commercial work docks for lobstering in Portland Harbor. Commercial Work Docks is defined to mean “a limited use dock, on a mooring(s) that is used exclusively for commercial lobstering purposes, including storage and servicing of lobster gear.” The rule change will be effective 45 days after July 17, 2018, unless either the Portland or the South Portland City Councils disapprove of it.

III. BACKGROUND

n/a

IV. INTENDED RESULT AND/OR COUNCIL GOAL Addressed
V. FINANCIAL IMPACT
n/a

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION
n/a

VII. RECOMMENDATION
n/a

VIII. LIST ATTACHMENTS

July 17, 2018 Letter from Thomas Dobbins, Chair, Board of Harbor Commissioners, and copy of the Revised Rules Sections 21.1, Definitions, and 21.5, Special Mooring Agreement

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by: Nancy English
Date: August 1, 2018

Bean/agendarequestmemo/rev 7/17/18
Dear Mr. Jennings and City Council Members:

I am writing to inform you of recent action by the Board of Harbor Commissioners relating to a proposed rule change which would add regulations and authorize mooring permit fees to Commission Rule 21.0 Mooring Regulations.

On July 12, 2018 the Board held a public hearing on the proposed rule. Following the public hearing the Board voted unanimously to approve the enclosed rule change that would allow a limited number of Commercial Work Docks (defined to mean “a limited use dock, on a mooring(s), that is used exclusively for commercial lobstering purposes, including storage and servicing of lobster gear”) in Portland Harbor.

The rule change shall be effective 45 days from the date on which notice of such rulemaking is sent to the City Manager of Portland and South Portland, addressed to the City Councils, unless either City Council takes official action disapproving the rule prior to the expiration of the 45-day period.

If you have any questions pertaining to the rule change or any other matter please do not hesitate to contact me.

Sincerely,

[Signature]

Thomas Dobbins, Chair
Board of Harbor Commissioners
Port of Portland Maine
Rule 21.0 Mooring Regulations

Section 21.1 – Definitions

“COMMERCIAL WORK DOCK” means a limited use dock, on a mooring (s), that is used exclusively for commercial lobstering purposes, including storage and servicing of lobstering gear.

RULE: Section 21.5 – Special Mooring Agreement

(c) Commercial Work Docks. The Harbor Master has determined that the harbor can support _______ Commercial Work Docks and will issue permits for such Commercial Work Docks on a first-come, first-served basis. The Harbor Master shall maintain a waiting list, if need be, depending on demand. All Commercial Work Docks shall comply with the following requirements:

- All Commercial Work Docks must be registered with the Harbor Master’s office. The mooring number assigned to a Commercial Work Dock must be displayed on each side of dock/float;

- Prior to issuance of a permit, the owner/permit-holder must provide evidence of occurrence-based Commercial General Liability insurance coverage in an amount of not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage. The Harbor Master must be notified of any cancellation or modification in insurance coverage within 30 days;

- Each Commercial Work Dock must be equipped with an all around white light at the corner farthest from closest point of shore, a Radar Reflector, and a throwable life ring. Each such dock will be clearly posted with “No Trespassing” signs.

- The location of Commercial Work Docks will be determined by the Harbor Master in his/her sole discretion (no docks will be permitted in mooring fields or federal channels).

- Commercial Work Docks permitted under this section shall meet the following dimensional requirements: Minimum size, 8ft by 20ft. (May be larger, the size must be approved by the Harbor Master).

- Commercial Work Docks must be removed from the Harbor as of November 1st and may not be returned until April 1st of each year.

- Each Commercial Work Dock shall be properly maintained and kept in an orderly manner. All gear or other items stored on the Commercial Work Dock must be properly secured so as not to be blown or knocked off during a minor storm.

- It shall be the responsibility of each owner/permit holder of a Commercial Work Dock to secure all gear and equipment, prior to the arrival of a major storm (Named Storm or Nor-Easter), and if need be, to remove the Commercial Work Dock from its mooring and store it in a safe location.

- Commercial Work Dock permits are not transferable or assignable.
- The Owner/permit holder is responsible for obtaining any other necessary permits as required by the Army Corps of Engineers or other regulatory agency.

- All Commercial Work Docks must comply with all rules and regulations of the Harbor Commission.

- Any violations of any of the above requirements may result in the Harbor Master suspending or revoking a Commercial Work Dock permit.

- The removal, storage, and disposal of Commercial Work Dock shall be the Owner/Permit-holder's sole responsibility. In the event the Harbor Master removes a Commercial Work Dock for violation of these Rules, costs of removal will be the billed to and payable by the permit-holder.

- Mooring rates shall be per mooring used and at the same rate as noncommercial moorings.

- Social gatherings on Commercial Work Docks are strictly prohibited.
ORDER OF DISCONTINUANCE OF A PUBLIC WAY
ALONG A PORTION OF PORTLAND PIER

ORDERED, that the discontinuance of all of that portion of the street that lies southeasterly of the following described line is hereby approved:

Beginning at a point on the northeasterly street line of Portland Pier as laid out by the Commissioners of Cumberland County on June 6, 1887 and recorded in the County Commissioners' Records in Volume 16 Page 86. Said point of beginning being the intersection of said northeasterly street line of Portland Pier with the boundary line between land now or formerly of Fifty Portland Pier, Inc. (Book 8144 Page 140) and land now or formerly of 60 Portland Pier, LLC (Book 31814 Page 209). Said point of beginning also being located five-hundred-and-forty-three and fifty-one hundredths feet (543.51'), more or less, from the intersection of said northeasterly street line of Portland Pier with the southeasterly street line of Commercial Street. Thence southwesterly across said Portland Pier and at right angles to said street line a distance of twenty-nine feet and two inches (29' 2") to the southwesterly street line of said Portland Pier; and

BE IT FURTHER ORDERED AND ADJUDGED, that the City will retain a public easement over the land herein described;

BE IT FURTHER ORDERED AND ADJUDGED, that the sole abutting owner is ______________ which is supportive of such discontinuance. _________ has waived any entitlement to damages. Accordingly, no damages shall be paid to such abutter.
MEMORANDUM

City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Mona Bector

FROM: Greg Mitchell, Economic Development Director

DATE: August 3, 2018

SUBJECT: Portland Pier, Partial Right of Way Discontinuance

SPONSOR: Justin Costa, Chair of the Economic Development Committee, as recommended on June 19, 2018 by unanimous vote of the Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:
Public Hearing: August 13, 2018  Final Action: First Available Meeting

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

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

Economic Development staff with support from Ports and Public Buildings will provide introductory comments and be available for clarifying questions.

I. ONE SENTENCE SUMMARY

The City Council is asked to consider discontinuing a portion of public right of way on Portland Pier while retaining access for the public and commercial marine businesses, including fishing vessels.

II. AGENDA DESCRIPTION

The Economic Development Committee met on June 19, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage. Following the statutorily described process for public right of way discontinuance, the Council voted on July 16 to propose the discontinuance.

The August 13 public hearing is an opportunity for the public and impacted properties to hear and comment on the proposal. A final decision and vote by the Council will take place at a future meeting more than 10 days after the public hearing.
The abutting property owner has been noticed (there is only one at 50 Portland Pier) and the discontinuance has been posted in the City Clerk’s office.

The Department of Economic Development, the Facilities Division, and the Department of Public Works recommend that the City Council hold a public hearing to consider discontinuance of a portion of public right of way at the southerly end of Portland Pier. The portion of right of way considered for discontinuance serves only a single property, 60 Portland Pier, Portland Pier Holdings, LLC. All private properties on Portland Pier, including 60 Portland Pier, will continue to have access from a public right of way and public access rights are to remain in effect for both commercial fishing and pedestrian use of the pier.

City staff and the Economic Development Committee recommend the discontinuance to promote private investment and maintenance of currently degraded pier infrastructure. Only with immediate and continued investment will public and fishing access be retained on the subject portion of right of way.

The subject portion of right of way is occupied by a pile-supported pier structure over submerged lands owned by the State of Maine. Following the proposed discontinuance, the City-owned portion of pier described will transfer to the surrounding property owner, Portland Pier Holdings, LLC, subject to the limits and requirements of the State Submerged Lands program.

Portland Pier Holdings, LLC. At 60 Portland Pier is amenable to the discontinuance and has agreed to waive damages and has further agreed to conduct immediate necessary repairs to the pier to promote continued public and fishing access.

III. BACKGROUND

Located between Custom House Wharf and Long Wharf (Dimillo’s,) Portland Pier, is unique along Portland’s Central Waterfront in that there is a public right of way down the center of the pier flanked by private parcels. Most piers on Portland’s waterfront are private. Formerly the home of the Casco Bay Lines car ferry terminal, the southerly end of the Pier has been occupied by lobstering interests since the 1980’s.

In addition to the subject property (the former New Meadow’s Lobster pound,) the pier is home to J’s Oyster, commercial offices, 40 and 50 Portland Pier Condominiums. Lobster boats berth on the easterly and southerly pier perimeter with Dimillio’s yacht brokerage leasing berthing along much of the westerly edge.

By previous action of the City Council in 2014, the southerly most portion of the public right of way was sold to a previous owner (McAlleney’s New Meadow’s Lobster.) Public rights of access were retained in the 2014 transfer.

The portion of right of way considered for discontinuance serves only one property (60 Portland Pier, Portland Pier Holdings, LLC) and is in need of significant rehabilitation. The current owners are currently engaged in repairing adjacent private portions of the pier and are willing to take on the current rehabilitation needs and ongoing maintenance of the subject portion of the pier. Without repair, access to the pier will need to be restricted for safety. There is currently no City budget identified for repair.
Portland Pier Holdings, LLC plans to rehabilitate and restart the lobster pound operation, retain the current commercial berthing, and to establish a seafood restaurant specializing in lobster and seafood landed and processed on the pier. All of the current and proposed uses are planned to be consistent with the Waterfront Central Zone requirements. Public access and continued lobster operations are central to the redevelopment program.

The subject portion of right of way and the entirety of the 60 Portland Pier buildings and pier deck are supported by pilings over submerged lands. The property owners are currently conducting significant repair on the private portions of the pier. The City Manager has provided a license to Portland Pier Holdings, LLC to conduct work on the public portions of the pier to ensure that commercial fishing and access to berthed vessels can continue in the short term.

The sketch graphic attached to this memo shows approximate private parcel boundaries, the 2014 sale parcel, and areas of right of way to be retained and for potential discontinuance.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Functionally, users of the pier will see no change within the right of way post discontinuance. The proposed discontinuance will allow for the private maintenance of pile supported pier while continuing commercial and public access to the southerly end of the pier.

V. FINANCIAL IMPACT

Portland Pier Holdings, LLC, as part of their on-going repairs of the private portions of the pier, estimate that the immediate repairs needed on the subject public portion of Portland Pier would cost +/-$78,000. If the subject portion of ROW is to remain in public hands, these immediate costs and future maintenance and repairs will remain the responsibility of the City.

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

Since the 1980’s, Portland Pier has provided access to berthing, commercial lobstering, and public views to the inner harbor for pedestrians. Maintenance of the pier is key to preserving these functions. The public right of way appears to reflect the historic use of the pier as a (private) car ferry terminal. In the transition from ferry terminal to lobster pound, the southerly end of the pier retained the public’s right to use the pier, but functionally access to the water for active use was privatized. Promoting private commercial fishing access within the Central Waterfront was consistent with City policy in 2014 and remains so today. Private ownership of the remaining portion of right of way that is surrounded by 60 Portland Pier would promote continued maintenance of the infrastructure while preserving access for current and future commercial fishing and public pedestrian use.

VII. RECOMMENDATION

The Department of Economic Development, the Facilities Division, and the Department of Public Works join the Economic Development Committee in recommending the discontinuance while retaining public and commercial fishing access to the pier.

VIII. LIST ATTACHMENTS

a. Orientation sketch map

CITY OF PORTLAND/ECONOMIC DEVELOPMENT DEPT./389 CONGRESS ST./PORTLAND, ME 04101/(207) 874-8683
b. Discontinuance Order

c. Copy of Notice delivered to impacted abutter

Prepared by: Bill Needelman, Waterfront Coordinator
Date: August 3, 2018
Notice of Public Hearing  
on Proposed Discontinuance of a Road

TO: Jim Hanley  
Portland Pier Holdings, LLC  
50 Portland Pier, Suite 400  
Portland, Maine 04101

FROM: The City of Portland

Dear Property Owner: Our records show that your property abuts the Portland Pier. This is to notify you that on July 16, 2018, the Portland City Council issued an Order of Discontinuance of a Road that proposes to discontinue the public right of way along a portion of the Portland Pier, which portion is described as follows:

Beginning at a point on the northeasterly street line of Portland Pier as laid out by the Commissioners of Cumberland County on June 6, 1887 and recorded in the County Commissioners’ Records in Volume 16 Page 86. Said point of beginning being the intersection of said northeasterly street line of Portland Pier with the boundary line between land now or formerly of Fifty Portland Pier, Inc. (Book 8144 Page 140) and land now or formerly of 60 Portland Pier, LLC (Book 31814 Page 209). Said point of beginning also being located five-hundred-forty-three and fifty-one hundredths feet (543.51’), more or less, from the intersection of said northeasterly street line of Portland Pier with the southeasterly street line of Commercial Street. Thence southwesterly across said Portland Pier and at right angles to said street line a distance of twenty-nine feet and two inches (29' 2") to the southwesterly street line of said Portland Pier.

The Order also states the amount of damages to be paid to abutting property owners. A copy of that Order is attached to this Notice and is incorporated herein. The Order of Discontinuance has been filed with the City Clerk. The City Council will hold a public hearing on August 13, 2018 at 4:00 p.m. at Portland City Hall in Council Chambers to hear public comments on the Order of Discontinuance. The Order will take effect when and if it is approved by a vote of the City Council. If the Order is approved, the City of Portland will have no obligation to maintain, repair or plow the road, and the public will have the right to continue using the road as a public easement unless the Council discontinues the public easement as well.

If you have comments you would like to make regarding the proposed discontinuance, you are invited to provide those comments to the Council at the public hearing on August 13, 2018.

Date: July 19, 2018
ORDER APPROPRIATING $130,000 FOR MIDDLE SCHOOL MATH CURRICULUM EXPANSION AND MATERIALS FOR THE PORTLAND PUBLIC SCHOOL SYSTEM

ORDERED, that $130,000 from the Portland Public Schools Fiscal Year 2017 unassigned fund balance is hereby appropriated to purchase the Open Up Resource middle school math curriculum and related materials.
TO: Mayor and City Council

FROM: Xavier Botana, Superintendent, Portland Public Schools
       Alicia Gardiner, Executive Director of Budget & Finance, Portland Public Schools

DATE: 6/4/2018

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

SUBJECT: Use of Unassigned Fund Balance

SPONSOR: (If sponsored by a Council committee, list the date the committee met and the results of vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading June 18, 2018  Final Action July 2, 2018

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

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

I. SUMMARY OF ISSUE (Agenda Description)

Portland Public Schools budgeted $299,000 in FY2017 for continued curriculum expansion and materials, including funds for middle school mathematics. At the end of the fiscal year, PPS had approximately $148,000 remaining in the budget as no purchase decision for the middle school math curriculum was made during the fiscal year. Part of the reason that no decision was made was due to the turnover of the prior Chief Academic Officer and that the Interim CAO was only in the position during the 2017-2018 school year.

PPS discussed with the external auditors how to encumber the funds for use in FY2018 but, because there had not been a decision made as to what vendor we would use, it was determined that we could not encumber the funds for over six months.

The Portland Board of Public Education met on May 1, 2018 and discussed the purchase of the middle school math curriculum. The Assistant Superintendent of Teaching and Learning has recommended that PPS purchase the math curriculum from Open Up Resources and explained that we will be requesting the use of FY2017 funds to pay for this curriculum as they were originally intended to do.
II. REASON FOR SUBMISSION (Summary of Issue/Background)

During the FY2017 budget process, the Chief Academic Officer (CAO) budgeted approximately $150,000 for a new middle school math curriculum. The CAO resigned their position at the end of FY2016 and an Interim CAO was named. Due to the temporary nature of their position, the Interim CAO did not want to purchase a middle school math curriculum and wanted to wait until a permanent CAO was hired. Unfortunately, the funds lapsed to unassigned fund balance at the end of the fiscal year. The Superintendent and Staff did highlight to the Board that we would be requesting the use of these funds at a later date and did let them know that it would require City Council approval.

On May 1, 2018 the Assistant Superintendent for Teaching and Learning/Chief Academic Officer, recommended the purchase of a curriculum from Open Up Resources. The materials and cost of professional development for the first year is a minimum of $97,500 but could be up to $130,000 depending on how many teachers are included in the initial training. In her memo to the Board, the Assistant Superintendent of Teaching and Learning noted that we would like to use the FY2017 funds budgeted for this purpose. Therefore, Portland Public Schools staff, including the Superintendent, Executive Director of Budget & Finance, and the Assistant Superintendent of Teaching and Learning, would like to request the approval from the City Council to use $130,000 of unassigned fund balance, specifically budgeted for in FY2017, to purchase Open Up Resource’s math curriculum.

III. INTENDED RESULT

We intend to increase appropriation for the Portland Public Schools by $130,000 in order to purchase the middle school math curriculum. We would increase the budgeted use of fund balance in the general fund by $130,000 and increase the budgeted curriculum materials account in the Academics budget line by $130,000 in FY2018. This would allow for the school department to purchase the math curriculum ahead of the 2018-2019 school year.

IV. COUNCIL GOAL ADDRESSED

IV. FINANCIAL IMPACT

The financial impact of this would reduce unassigned fund balance by $130,000. As of 6/30/17, PPS has $682,697 over the maximum allowable fund balance ($2,916,945 or 3% of the prior year general budget budget). The use of $500,000 in FY2018 in addition to the use of $130,000 for the purchase of the middle school math curriculum would bring us down closer to the maximum amount allowed.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

Prepared by: Alicia Gardiner, Executive Director of Budget & Finance
Executive Summary
Portland Board of Public Education
Business Meeting Agenda Item

TOPIC: Board Focus: Policy IJJ – Selection of Educational Materials
DATE: May 1, 2018

PREPARED BY: Melea Nalli, Assistant Superintendent for Teaching and Learning

Recommended Action:  Action Item – Consent
                      Action Item – First Read
                      Action Item – Vote
                      Discussion Item
                      [ ] information Item

Agenda Reference:  VII. b.
School Year Item:  C-7-17/18

Recommendation(s):

Purpose:  This is an update on the adoption of new middle school math educational materials.

Connection to Comprehensive Plan Framework:

The work of the Portland Board of Public Education ("Board"), as facilitated by the Chair, supports all goals and objectives of the Comprehensive Plan Framework:

Goal 1 – ACHIEVEMENT: All Portland Public School students be prepared for college and career and empowered to pursue a postsecondary path.

Goal 3 – EQUITY: Portland Public Schools is vigilant in supporting each and every student's particular path to achieving high standards, rooting out systemic or ongoing inequities.

Background:

During the 2016-17 school year, middle school principals and teachers, in partnership with leadership from the Academic team, determined the need for a common set of educational materials in math. A previous curriculum adoption and roll-out were not successful and teachers had resorted to doing their own thing and so math instruction was varied across schools and even within schools. Our math results on MEAs are lower than we want and expect for all students and especially for students of color, those who are ELs and for students on IEPs, which contributed to our explicit Portland Promise goals of Achievement and Equity. During the spring of last year when it was time to make a decision about which new program to adopt, there was little consensus among teachers and principals based on the process that took place over the course of the year. At that point we decided to delay the decision, recognizing that it was essential to ensure strong process resulting in broad buy-in as the foundation for effective implementation. This year,
we brought on a middle school math coach consultant, Jesse Robinson, via our Title II funds. As a part of her work, Ms. Robinson led a data-driven process to explore three high potential programs in deep partnership with principals and teachers. The selection committee came to a consensus decision to adopt Open Up Resources.

**Fiscal Impact:**

Open Up Resources are made free under the Common Creative OER license. Upfront costs for intensive professional development and consumables is $76,00. This money is available from the $100,000 that had been saved from the 2016-17 budget when the Middle School Math curriculum decision was delayed. Ongoing costs for professional development and consumables are between $21,500 and $54,000 depending on how much professional development we require and how many teachers want to use the consumables. Currently, we spend $75,000 centrally on all curriculum materials for the district. In order for us to achieve ongoing implementation of this program, it will require added investment in our curriculum budget.

**Attachment(s):**

Current Policy IJJ
ORDER APPROVING THREE-PARTY AGREEMENT BETWEEN PORTLAND, PORTLAND AREA COMPREHENSIVE TRANSPORTATION SYSTEM AND MAINE DEPARTMENT OF TRANSPORTATION RE: ALLEN AVENUE BETWEEN PENNELL AVENUE AND YALE STREET

ORDERED, that the three-party Partnership Agreement between the Maine Department of Transportation, Portland Area Comprehensive Transportation System and the City of Portland for pavement preservation on Allen Avenue between Pennell Avenue and Yale Street 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 execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Michael Farmer, Senior Engineer, Department of Public Works

DATE: June 25, 2018

SUBJECT: PACTS Municipal Partnership Initiative Agreement
State Route 100 (Allen Avenue: Yale to Pennell)
Pavement Preservation

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading: 7/16/2013 Final Action: 8/13/2018

Can action be taken at a later date: ____ Yes __X__ No (If no why not?) Funds pursuant to this agreement are needed for construction of this project.

PRESENTATION: (List the presenter(s), type and length of presentation)
Not Applicable

I. ONE SENTENCE SUMMARY
The City Council is being asked to approve the attached PACTS Municipal Partnership Initiative (MPI) Agreement and authorize the City Manager to sign it, which would allow City staff to move ahead with plans to pave Allen Avenue between Pennell Avenue and Yale Street.

II. AGENDA DESCRIPTION
Approving and signing this agreement between PACTS, MaineDOT, and the City of Portland would confirm the City's intent to undertake this project and pay 50% of the total project cost. The estimated total project cost is $367,500. The City's 50% share would be $183,750. A copy of the fully executed agreement will be returned to the City and become the City's "notice to proceed" with this project.

III. BACKGROUND
The scope of work for this project includes milling and paving Allen Avenue between Pennell Avenue and Yale Street. The City received approval in 2017 for an MPI project to pave Allen Avenue between Washington Avenue and Pennell Avenue. More recently, the City received approval for an MPI project to pave Washington Avenue between Allen Avenue and Ocean Avenue. All three MPI projects have been combined with a traffic signal improvement
project for bidding and construction. The traffic signal project includes improvements at signalized intersections on Washington Avenue and Auburn Street between Veranda Street and Lyseth Moore Drive.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED
This project will improve the pavement surface and ride quality in the project area.

V. FINANCIAL IMPACT
By approving the PACTS MPI Agreement, the City Council would indicate its intent to undertake this project and pay 50% of the total estimated project cost. The total estimated project cost is $367,500. The City’s 50% share would be $183,750. The FY19 CIP includes $203,400 for the City’s share of this project (project account C19101).
If the total project costs were to exceed $367,500, the City would be obligated to pay for 100% of the total project costs in excess of $367,500, in addition to the 50% local share.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION
MaineDOT has two separate Municipal Partnership Initiative (MPI) programs that are available to Portland. One MPI program is administered at the local level by MaineDOT’s regional office in Scarborough. The other MPI program is administered locally by PACTS. Both MPI programs provide grants of up to 50% of the cost for paving projects on arterial and collector streets.

VII. RECOMMENDATION
The Department of Public Works recommends approving and signing the subject PACTS MPI Agreement to allow City staff to proceed with paving of Allen Avenue from Pennell Avenue to Yale Street.

VIII. LIST ATTACHMENTS

A. PACTS MPI Agreement for State Route 100 (Allen Avenue: Yale to Pennell) Pavement Preservation Project
B. Project location Map

Prepared by: Michael Farmer
Date: June 25, 2018
State of Maine
DEPARTMENT OF TRANSPORTATION
Portland Area Comprehensive Transportation System
Municipal Partnership Initiative Agreement

Portland, Maine
State Route 100 (Allen Avenue: Yale to Pennell)
Pavement Preservation
(Payable to Municipality)

WIN #: (To be included after WIN Activation) Estimated Project Amount: $367,500.00
N/M MPO Id#: PACTS MPO Share: $183,750.00
Municipality Id#: VC1000073472 Municipal Share: $183,750.00
Agreement Begin Date: Upon MaineDOT Signature Agreement End Date: 5 years from date last signed below

This Cooperative Agreement (the “Agreement”) is entered into by and between the Maine Department of Transportation (MaineDOT), an agency of state government, the City of Portland (the “Municipality”), a municipality in the State of Maine, and the Portland Area Comprehensive Transportation System, the designated Metropolitan Planning Organization for the Portland Urbanized Area (PACTS) (MaineDOT, the Municipality and PACTS are collectively referred to as the “Parties”).

RECITALS

A. MaineDOT, through its partnership with Maine’s Metropolitan Planning Organizations (MPOs), is charged with managing and dispersing state and federal funds to support capital improvement projects programmed by the MPOs. PACTS is MaineDOT’s MPO partner for the Portland Urbanized Area.

B. PACTS has created and administers a Municipal Partnership Initiative program (the “PACTS MPI Program”), the purpose of which is to participate in the funding of approved collector and/or arterial roadway projects (the “MPI Project(s)”) with the intention of restoring substandard State and State Aid highways to MaineDOT and PACTS minimum standards.

C. MPI Projects are administered by the municipality in which the project is being constructed. PACTS’ participation in an MPI Project is accomplished through its acceptance of the Project into the PACTS MPI Program, and the contribution of state funds allocated to PACTS and
disbursed by MaineDOT to the administering municipality on PACTS' behalf (the “PACTS Share”). MPI Project costs not paid by the PACTS Share are paid by the administering municipality.

D. The work that is the subject of this Agreement consists of a 1 ¼” overlay on State Route 100 (Allen Avenue) beginning at Yale Street and extending north 0.38 of a mile to Pennell Avenue (the “Project”), and is generally outlined in Appendix A, made a part herewith.

E. PACTS has selected the Project for inclusion in the 2018-2019-2020 MaineDOT Work Plan, using state capital improvement funding allocated by MaineDOT.

F. The Municipality has approved the Project and supports the decision by MaineDOT and PACTS to program the Project, and is prepared to administer and fund the Project in accordance with the terms of this Agreement.

G. The Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the programmed budget, using a process that maximizes communication and cooperation between the Parties.

H. This Agreement is intended to cover the roles and responsibilities of the Parties through full Project development and construction, and to establish the financial obligations of each Party.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree as follows:

1. Appendices:

   The following Appendices are hereby incorporated into this Agreement by reference:

   • Appendix A - PACTS Letter to MaineDOT Outlining Scope and Cost of MPI Project

2. Project Cost Sharing and Payment Schedule:

   a. Financial Obligations:

      i. Total Project Costs.

         1. PACTS and the Municipality agree to share in all costs associated with all phases of the Project through construction (the “Total Project Costs”) in accordance with the allocations outlined below (the “Party Shares”) unless otherwise negotiated by mutual agreement of the Parties.

         a. PACTS Share (provided through PACTS’ state allocation and disbursed by MaineDOT) - 50% of eligible Project costs, up to a maximum of $183,750.00.
b. **Municipal Share** (provided through the Municipality’s obligation of funds) - 50% of eligible Project costs, plus 100% of any and all remaining Project Costs once the PACTS Share has been exhausted (the “Overage”).

2. The estimated Total Project Costs are **$367,500.00** (the “Estimated Total Project Costs”), and are allocated in the table below. If the Estimated Total Project Costs are adjusted to reflect updated costs, the Municipality will consult with PACTS before such adjustments are approved and implemented.

<table>
<thead>
<tr>
<th>Total Project Costs</th>
<th>PACTS Share (State MPO Funds)</th>
<th>Municipal Share</th>
<th>Estimated Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Total Project Costs:</td>
<td>$367,500.00</td>
<td>$183,750.00</td>
<td>$367,500.00</td>
</tr>
<tr>
<td>Estimated Allocated Shares</td>
<td>$183,750.00</td>
<td>$183,750.00</td>
<td>$367,500.00</td>
</tr>
<tr>
<td>Total Party Share of Estimated Total Project Costs</td>
<td>$183,750.00</td>
<td>$183,750.00</td>
<td>$367,500.00</td>
</tr>
</tbody>
</table>

b. **Payment Schedule**: The Municipality shall be the sole administrator of the Project contract(s) and shall pay up front all Project costs, subject to cost sharing by the Municipality and PACTS as specified above.

i. The Municipality may begin invoicing PACTS for the PACTS Share of eligible Project costs upon 1/3 Project completion. Invoices shall be submitted no more than monthly with a maximum number of invoice submittals not to exceed five (5) invoices for the total Project.

ii. The Municipality shall submit to PACTS for reimbursement detailed invoice(s) documenting actual amounts incurred for Project related costs, together with evidence of such invoices having been paid by the Municipality, and identifying PACTS’ share of each invoice submitted.

iii. Each invoice shall include the Municipality’s certification that all amounts claimed are correct, and not previously claimed.

iv. PACTS shall review each such invoice and, upon approval, shall forward each invoice to MaineDOT for payment to the Municipality out of PACTS’ allocated state MPO funds. MaineDOT shall reimburse the Municipality accordingly within thirty (30) days of its receipt of such approved invoice(s) in an aggregate amount not to exceed the total PACTS Share.
3. **Project Milestones:** The Municipality agrees to share information about the Project with PACTS and MaineDOT at the following milestones, as appropriate:

- Project kickoff/initial team meeting/formal public contact;
- Horizontal/Vertical Alignment Complete (HVAC);
- Preliminary public meeting;
- Preliminary Design Report (PDR) complete;
- Formal public meeting(s);
- Plan Impacts Complete (PIC);
- Peer reviews;
- Plans, Specifications and Estimate (PS&E) complete;
- Changes in the Project schedule or engineer's estimate of costs.

4. **Project Design, Construction Plans and Specifications:**

   a. The Municipality shall prepare, or cause to be prepared, all plans, specifications, engineer's estimates and contract documents for the Project within the scope of work identified above, using a standard project development process to ensure adherence to federal and state regulations (the "Preliminary Project Development Materials").

   b. The Municipality shall retain a Professional Engineer licensed in the State of Maine to oversee all Project activities (the "Project Engineer").

   c. The Project must be designed by a Professional Engineer licensed in the State of Maine (the "Design Engineer") and in compliance with MaineDOT's design standards (the "Design Standards").

   i. The Design Engineer shall provide certification to the Parties that, in his/her professional opinion, the Project will provide a smooth ride and not reduce the safety, mobility or structural quality of the affected State and/or State Aid Highway.

   ii. All design documents must be stamped and signed by the Design Engineer in accordance with the provisions of this Section.

   d. MaineDOT reserves the right to review and comment on all plans and specifications with the focus on ensuring that the Project will achieve the anticipated benefits and will not degrade safety.

   e. The Municipality, through its Project Engineer, shall obtain written approval from MaineDOT for any exceptions to the "Design Standards". Submitted documentation shall compare the proposed design to the existing conditions for each proposed exception. Any and all exceptions shall be listed on the cover sheet accompanying the Project plans and submitted to MaineDOT, accompanied by a request for acceptance of the Project's design exceptions. All such requests must include the signature and professional stamp of the Professional Engineer responsible for the design of the Project.
f. In developing the Project, the Municipality shall ensure that the following elements are satisfied:

i. The Project improvements must have a minimum useful life of ten (10) years;

ii. The safety of the corridor and the life of the resulting structural and design elements shall be equal to or better than the existing conditions and design;

iii. The structures, roadways and design features affected by the Project work shall, at a minimum, be of equal dimensions to the existing features or structures and shall be of improved quality in terms of materials and utility;

iv. The Project shall not introduce any unanticipated safety hazards to the traveling public;

v. The Project shall retain the same level or an improved level of mobility of travel within the corridor;

vi. The Project shall not in any manner decrease the life expectancy of the affected component(s) of Maine’s transportation system;

vii. The Project shall meet the most recent Americans with Disabilities Act of 1990 (ADA) design requirements;

viii. Traffic control and the safety of pedestrians, bicyclists and the traveling public shall be provided for at all times.

g. The Municipality shall coordinate with affected utilities to identify existing utility locations and/or any utility relocation impacts that may be created by the development of the Project.

h. It is expected that the Project can be constructed within the existing right-of-way limits. If that is not the case, the Municipality must provide MaineDOT with a detailed explanation of the property rights required for the Project and shall acquire any such property rights in accordance with all applicable state and federal laws. The PACTS Share may only be applied to costs associated with the acquisition of property rights required for the implementation of the Project.

i. The Municipality shall perform all necessary federal, state and local permitting activities required in connection with the Project.

j. Project construction must commence within twelve (12) months and must be certified as complete within twenty-four (24) months of the date of execution of this Agreement. If this timeline is not met, and the Municipality cannot show that it has made a good faith effort to meet this timeline, PACTS retains the right to withdraw any unpaid portion of the PACTS Share and reallocate its remaining funding to other eligible projects in its service area.
k. Upon completion of Project construction, the Municipality shall provide certification to MaineDOT from the Project Engineer stating that the Project is complete and has been constructed in accordance with the plans and specifications.

5. **Public Involvement:**

The Municipality shall be responsible for implementing and leading any and all required public involvement processes and activities, including those required by Maine’s Sensible Transportation Policy Act, and any necessary media coordination associated with the any phases of the Project covered by this Agreement.

6. **Changes to Project Scope:**

The Municipality will consult with MaineDOT and PACTS before implementing any adjustments to the Project scope.

7. **Termination:**

a. In the event the Municipality decides to terminate the Project for any reason prior to the award of a contract to construct the Project and that termination under this clause is not directed by MaineDOT and PACTS, the Municipality shall be responsible for covering all Project costs incurred up to the time of termination.

b. This Agreement may be terminated at any time by mutual written agreement of all Parties.

c. In no event shall any such action taken under this subsection be deemed a breach of contract, nor shall it represent any individual Party’s waiver of claims for breach of contract or its right to any other remedy it may have pursuant to this Agreement, or at law or in equity.

d. In the event of Project termination, all provisions of this Agreement shall become null and void except for the financial obligations set forth herein, as well as those provisions to this Agreement that by their very nature are intended to survive.

8. **Miscellaneous Provisions:**

a. **Quality of Work.** PACTS reserves the right to require the Municipality to refund all reimbursements made and to repay PACTS fully for all Project costs incurred if the work is found to be unsatisfactory.

b. **Reprogramming of Remaining PACTS Funds.** Any state MPO funds allocated to the Project that remain unspent following payment of the final invoice and reconciliation of the Project shall be made available to PACTS for reprogramming once the Project is closed out.

c. **Indemnification.** To the extent permitted by law, the Municipality and PACTS shall each individually indemnify, defend and hold harmless MaineDOT, its officers, agents and employees from all claims, suits or liabilities arising from the indemnifying Party’s
own negligent or wrongful acts, errors or omissions or by that Party’s officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense immunity or limitation of liability that may be available under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. This provision shall survive the termination or expiration of the Project.

d. **Assumption of Responsibility.** The Municipality hereby assumes responsibility for all damage to public or private property of any kind resulting from any act, omission, neglect or misconduct of the Municipality, its employees, agents or representatives, and shall ensure that its contractor(s) assume the same responsibility for all damage to public or private property of any kind resulting from any act, omission, neglect or misconduct of its own employees, agents or representatives. This assumption of responsibility shall also include damage to vehicles passing through the Project limits.

e. **Obligation of State Funds.** Notwithstanding anything herein to the contrary, the Municipality and PACTS acknowledge and agree that, although the execution of this Agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this Agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.

f. **Performance.** The Parties will avoid hindering each other’s performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

g. **Obligation of Municipal Funds.** The Municipality represents that it has received all necessary approvals or authorizations by its governing authorities to approve the Project and enter into this Agreement, and that it has obligated the necessary funds to satisfy its Municipal Share of the Project Costs set out herein.

h. **State of Maine’s Rights of Set-Off.** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State of Maine’s option to withhold for the purposes of set-off monies due the Municipality under a specific project contract up to any amounts due and owed to MaineDOT with regard to this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State of Maine for any reason including without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller.

i. **Assignment.** No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Parties.
j. **Independent Capacity.** The Municipality and PACTS, their respective employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.

k. **Governing Law.** This Agreement shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement shall be performed in accordance with applicable federal laws and regulations, including without limitation Title 23 in the U.S. Code (USC) for statutory law, Title 23 in the Code of Federal Regulations (CFR) for administrative law, and Title 2 CFR, Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

l. **Binding Effect.** The Parties shall be bound by the terms of this Agreement. This provision shall apply to the Agreement’s executors, their successors, administrators and legal representatives.

m. **Notice.** Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and mailed via U.S. Mail, Certified or Registered, Return Receipt Requested or sent via a recognized commercial carrier such as, but not limited to Federal Express, that requires a return receipt delivered to the sending party. Alternatively, communication may be sent via email and shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving party. Said communications, requests or notices shall be sent to the other party as follows:

- **MaineDOT:** Maine Department of Transportation 16 State House Station Augusta, ME 04333-0016 Attn.: Darryl Belz, PE, Safety/MPO Engineer Email: darryl.belz@maine.gov

- **Municipality:** City of Portland Department of Public Services 55 Portland Street Portland, ME 04101 Attn.: Michael Farmer, Senior Engineer Email: mfamer@portlandmaine.gov

- **PACTS:** PACTS 970 Baxter Boulevard, Suite 201 Portland, ME 04103 Attn.: Sara Zografos, Planner Director Email: szografos@gpcog.org

Each Party agrees to promptly notify all other Parties of any changes to the above referenced contact information.
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective on the day
and date last signed.

Kristina Egan, Executive Director *
Greater Portland Council of Governments
For Portland Area Comprehensive Transportation System
Duly authorized

Date 5/4/18

Jon Jennings, City Manager *
Municipality of Portland
Duly authorized

Herb Thomson, Director, Bureau of Planning *
Maine Department of Transportation
Duly authorized

* I certify that the signature above is true and accurate. I further certify that the signature, if
electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself;
(c) is capable of verification; and (d) is under the sole control of myself.
APPENDIX A

PACTS Letter to MaineDOT Outlining Scope and Cost of MPI Project
January 24, 2018

Darryl, 

The following is a request to develop an agreement for the above project for the 2018 PACTS MPO program.

PACTS will be using a portion of our CY2018 state funding allocation for four projects which have been endorsed by our Committee and approved by the PACTS Policy Committee at their July 20, 2017 meeting.

The following project was submitted by Portland for 2018 funding:

Allen Avenue, from Yale Street northwesterly to Pennell Avenue. 
The RLM's are from 3.05 miles to 3.43 mile for a total project length of 0.38 miles. 
The scope is expected to consist of pavement rehabilitation and paving, ADA and sidewalk rehabilitation and bicycle lanes. 
The total cost is estimated at $367,500. 
Construction complete year is scheduled to be 2018. 
The funding is 50% at $183,750 state and $183,750 local, with a maximum state (PACTS) cap of $183,750.

PACTS is requesting the above state amount from the PACTS 2018 allocation resulting in a WIN for the project and a three-party agreement to follow. Portland would like to proceed soon with the design.

The municipal contract is Mike Farmer and he will have been informed that we will need contract documents including a scope of work, unit prices and complete specifications like the same as a MaineDOT “Book Project”, including as not plans as necessary as outlined in the pending agreement.

Thank you for your attention to this matter. If you have any questions please call.

Sincerely,

Paul Niehoff
PACTS

cc: Mike Farmer, City of Portland
     Jeremiah Bardes, City of Portland
     Rob Heir, DOT

The Metropolitan Planning Organization for the Portland Urbanized Area
970 Baxter Blvd • Portland, Maine 04103
Telephone: (207) 774-0891 • Fax: (207) 774-7149 • www.portlandmvp.org
ORDER APPROVING THE ACCEPTANCE AND APPROPRIATION OF A BROWNFIELDS CLEAN UP FUND GRANT

ORDERED, that a Brownfields supplemental clean up grant in the amount of $500,000 from the United States Environmental Protection Agency is hereby accepted for the purposes of funding assessments of contaminated sites; and

BE IT FURTHER ORDERED, that the Brownfields clean up grant monies of $500,000 be hereby appropriated to the City of Portland Brownfields Revolving Loan Fund; and

BE IT FURTHER ORDERED, the City Manager or his or her designee is authorized to execute any and all documents necessary to accept and appropriate the grant, and otherwise carry out the intent of this order.
TO: Mayor and City Council

FROM: Gregory A. Mitchell, Economic Development Director
      Nelle Hanig, Business Programs Manager

DATE: June 27, 2018

DISTRIBUTION: City Manager, Mayor, Anita LaChance, Mona Bector, Sonia Bean, Danielle West-Chuhta, Nancy English

SUBJECT: Acceptance and Appropriation of $500,000 EPA Grant of Supplemental Brownfields Cleanup Funds

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading – July 16, 2018; 2nd Reading – August 13, 2018

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

PRESENTATION: (Greg Mitchell – 5 minutes)

I. ONE SENTENCE SUMMARY

The City of Portland has been awarded a $500,000 grant from the Environmental Protection Agency (EPA) of supplemental Brownfields cleanup funds to recapitalize the City Portland Development Corporation’s Brownfields Revolving Loan Fund (RLF).

II. AGENDA DESCRIPTION

To seek the City Council’s approval to accept and authorization to appropriate $500,000 in EPA Supplemental Brownfields RLF grant funds, with the expectation that the funds will become available October 1, 2018. These funds will supplement the City’s Brownfields RLF which was recapitalized last year with an $800,000 EPA grant, allowing the provision of greater assistance for remediation of Brownfields sites in Portland.

III. BACKGROUND

The City of Portland applied to EPA back in December 2015 for $800,000 in grant funds to recapitalize its Brownfields RLF. EPA awarded the grant in 2016 and all of the funds were
subsequently approved by the Portland Development Corporation (PDC) for awards to the Children’s Museum and Theatre of Maine ($170,000 grant), Thompson’s Point ($350,000 loan), and Children’s Odyssey School ($180,000 grant), with the remaining $100,000 being used for environmental and underwriting contractors, legal costs, travel, and other program expenses.

As all of those funds have been approved for specific projects, some of which have already been drawn down, the City was invited by EPA to apply for supplemental funds. That application was successful with a new EPA grant of $500,000 just approved. The funds will be invested in remediation and cleanup for redevelopment of contaminated properties in Portland.

IV. INTENDED RESULT

The City will use the funds initially to hire a Qualified Environmental Professional(s) to assist staff in reaching out to property owners with contaminated properties and determining eligibility of Brownfields cleanup sites. This is the first step in ultimately providing loans (to for-profits) and possibly some grants (to non-profits) for the cleanup of more Brownfields sites. While these funds can be used throughout Portland, there will be a particular emphasis on East and West Bayside and the Portland waterfront.

V. COUNCIL GOAL ADDRESSED

In addition to the public health benefits of reduced environmental contamination in the City, remediated sites will be reused and redeveloped. The Council goal addressed is to promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

VI. FINANCIAL IMPACT

There will be no direct financial impact on the City. A positive financial impact will be contaminated sites being remediated, redeveloped, and put back on the tax rolls providing revenue for the City and new jobs.

VII. STAFF ANALYSIS

There are brownfields sites throughout the Portland peninsula and elsewhere in the City. The benefit to having available Brownfields funds is to help mitigate the additional cost of redeveloping contaminated sites. Clean sites will yield redevelopment and new revenue for the City as well as jobs. An additional $500,000 in Brownfields cleanup funds will have a substantial impact on remediating/cleaning up more contaminated properties in Portland and redeveloping them.

VIII. RECOMMENDATION

Economic Development staff recommend that the City Council approve acceptance and authorize appropriation of a grant of $500,000 in EPA Brownfields Revolving Loan Funds, which are anticipated to be officially awarded and available for use October 1, 2018.

VIII. LIST ATTACHMENTS - None
TRAFFIC SCHEDULE AMENDMENT
RE: Unrestricted to Metered Parking on India and Fore Streets

ORDERED, that the City of Portland's Traffic Schedule be and hereby is amended as follows:

By removing under Fore Street from India Street to Hancock Street:

South Side

➢ Schedule I – No Parking Anytime

By adding under Fore Street from India Street to Hancock Street:

South Side

➢ Schedule XXI – Meter Zone No. 3 - 2 Hour

By removing under India Street from a point 16 feet south of Newbury Street to a point 61 feet south of Newbury Street:

West Side

➢ Schedule XV – 15 Minute Parking

By adding under India Street from Newbury Street to a point 100 feet south of Newbury Street:

West Side

➢ Schedule XXI – Meter Zone No. 3 - 2 Hour
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Jennifer Ladd, Project Engineer
Department of Public Works - Engineering

DATE: June 27, 2018

SUBJECT: Traffic Schedule Amendment: Unrestricted to Metered Parking on India Street and Fore Street

SPONSOR: Jon Jennings

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading___July 16th, 2018_________ Final Action___August 13th, 2018____

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

PRESENTATION: (List the presenter(s), type and length of presentation) N/A

I. ONE SENTENCE SUMMARY –

The Department of Public Works requests City Council approval to amend the Traffic Schedule to convert four existing unrestricted parking spaces along the west side of India Street (from Middle Street to Newbury Street) to four two-hour metered parking spaces, and to convert No Parking Anytime on the south side of Fore Street (from India Street to Hancock Street) to nine metered parking spaces.

II. AGENDA DESCRIPTION -

The requested Council action would amend the Traffic Schedule to change the west side of India Street, between Middle Street and Newbury Street, from unrestricted to two-hour metered parking. This would result in four metered parking spaces on this block of India Street. This action would also amend the Traffic Schedule to change the south side of Fore Street between India Street and Hancock Street, from No Parking Anytime to two-hour metered parking, resulting in nine metered parking spaces on this block of Fore Street.
III. BACKGROUND -

The India Street area is currently undergoing significant development and growth, including new retail, banking, hotels and residential facilities. As these developments replace surface parking lots and generate new activity, there is increased demand for parking in general and a lower inventory of off-street parking to meet that need. Both street segments are adjacent to on-going construction and any proposed parking schedule changes would be implemented when all construction activity and impacts within the right-of-way are finished.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED -

Approval of these amendments to the Traffic Schedule will ensure that on-street parking is provided, to the extent possible, to meet the growing demand for parking in this area. The implementation of time restricted parking will encourage regular parking turnover in areas with new retail and other commercial uses.

V. FINANCIAL IMPACT -

The financial impact to make these parking changes will be approximately $500-$1,000 for combined staff time and materials.

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

The CPort Credit Union site plan approval (for the corner of Middle Street and India Street) will introduce one 15-minute parking space on India Street and one 15-minute parking space on Middle Street.

VII. RECOMMENDATION –

DPW staff, with support from the Parking Division, recommend this change.

VIII. LIST ATTACHMENTS

1. Parking Changes Proposed for India Street & Fore Street

Prepared by: Jennifer Ladd
Date: June 27, 2018

Bean/agendarequestmemo/rev 11/2015
India Street and Fore Street Parking Schedule Changes


2. Current Schedule: parking prohibited, Change: nine 2-hour metered spaces

- Approximate meter head locations
- Recent site work taken into account for new parking schedule

Prepared by the City of Portland Department of Public Works

Date: 6/28/2018
Checked by: JLW
TRAFFIC SCHEDULE AMENDMENT
RE: Unrestricted to No Parking on Portions of Washington and Allen Avenues

ORDERED, that the City of Portland's Traffic Schedule be and hereby is amended as follows:

By adding under Allen Avenue from a point 56 feet northerly of Goodridge Avenue to Washington Avenue:

West Side

➤ Schedule I – No Parking Anytime

By adding under Allen Avenue from a point 56 northerly of Goodridge Avenue to a point 185 feet southerly of Woodlawn Avenue:

East Side

➤ Schedule I – No Parking Anytime

By adding under Allen Avenue from a point 150 feet northerly of Knight Street to Abbott Street:

East Side

➤ Schedule I – No Parking Anytime

By adding under Washington Avenue from to a point 40 feet easterly of Gertrude Street to a point 115 feet easterly of Drake Street:

North Side

➤ Schedule I – No Parking Anytime

By adding under Washington Avenue from a point 85 feet easterly of Ray Street to a point 180 feet easterly of Rainbow Mall Road:

North Side
Schedule I – No Parking Anytime

By removing under Washington Avenue from a point 145 easterly of Ocean Avenue to a point 25 feet westerly of Byfield Road:

North Side

Schedule I – No Parking Anytime

By adding under Washington Avenue from a point 145 easterly of Ocean Avenue to Byfield Road:

North Side

Schedule I – No Parking Anytime

By adding under Washington Avenue from Allen Avenue to a point 40 feet southerly of Maplewood Street:

South Side

Schedule I – No Parking Anytime

By adding under Washington Avenue from a point 75 easterly of Chesley Street to a point 545 feet easterly of Canco Road:

South Side

Schedule I – No Parking Anytime

By removing under Washington Avenue from a point 130 feet westerly of Ocean Avenue to Fallbrook Road:

South Side

Schedule I – No Parking Anytime

By adding under Washington Avenue from a point 230 easterly of Fallbrook Street to a point 130 feet westerly of Ocean Avenue:

South Side

Schedule I – No Parking Anytime
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Jennifer Ladd, Senior Transportation Engineer
Department of Public Works

COPY: Chris Branch, DPW Director
Keith Gray, City Engineer
Jeremiah Bartlett, Transportation Systems Engineer
John Peverada, Parking Division

DATE: June 28th, 2018

SUBJECT: Traffic Schedule Amendment: Unrestricted Parking to No Parking on portions of Washington Avenue, between Maplewood Street and Byfield Road, and Allen Avenue, between Forest Ave and Washington Avenue.

SPONSOR: Jon Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 16th, 2018 Final Action August 13th, 2018

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

PRESENTATION: (List the presenter(s), type and length of presentation) N/A

I. ONE SENTENCE SUMMARY –

The Department of Public Works requests City Council approval to convert currently unrestricted parking on multiple segments of Washington Avenue (between Maplewood Street to Byfield Road) and Allen Avenue (between Forest Ave and Washington Avenue) to No Parking Anytime.

II. AGENDA DESCRIPTION –

Staff is seeking Council endorsement to amend the Traffic Schedule in certain locations on Washington Avenue and Allen Avenue to facilitate and extend transportation improvements along both corridors in conjunction with resurfacing and signal work scheduled for the 2018 construction season.
The proposed schedule changes would impact 130 parking spaces on Washington Avenue and 80 parking spaces on Allen Avenue. (See attached graphics)

III. BACKGROUND –

Prior studies, data collection efforts and parking counts, including a study by the Portland Area Comprehensive Transportation System (PACTS), entitled The Bike Network Expansion for the Feasibility and Implementation of the 2009 Regional Bicycle & Pedestrian Plan Update and the Pedestrian and Bicycle Chapter of the 2012 Portland Comprehensive Plan, have indicated low on-street parking utilization and an opportunity to improve transportation efficiency on these parts of Washington Avenue and Allen Avenue. Reallocating space from underutilized on-street parking to buffered bike lanes and a reduction in travel lane width will better accommodate a wider variety of street users, improve safety for all and continue similar facility changes implemented on Washington Avenue in 2017 between Ocean Avenue and Presumpscot Street.

Public outreach was conducted in June 2018 to make local residents and businesses aware of the proposed parking changes and invite them to a public meeting for more information. A public press release was issued and over 500 pamphlets and graphics were mailed or hand delivered to abutters and businesses along these corridors. A public meeting was held on June 19th, 2018. A meeting summary is attached. There were lots of questions about the project in general, a concern for overall speeding traffic on these roads and some detailed suggestions on pavement marking, but no strong opposition to the parking changes proposed.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED –

Approval of these amendments to the Traffic Schedule will allow new roadway reconfigurations to be implemented as part of planned resurfacing and signal work on Washington Avenue and Allen Avenue. These amendments will take advantage of low parking utilization of these roadways and will increase multi-modal transportation options and efficiency on these important travel corridors in Portland.

V. FINANCIAL IMPACT –

The financial impact for Washington Avenue will be approximately $4,100 for combined staff time and materials, and the required DigSafe fees related to the installation of signage; a small portion of which may be covered by the construction costs for resurfacing of Washington Avenue.

The financial impact for Allen Avenue will be approximately $2,000 for combined staff time and materials, and the required DigSafe fees related to the installation of signage; a small portion of which may be covered by the construction costs for resurfacing of Allen Avenue.
VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION –

Based on parking counts done in 2015, 2017, and 2018 on both Washington Avenue and Allen Avenue, average parking utilization is well under 5% in the morning, in the evening, and on weekends on these sections of road. By replacing the underutilized parking with higher quality bicycle facilities, the street space will be used more efficiently and actively so that bicycling will be a safer and more realistic option for transportation on Washington Avenue and Allen Avenue.

Implementing bicycle facilities in these locations will also allow a cyclist to connect to striped, buffered bike lanes that were added on Washington Avenue between Ocean Avenue and Presumpscot Street in 2017.

We met with Councilor Cook on May 9th and with Councilor Costa on May 11th to brief them on the project and the proposed parking changes.

VII. RECOMMENDATION –

DPW staff, with support from the Parking Division, recommend this change.

VIII. LIST ATTACHMENTS –

1. Washington and Allen Parking Change – Agenda Item Support Graphic
2. Washington and Allen Parking Counts – Agenda Item Support Graphic

Prepared by: Jennifer Ladd
Date: June 28th, 2018

Bean/agendarequestmemo/rev 11/2015
WASHINGTON AND ALLEN MPI PAVING PUBLIC MEETING SUMMARY

Meeting Location: Training Room, 250 Canco Road
Meeting Date: June 19, 2018
Approximate Meeting Time: 6:00pm - 8:00pm
Presenters: Bruce Hyman, DPUD; Jennifer Ladd, DPW
Public Notification: 500 pamphlets mailed to abutters, passed door-to-door, distributed to businesses

Attendees:

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS/ORGANIZATION</th>
<th>EMAIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joseph Bugate</td>
<td>70 Allen Ave</td>
<td></td>
</tr>
<tr>
<td>Sharon Restell</td>
<td>183 Allen Ave</td>
<td><a href="mailto:syrestell@gmail.com">syrestell@gmail.com</a></td>
</tr>
<tr>
<td>Kathleen Sutherland</td>
<td>900 Washington Ave, treasurer of the 900 Washington Avenue Association, unit #3</td>
<td></td>
</tr>
<tr>
<td>John Sutherland</td>
<td>900 Washington Ave, president of the 900 Washington Avenue Association, unit #3</td>
<td></td>
</tr>
<tr>
<td>Archie Giobbi</td>
<td>1184 Washington Ave</td>
<td><a href="mailto:archiegiobbi@gmail.com">archiegiobbi@gmail.com</a></td>
</tr>
<tr>
<td>Paul White</td>
<td>50 Allen Ave</td>
<td></td>
</tr>
<tr>
<td>Joseph Mendes</td>
<td>1066 Washington Ave</td>
<td><a href="mailto:mendes6279@yahoo.com">mendes6279@yahoo.com</a></td>
</tr>
<tr>
<td>Ann Roderick</td>
<td>970 Washington Ave</td>
<td><a href="mailto:aroderick@outlook.com">aroderick@outlook.com</a></td>
</tr>
<tr>
<td>David Morash</td>
<td>124 Allen Ave</td>
<td><a href="mailto:flatlanderdev@aol.com">flatlanderdev@aol.com</a></td>
</tr>
<tr>
<td>Michael LeComte</td>
<td>1115 Washington Ave</td>
<td><a href="mailto:michael.r.lecomte@gmail.com">michael.r.lecomte@gmail.com</a></td>
</tr>
</tbody>
</table>

Take-aways:
- Speed seems to be an issue along Washington and Allen. Narrowing travel lanes is a proven treatment to help encourage lower speeds.
- Attendees reported a lot of pedestrians and a lot of bikes getting on buses, at all hours of the day. Residents are concerned for their safety, especially in the wintertime.
- Suggestion was made to adjust the left turn lane stop bars back on Allen Ave (NB) and Canco Rd (SB) to help facilitate turning vehicles with large radii.
- A comprehensive speed study should be done in tandem with this project to capture any impacts the project may have on general travel speeds.
Proposed Allen Avenue and Washington Avenue Parking Changes

- Retained Parking
- Parking Reallocation For New Bike Lanes
- 20’ = Parking Space

*Pavement marking changes will continue up Washington Ave/Auburn St to Lyseth Moore Dr, but won’t affect parking.

Prepared by City of Portland DPW
Date: 5/25/18
ORDER APPROPRIATING
HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS
IN THE AMOUNT OF $200,000 TO THE
AVESTA HOUSING DEVELOPMENT CORPORATION
RE: DEERING PLACE

ORDERED, that the amount of $200,000 in Home Investment Partnerships (HOME) Program funds is hereby appropriated to the Avesta Housing Development Corporation for development costs for Deering Place; and

BE IT FURTHER ORDERED, the City Manager or his or her designee is authorized to execute any and all documents necessary to apply for, accept and appropriate the grant, and otherwise carry out the intent of this order.
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Mona Bector

FROM: Planning and Urban Development Department
Housing & Community Development Division

DATE: June 27, 2018

SUBJECT: Order Authorizing Additional Financial Assistance in the amount of $200,000 in HOME Program Funds to the Avesta Housing Development Corporation project entitled Deering Place located at 61 Deering Street and 510 Cumberland Avenue

SPONSOR: Jill Duson, Chair, Housing Committee
Date the Committee Met: June 5, 2018 Results: 3-0 in favor

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 16, 2018 Final Action August 13, 2018

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

PRESENTATION: (List the presenter(s), type and length of presentation)
Mary Davis, HCD Division Director will be available to answer any questions

I. ONE SENTENCE SUMMARY
Avesta Housing Development Corporation (AHDC) is proposing to renovate and construct a seventy-five (75) unit mixed-income rental housing development on a site they own located at 61 Deering Street and 510 Cumberland Avenue. AHDC is requesting additional financial assistance from the City in the form of a HOME Loan in the amount of $200,000. In November 2017, Avesta Housing Development Corporation (AHDC) received a commitment of $300,000 in HOME funding and approval of TIF Credit Enhancement Agreement (75% of the increased taxable value over 30 years, average of $147,981/year) for this project. The project was awarded Low Income Housing Tax Credits in March of this year. The developer is seeking additional HOME funding to ensure that the project can move forward.

II. AGENDA DESCRIPTION
Avesta Housing Development Corporation (AHDC) is proposing to renovate and construct a seventy-five (75) unit mixed-income rental housing development on a site they own located at 61 Deering Street and 510 Cumberland Avenue. AHDC is requesting additional financial assistance from the City in the form of a HOME Loan in the amount of $200,000. In November 2017,
Avesta Housing Development Corporation (AHDC) received a commitment of $300,000 in HOME funding and approval of TIF Credit Enhancement Agreement (75% of the increased taxable value over 30 years, average of $147,981/year) for this project. The project was awarded Low Income Housing Tax Credits in March of this year. The developer is seeking additional HOME funding to ensure that the project can move forward. The HOME loan request is detailed in this memo.

The Deering Place project will include:

<table>
<thead>
<tr>
<th>Deering Place</th>
<th>510 Cumberland Avenue &amp; 61 Deering Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency Units (15)</td>
<td>at or below 40% area median income</td>
</tr>
<tr>
<td></td>
<td>at or below 50% area median income</td>
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<tr>
<td></td>
<td>at or below 60% area median income</td>
</tr>
<tr>
<td></td>
<td>Market Rate</td>
</tr>
<tr>
<td>1-Bedroom Units (38)</td>
<td>at or below 40% area median income</td>
</tr>
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<td></td>
<td>at or below 50% area median income</td>
</tr>
<tr>
<td></td>
<td>at or below 60% area median income</td>
</tr>
<tr>
<td></td>
<td>Market Rate</td>
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<tr>
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<td></td>
<td>at or below 60% area median income</td>
</tr>
<tr>
<td></td>
<td>Market Rate</td>
</tr>
<tr>
<td>3-Bedroom Units (13)</td>
<td>at or below 40% area median income</td>
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<tr>
<td></td>
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<td></td>
<td>at or below 60% area median income</td>
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<tr>
<td></td>
<td>Market Rate</td>
</tr>
<tr>
<td>Total Units</td>
<td>75</td>
</tr>
</tbody>
</table>

As stated in the developer's application:

"Deering Place will combine the redevelopment of two under-utilized parking lots and the rehabilitation of an existing mixed-use building to create a mixed-income, contextually-appropriate residential community with 75 units and enhanced amenities. The project will include a mix of affordable and market rate units, making it possible to preserve and add affordable units as well as ensure the long term viability of the project. The scope of work includes a rehab and expansion of 510 Cumberland Avenue ("Building A") and the construction of a new building at 61 Deering Street ("Building B"). Upon completion, there will be a total of 75 apartments, of which 62 will be newly constructed units and 15 will meet handicapped accessible standards."

In total, the development will include 75 apartment units, ranging in size from efficiency to 3 bedrooms. It will include a community room, a telemedical room, laundry facilities in each building, and 64 parking spaces. The project will serve a mixed income population, with 32
market rate units and 48 affordable units. Thirteen units will continue to serve households at 40% of AMI, per the existing affordability restriction with Maine Housing. The remaining 35 affordable units will serve households at 50% AMI.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the HOME funding recommendation.

The Housing Committee met on June 5, 2018 and voted 3-0 to forward this funding request to the City Council for approval.

III. BACKGROUND

Avesta acquired the 61 Deering Street/510 Cumberland Avenue property from Opportunity Alliance on October 25, 2016, along with a parking lot and a historic building located at 73 Deering Street, with a total of 16 residential apartments and underutilized commercial space. A Capital Needs Assessment concludes that the properties are in reasonable condition considering their age (built in 1900 and 1920) but that both buildings have major systems which are nearing the end of their useful lives, and there are deferred maintenance items which need immediate attention.

There is a use agreement with Maine Housing also dated October 25, 2016, restricting the use of the residential units to affordable housing until at least 2038 (21 years from now). Maine Housing has agreed to transfer the existing affordability restriction on the 3 residential units at 73 Deering (the portion of the property slated for sale) to 3 newly constructed units. This will allow 73 Deering to be sold without affordability restrictions, substantially increasing its market value.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Increase access to rental and ownership housing that is safe and affordable for working and low-income families.

V. FINANCIAL IMPACT

The property is currently tax exempt. When completed the project’s estimated tax assessed value is $7 million. Additional HOME funds request: $200,000 (making the total City HOME investment $500,000), over 30-years, at zero percent interest, with repayment annually of 20% of cashflow.
Total City HOME Investment of $500,000/unit - $6,667.
Total City HOME Investment of $500,000/affordable unit = $11,111.

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

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is well positioned to secure the remaining financing needed to move forward with this project, has the financial capacity to keep the development process moving forward and that the project will have sufficient cash flow to repay the City HOME loan in full.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below. With that being said, the third party report makes the following recommendations:

An additional HOME loan in the amount of $200,000, with the following conditions prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14.5% of net construction costs.
2. Satisfactory review of a final development budget and operating pro forma which is consistent with the commitments of all source, including a cashflow waterfall acceptable to the City;
3. Any net proceeds of the sale of 73 Deering Place (after debt is retired, payment of settlement expenses, adjustment for any operating losses during the pre-development holding period, and any legal expense related to separation of the parcels) to be used to reduce the HOME loan amount.
4. Satisfactory review of a current appraisal ("current" as of date of loan closing) which breaks out the "as is" and "as built" values for each of the four existing parcels, to insure the limited partnership is not overpaying for the site.
5. Final rent schedules to be compared to maximum allowable rents and applicable utility allowance charts to determine final maximum rent rates.

As part of the Maine State Housing Authority's (MSHA) Qualified Allocation Plan (QAP) application due in February, the developers will need letters of commitment of support for their projects prior to the QAP submission deadline. If the Council agrees with the staff recommendation, this letter would include the recommendations of the third party underwriter and be conditioned on the completion of the following additional requirements:
1. The commitment will be subject to compliance with all HOME Program regulations including, but not limited to, satisfactory underwriting analysis, cost allocation, designation of HOME units and compliance with the new HOME Final Rule (effective August 23, 2013) and the Consolidated and Further Continuing Appropriations Acts of 2012 and 2013.

2. The commitment will include the requirement that the environmental review process be satisfactorily completed. The City's agreement to provide funds will be conditioned on the determination to proceed with, modify or cancel the project based on the results of the environmental review.

3. Commitment of funds to be stated as "an amount up to the funding request based on maximization of LIHTC equity raise", to ensure that the City's contribution is leveraged to the maximum extent possible.

4. If applicable, documentation acceptable to the City that the acquisition cost is reasonably related to market value. This is a HOME Program requirement.

5. Commitment should be subject to the projections and assumptions noted in the project budgets and pro-forma submitted, for both HOME and TIF funding, and the City reserves the right to reconsider and adjust their commitment if any significant alterations occur in the budget. A final commitment will be subject to a final budget.

6. Any substantial changes to the composition of the project, or the financial investment required, will be brought back to the Housing Committee and the City Council for review and approval.

A recommendation for City HOME funding by the City Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Any funding awarded will be contingent on the project's final approval by the Planning Board.

VII. RECOMMENDATION

Staff is requesting approval by the City Council of additional HOME funding of $200,000 (bringing the total City HOME investment to $500,000) with a loan term of 30 years at zero percent interest with repayment annually of 20% of cashflow.

VIII. LIST ATTACHMENTS
Excerpt HOME Application Information for Deering Place
Third Party Underwriting Analysis

Prepared by: Mary P. Davis, HCD Division Director
Date: June 27, 2018
City of Portland HOME Funds Application
Project: Deering Place

Avesta Housing is requesting $200,000 of HOME funds from the City of Portland to complete the Deering Place project ("Deering Place") at 61 Deering Street and 510 Cumberland Avenue, Portland, Maine. The City has already demonstrated its commitment to this project through the reservation of $300,000 in HOME funds during the 2017-2018 round and the approval of a Tax Increment Financing District inclusive of the project site in November 2017. Since then, federal tax law changes have caused significant fluctuation in the tax credit equity market and, as a result, Avesta Housing is seeking additional support from the City to ensure the Deering Place’s success.

Deering Place is an opportunity to preserve, redevelop, and expand affordable housing in a highly desirable and accessible location within Portland. The development site contains three contiguous lots located in a highly walkable area in the historic Parkside neighborhood in downtown Portland. Deering Place is in close proximity to many amenities and services within the downtown area, making it a prime location for housing: MaineHealth, Deering Oaks park, a pharmacy, bus stops, schools, and a grocery store are all within a half mile.

Deering Place will combine the redevelopment of two under-utilized parking lots and the rehabilitation of an existing mixed-use building to create a mixed-income, contextually-appropriate residential community with 75 units and enhanced amenities. The project will include a mix of affordable and market rate units, making it possible to preserve and add affordable units as well as ensure the long term viability of the project. The scope of work includes a rehab and expansion of 510 Cumberland Avenue ("Building A") and the construction of a new building at 61 Deering Street ("Building B"). Upon completion, there will be a total of 75 apartments, of which 62 will be newly constructed units and 15 will meet handicapped accessible standards.

Building A is a three-story brick building originally constructed in 1927 and expanded in the early 1990s, currently comprised of 13 one- and two-story three-bedroom rental units, significant first floor commercial space, and a large surface parking lot. The building has not received any major capital improvements in almost 30 years and is in need of significant interior and exterior rehabilitation work.

To address these issues and create a higher quality living experience for the residents, the project will facilitate much needed capital improvements at the building level (e.g., brick repointing, roof repair, HVAC enhancements) and through in-unit upgrades (e.g., new doors, energy efficient light fixtures and appliances, cabinets, flooring). The project will also convert the underutilized commercial space to seven new residential units. In addition, Building A will be expanded by constructing a new 32-unit residential building on the surface parking lot next to the existing building. The new building will be attached to the existing building and utilize the same address. The expanded Building A will include 52 units and 51 covered parking spaces, up to 14 of which will be handicapped accessible. Building B will be comprised of 23 units and one handicapped accessible parking space.
Avesta prioritizes quality, environmentally sustainable design in all of our projects and the organization has developed building standards that ensure that our baseline building envelopes and mechanical systems exceed any building codes we encounter. In line with these initiatives, we plan to incorporate a range of features to promote and support sustainability, energy efficiency, and indoor air quality at Deering Place, including energy efficient heating systems, boilers, and furnaces; water conserving fixtures; Energy Star appliances; LED or Energy Star qualified lighting; and natural ventilation through operable windows.

Combined amenities in the two buildings, available to all Deering Place residents, will include a new community room, a laundry room in each building, and a telemedicine room, which will provide simple remote access to medical care. The grounds will be well landscaped with easily accessible walkways and sitting areas.

Deering Place will be a mixed-income project for individuals and families, comprised of 45 affordable rental units (60% of the project) and 30 market rental units (40% of the project). There are currently income and rent restrictions governed by a MaineHousing agreement requiring at least 13 units to be designated for households at or below 40% of Area Median Income (AMI). This project will ensure the preservation of those existing affordability restrictions over the long term. Additionally, the project has and will continue to have residents with Housing Choice Vouchers and other forms of rental assistance.

Incorporating the current affordability restrictions, the newly completed project will have 13 units designated for individuals or families at or below 40% of AMI, 32 units designated for individuals or families at or below 50% of AMI, and 30 market-rate units. All units with affordability restrictions will have a utility allowance factored into the tenant rent payment.

These affordable units at Deering Place come at a critical time for very low income Portlanders. Vacancies in Portland are at all-time lows while rents continue to increase. In 2017, Avesta alone received requests for affordable housing from nearly 3,800 households (over 1,300 of which were senior-led households) but was only able to provide housing to 393, showing demand far exceeds supply. Furthermore, Deering Place currently has a waitlist of over 100 households for the 13 existing units.

Deering Place will preserve and improve existing affordable rental housing and add much-needed new affordable rental housing in a central location of the city rich with transit, services, and neighborhood amenities.
Deering Place - Portland, ME  
Project Completion Schedule

<table>
<thead>
<tr>
<th>Activity</th>
<th>Scheduled Date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. SITE</strong></td>
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<tr>
<td>Option/Contract</td>
<td>07/19/16</td>
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<tr>
<td>Site Acquisition</td>
<td>10/15/16</td>
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<td>Zoning Approval</td>
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<td><strong>B. APPROVALS</strong></td>
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<td>Historic Preservation</td>
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<tr>
<td>Zoning</td>
<td>12/13/2017</td>
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<tr>
<td>TIF</td>
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<td><strong>C. FINANCING</strong></td>
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<tr>
<td>Construction Loan Commitment</td>
<td>02/01/18</td>
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<td>Permanent Loan Commitment</td>
<td>02/01/18</td>
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<td>Other Sources Committed</td>
<td>03/01/18</td>
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<tr>
<td><strong>D. PLANS AND SPECIFICATIONS</strong></td>
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<td>50%</td>
<td>06/01/18</td>
</tr>
<tr>
<td>90%</td>
<td>08/01/18</td>
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<td>10/01/18</td>
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<td><strong>E. CONSTRUCTION LOAN CLOSING</strong></td>
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<td><strong>F. CONSTRUCTION START</strong></td>
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<td>04/01/19</td>
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<td><strong>G. COMPLETION OF CONSTRUCTION</strong></td>
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<td>04/01/20</td>
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<tr>
<td><strong>H. LEASE-UP</strong></td>
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<tr>
<td>Lease-up Begins</td>
<td>03/01/20</td>
</tr>
<tr>
<td>Sustained (95%) Occupancy</td>
<td>12/31/20</td>
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</table>
**Project Name:** Deering Place  
**Location:** 510 Cumberland Ave & 61 Deering St, Portland, ME  
**Date:** 05/04/18

### Development Assumptions

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<th>Total Units</th>
<th>75</th>
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<td>LIHTC 40%</td>
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<td>41.3%</td>
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<td>1.3%</td>
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<td>Inflation Adjustments Yr 1-5</td>
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<tr>
<td>Inflation Adjustments Yr 6-15</td>
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<td>Vacancy</td>
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### Appraised Market Value

- Total Units: 75  
- Market Value: $9,087,133  
- Market Value/Unit: $121,162  
- Equity Yield: 0.00%

### Pro Forma Development Budget

#### Residential Per Unit

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<th>Description</th>
<th>Amount (Thousands)</th>
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#### Commercial

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### Notes:

- **LIHTC Alloc.** 809,470  
- **Equity Yield** 0.89%  
- **Synd. %** 99.99%  
- **Equity Raise** 7,223,800

- **Historic Credit FED** 0  
- **Equity yield** 0.89%  
- **Synd. %** 99.99%  
- **Equity Raise** 0

- **Total Equity:** 7,223,800

- **Gross Square Footage:** 71,140  
- **Construction Cost/Sq ft.:** $151

- **Notes:**
  - **Title & Recording:** 13,312  
  - **Accounting:** 10,000  
  - **Construction Period Tax:** 12,513  
  - **Construction Period Insurance:** 30,000  
  - **Other, as built, FF&E, etc:** 30,000  
  - **Subtotal Soft Costs:** 735,270  
  - **Equity Bridge Loan Origination Fees:** 8,660  
  - **Equity Bridge Loan Interest:** 298,697  
  - **FHA/GNMA Permanent Loan Fee:** 90,457  
  - **Other FHA Fees:** 111,563  
  - **Other Fees:** 36,000  
  - **Subtotal Finance Costs:** 504,937  
  - **Market Survey:** 8,000  
  - **Appraisal:** 7,500  
  - **Environmental Study:** 5,000  
  - **LIHTC Fees:** 100,410  
  - **Other, Soft Cost Contingency/Misc:** 175,000  
  - **Other, Commissioning:** 12,000  
  - **Subtotal Miscellaneous:** 307,910  
  - **Acquisition, Buildings:** 382,500  
  - **Acquisition, Land:** 350,000  
  - **Acquisition, Legal:** 0  
  - **Subtotal Acquisition:** 732,500  
  - **HUD Operating Deficit Escrow:** 301,523  
  - **Pre-funded Replacements:** 63,876  
  - **Construction Interest Reserves:** 165,335  
  - **Tax & Insurance Escrow:** 100,241  
  - **Total Syndication Expenses:** 0  
  - **Consultant Fee:** 0  
  - **Other, Transition & Rent-up Reserve:** 50,000  
  - **Developer Overhead:** 562,500  
  - **Developer Profit:** 0  
  - **Subtotal Fee and Reserves:** 1,273,471  
  - **Total Development Costs:** 14,314,257
### Flow of Funds

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#### Ending Cash

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### Capitalization Gap (Surplus)

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### Collateral Coverage

- **Projected Mortgage**: 4,521,457, 80,286
- **Appraised Market Value**: 9,087,133, 121,162
- **Loan to Value Ratio**: 69%
- **Market Rent Differential**: 424,164, 471
- **Supportable Mort.: Unrestricted**: 12,164,067, 162,188
- **Subsidy per Unit**: 0
- **Subsidy per Low Income Unit**: 0

**Total**: 14,314,257
### Proposed Rent Schedule

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<tr>
<td>1BR</td>
<td>50% LIHTC</td>
<td>13</td>
<td>770</td>
<td>$1,350</td>
<td>52</td>
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<tr>
<td>2BR</td>
<td>40% LIHTC</td>
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<td>738</td>
<td>$1,635</td>
<td>64</td>
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<td>3BR</td>
<td>40% LIHTC</td>
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**Vacancy Rate:** 5%

**Other Income:** TIF > 75%

**Other Income:** Laundry 8,250

**Effective Gross Income:** 945,380

### Operating Expenses

<table>
<thead>
<tr>
<th>Expense</th>
<th>Annual</th>
<th>Annual Per Unit</th>
<th>Monthly Per Unit</th>
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<td>Administrative Expenses:</td>
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<td>Management Fees</td>
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<td>573</td>
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<td>92,559</td>
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<td>7,356</td>
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</table>

### Affordability Mortgage Calculation

- **Effective Gross Income:** 945,380
- **Annual Operating Expense:** 551,702
- **Stabilized NOI:** 393,678
- **DSC:** 1.15
- **5% Available D/S:** 342,329
- **Other D/S:** 10%
- **Balance:** 248,414
- **Affordable Mortgage:** 4.70% 4,475,932

### Breakeven Analysis

<table>
<thead>
<tr>
<th>Total</th>
<th>Annual</th>
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<tbody>
<tr>
<td>Operating Expense</td>
<td>551,702</td>
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<td>Debt Service</td>
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<tr>
<td>Breakeven Rent</td>
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</table>

### BreakEven Analysis: Rent Sensitivity

- **Total Gross Revenues:** 988,656
-----

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT
5 Months
7/30/20
12/31/20
Effective Gross Income
393,908
Less Operating Expense
229,876
Net Operating Income
164,032

12/31/21
964,287
568,253
396,035

12/31/22
983,573
585,300
398,273

Less HUD Repay
Less Other Repay

104,558
39,131

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250.940
93,915

Cash Flow
Cash Flow per Unit

20,343
651

5 1,179
682

53,417
712

55,530
740

57,509
767

59,347
791

61 ,035
81 4

62,565
834

63,928
852

65,115
868

66,1 16
882

Debt Coverage Ratio

12/31/23
12/31/24
1,003,245 1,023,309
602,859
620,945
400,385
402,364

12/31125
1,043,776
639,574
404,202

12/31/26
12/31127
1,064,651 1,085,944
658,761
678,524
405,890
407,421

12131128
12/31/29
1,107,663 1,129,816
698,879
719,846
408,784
409,971

12/31130
1,152,413
741,441
410,972

1.14

1.15

1.15

1.16

1.1 7

1.17

1.18

1.18

1.19

1.19

1.19

Principal Balance

4,521,457

4,505,318

4,465,272

4,423,303

4,379,318

4,333,221

4,284,910

4,234,279

4,181 ,217

4,125,606

4,067,324

4,006,243

HUD 221(d){4) Tranche B
Other: Amortizing Mortgage
Other: AHP Subsidy
Other: City FedHOME
Principal Balance(Other)

1,509,000
0
500,000
500,000
2,509,000

1,499,345
0
500,000
500,000
2,499,345

1,475,387
0
500,000
500,000
2,475,387

1,450,279
0
500,000
500,000
2,450.279

1,423,965
0
500,000
500,000
2,423,965

1,396,388
0
500,000
500,000
2,396,388

1,367,486
0
500,000
500,000
2,367,486

1,337,196
0
500,000
500,000
2,337,196

1,305,451
0
500,000
500,000
2,305,451

1,272,182
0
500,000
500,000
2,272,182

1,237,314
0
500,000
500,000
2,237,314

1,200,773
0
500,000
500,000
2,200,773

Operating Reserve Balance

301,523

316,599

332,429

349,050

366,503

384,828

404,069

424,273

445,487

467,761

491,149

515,706

12/31/31
1,175,461
763,684
411 ,777

12/31/32
1,198,970
786,595
412,375

12/31/33
1,222,950
810,193
412,757

Less RLP Repay
Less Other Repay

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

250,940
93,915

Cash Flow
Cash Flow per Unit

66,921
892

67,520
900

67,902
905

68,055
907

67,968
906

80,353
1,071

93,1 09
1,241

106,248
1,417

119,781
1,597

133,720
1,783

148,077
1,974

1.19

1.20

1.20

1.20

1.20

1.23

1.27

1.31

1.35

1.39

1.43

I

PROFORMA OPERATING INCOME AND EXPENSE STATEMENT, continued

Effective Gross Income
Less Operating Expense
Net Operating Income

Debt Coverage Ratio(RLP)

Yr1 5
12/31/34
12/31/35
1,247,409 1,272,357
834,498
859,533
412,910
412,823

12/31/36
1,310,527
885,319
425,208

12/31/37
12/31/38
1,349,843 1,390,338
911,879
939,235
437,964
451,103

12/31/39
12/31140
1,432,049 1,475,010
967,412
996,435
464,636
478,575

12/31141
1,519,260
1,026,328
492,933

Principal Balance(RLP)

4 ,006,243

3,942,229

3,875,141

3,804,830

3,731,143

3,653,917

3,572,982

3,488,160

3,399,264

3,306,099

3,208,460

3,106,132

HUD 221 (d)(4} Tranche B
Other: Amo rtizing Mortgage
Other: AHP Subsidy
Other: City FedHOME
Principal Balance(Other)

1,200,773
0
500,000
500,000
2,200,773

1,162,476
0
500,000
500,000
2,162,476

1,122,340
0
500,000
500,000
2,122,340

1,080,277
0
500,000
500,000
2,080,277

1,036,193
0
500,000
500,000
2,036,193

989,993
0
500,000
500,000
1,989,993

941,573
0
500,000
500,000
1,941,573

890,828
0
500,000
500,000
1,890,828

837,646
0
500,000
500,000
1,837,646

781,910
0
500,000
500,000
1,781,910

723,498
0
500,000
500,000
1,723,498

662,280
0
500,000
500,000
1,662,280

515,706

541,492

568,566

596,995

626,844

658,187

691,096

725,651

761,933

800,030

840,031

882,033

:

Oeerating Reserve Balance

Total Cash Flow
Projected over 12 Years
750,527


To: Mary Davis, City of Portland
From: Anne Boynton, Urban Ventures, Inc.
Re: Avesta – Deering Place
Date: 5/22/18

Executive Summary
In the 2017 HOME funding round, the City of Portland made a $300,000 commitment of HOME funds to Avesta for the Deering Place development, contingent upon receipt of additional sources including 9% LIHTCs. Avesta received the LIHTC award and has moved the project forward on many fronts, including historic and TIF approvals. However, there is a gap which must be filled in order to proceed. Avesta requests an additional $200,000, for a total of $500,000 in HOME funding.

The Deering Place development will completely reconfigure the four lots currently combined as the 61 Deering Street/510 Cumberland Avenue property:

- A new building will be built at 61 Deering Street;
- An addition will be constructed on 510 Cumberland Avenue, adding new apartment units and covered parking;
- The existing 510 Cumberland Avenue commercial space will be reconfigured into apartments and covered parking;
- The existing 13 apartment units at 510 Cumberland Avenue will be renovated;
- The historic structure at 73 Deering will be removed from the existing property description and use restrictions and sold;
- The existing playground will be removed.

In total, the new configuration will include 75 apartment units, ranging in size from efficiency to 3 bedrooms. It will include a community room, a telemedical room, laundry facilities in each building, and parking.

The project will serve a mixed income population, with 30 market rate units and 45 affordable units. Thirteen units will continue to serve households at 40% of AMI, per the existing affordability restriction with Maine Housing. The remaining 32 affordable units will serve households at 50% AMI.

Avesta acquired the 61 Deering Street/510 Cumberland Avenue property from Opportunity Alliance on October 25, 2016, along with a parking lot and a historic building located at 73 Deering Street, with a total of 16 residential apartments and underutilized commercial space. A Capital Needs Assessment concludes that the properties are in reasonable condition considering their age (built in 1900 and 1920) but that both buildings have major systems which are nearing the end of their useful lives, and there are deferred maintenance items which need immediate attention. The four lots jointly secure a $1,550,000 mortgage held by Gorham Savings Bank. This is an interest only balloon loan, with a 2 year term and interest only payments at 3.5%. These properties also secure a $500,000 short term note from the seller (Opportunity Alliance), for a total debt of $2,050,000 on the properties.

In addition, there is a use agreement with Maine Housing also dated October 25, 2016, restricting the use of the residential units to affordable housing until at least 2038. Maine Housing has agreed to
transfer the existing affordability restriction on the 3 residential units at 73 Deering (the portion of the property slated for sale) to 3 newly constructed units. This will allow 73 Deering to be sold without affordability restrictions, substantially increasing its market value.

**Sources and Uses**

**Sources:**

- HUD 221(d)(4) $6,030,457
- AHP Subsidy $500,000
- City of Portland HOME $500,000
- Existing Project Reserves $60,000
- Net Syndication Proceeds $7,223,800

**Uses:**

- Hard Construction Costs $10,760,169
- Soft & Financing Costs $1,398,118
- Acquisition $732,500
- Relocation $150,000
- Reserves $710,970
- Developer Fee $562,500

**Total Sources of Funds:** $14,314,257

**Total Uses of Funds:** $14,314,257

Letters of commitment or intent are in place for each listed source, except the increase in HOME funding and the developer contribution of existing project reserves. Syndication proceeds are based on a $.89 raise rate, which is typical in the current market.

For analysis of “Uses,” see Development Budget.

**Development Budget**

Since the October 2017 HOME approval, the sources and uses has changed significantly. In response to a gap of over $1 million, Avesta has solved MOST of the gap by reducing their own return—lowering the property sales price by more than half, including existing project reserves as a source, and lowering developer fee by over $1 million. Avesta is requesting an additional $200,000 in HOME funds to fill in the final $200,000 gap. This gap is caused by some upward pressure in a range of softs costs, including most notably a $135,000 increase in relocation expense, described in more detail below.

**Construction Costs:**

Hard costs have not shifted significantly since the prior approval, though the cost per unit has risen as the total number of units has declined by 5 per historic and planning board approvals. Total hard cost per unit is now $143,469, reflecting the blended cost of new construction and renovation. Due to the significant cuts to acquisition price and developer fee, construction costs now represent 75% of the total development cost, making this quite a lean deal.

**Soft Costs:**

Some soft costs increases have occurred since October 2017, with the most significant increase in relocation from $15,000 to $150,000. The earlier relocation budget was based on the model that the existing 13 residents would remain in their units during most of the construction period, relocating only briefly and within the property. The current budget relocates all residents for the duration of construction. This is a much more appropriate strategy. Trying to accomplish the already intricate mix of demolition, renovation and new construction in a tight urban setting with residents in place was a recipe for continuous conflict.
Contingency:

Hard cost contingency has dropped slightly to 6.23%. This is low for this stage in budget estimating, based on 5% for new construction and somewhat higher for renovation. This concern is partially mitigated by the fact that much of the renovation budget is essentially new construction of residential units within an existing shell, which reduces the unknowns which can unexpectedly drive up renovation costs. Soft cost contingency is now a very thin 1.6%.

Acquisition:

Acquisition price is one of the places the budget has been significantly cut. The limited partnership will acquire the properties from Avesta for an acquisition price of $732,500, down from a proposed price of $1,500,000 in October 2017. This price is for the 3 parcels which will be retained in the development, excluding the historic structure.

An appraisal as of August 30, 2016 supported an “as is, as restricted” valuation of $2,080,000 of the existing FOUR parcels, including the historic structure. The appraisal considered only the income approach to valuation and did not break out the value of the separate parcels. This makes it difficult to evaluate the reasonableness of the proposed acquisition price. Though the drop in acquisition price makes it less likely to be problematic, it is still the case that a current appraisal for the parcels acquired, plus an “as built” valuation, should be required prior to closing to establish the limited partnership is not over paying for the 3 parcels retained as the project site.

Operating Budget & 20 Year Cashflow Projection

Project Income:

This mixed income project will serve households at range of incomes from 40% AMI to market rate. The very high demand for affordable units insures that the units affordable to households at 40% and 50% AMI will be rented – Avesta has a waiting list of over 100 households for the 13 existing 3 bedroom units.

The market rate units require some additional care because there is more market rate construction under way which may ultimately depress rents at the top of market range. In addition, market rate units in affordable project sometimes require a discount to market rate due to potential negative perception among market rate renters about living in a complex which is majority affordable units. This does not seem to be the case for Avesta’s Portland portfolio. Avesta’s Portland portfolio is operating with a 1.4% vacancy rate overall, and no noticeable difference in vacancy rate or marketing times for their market rate units according to their property management staff. The current operating budget uses the market rents concluded by their market study without a discount for efficiency and 1 bedroom units, and discounts the 2 bedroom units by $20 from $1,635 to $1,615.

The market study dated January 31, 2018, though documenting the capture rate for the affordable units (1.33% in 2019) does not address capture rate for market units. If another update to the market study is commissioned, it should include the capture rate for the market rate units and an estimated lease up schedule for the market units. However, given the very tight market for housing in central Portland at all income levels and the limited number of units under construction or proposed, I do not believe this oversight is a material concern.
Other budgeted income is $8,250/year laundry income and a 75%, 30 year TIF with an estimated year 1 value of $111,086.

Operating Expense

Operating expenses per unit per year appear to be at the moderately high end of industry standard at $7,356, in large part because this includes the full property tax liability as an expense. A property with a PILOT which provided the comparable level of property tax relief to the TIF would show operating expenses of $5,875, which is in the low range for affordable housing nationally. In addition, supportive services are included at $15,787, which is $210/unit/year. Once the TIF and supportive service funding are factored out, the operating costs are definitely in the low range for industry standard. Maintenance expense ($1,753/unit) and replacement reserves ($450/unit) have been trimmed from the high end of normal to more typical values, and should be adequate for a project which is primarily new construction. This operating budget is no longer fat, but should be adequate for a new property with an experienced property management team.

20 Year Cashflow & Debt Service Coverage Ratio (DSCR)

Avesta’s pro forma reflects a year 1 debt service coverage at 1.15 with a 5% vacancy, just meeting the requirement of the first mortgage lender, while the cashflow attached shows a 1.14 year 1 debt service coverage ratio. This difference is because Avesta is projecting increase in rents between now and the first full year of operations — not an unreasonable strategy, but a sign of thin margin. With industry standard inflators of 2% for income and 3% for expense, the DSCR increases to 1.20 in year 13 before dipping slightly to 1.19 in years 18-20. Given the nature of the Portland housing market, with very limited supply of affordable units relative to demand, a 5% vacancy is reasonable, perhaps even a bit conservative. A more likely scenario is the market units operating at a 5% vacancy and the affordable units operating at 3% (or lower) vacancy. Running an average of 4% vacancy results in a dscr of 1.17 in year 1, then gradually increasing to 1.23 in 13 and holding steady at 1.23 through year 20. In either scenario, there is sufficient margin to address unforeseen circumstances.

With a 5% average vacancy, the 20 year cashflow projection estimates the HOME loan could be fully repaid to City of Portland from 50% of cashflow in year 15. (In the October 2017 financing plan, there was a $1 million developer fee loan which also had to be retired out of cashflow. A lower percentage of cashflow had to be allocated to the HOME repayment in order to fully repay the developer loan, per syndicator requirements. However, in the current financing plan, there is no developer fee loan, so a larger share of cashflow is both feasible and appropriate, considering the increased size of the loan request.)

Developer Financials

Avesta is in good, and improving, financial condition. Avesta has provided audits for 2014, 2015, 2016, and internal financial statements for 2017. Prior year audits have been received by Avesta in late May or early June, so while not ideal to review unaudited financials for 2017, it is not out of line with the timing of audit finalization in prior years.
Current assets in 2016 of $9.6 million (audited) rise to $11.8 million in 2017 (unaudited), while current liabilities in 2016 of $4.9 million (audited) rise to $6.1 million 2017 (unaudited). The resulting Current Ratios (current assets divided by current liabilities) are healthy for their scale of operations -- 1.97 (2016 audited) and 1.93 (2017 unaudited). Net assets were $123 million in 2016 (audited) and $132 million in 2017 (unaudited). There has been significant sustained growth in net assets – which have more than doubled in the 5 years since 2012, when net assets were $66 million. In 2017, revenue continued to grow and exceed budget while operating expenses were held under budget. Depreciation resulted in a paper loss of $2,973,841, which is typical for a company with this financial structure, but this paper loss was more than outweighed by the growth in real estate equity.

This developer has the financial capacity to intervene in a development facing unexpected set backs and or cost over-runs to keep the development process moving forward. Their financial strength as an organization mitigates the risk of the thin soft cost contingency and the possibility of leaner than projected operating surpluses.

Recommendations

I recommend a loan in the amount of $500,000, zero percent interest, with annual payment of 50% of cashflow, with any remaining balance due in 30 years, with the following conditions prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14.5% of net construction costs.
2. Satisfactory review of a final development budget and operating pro forma which is consistent with the commitments of all source, including a cashflow waterfall acceptable to the City;
3. Any net proceeds of the sale of 73 Deering Place (after debt is retired, payment of settlement expenses, adjustment for any operating losses during the pre-development holding period, and any legal expense related to separation of the parcels) to be used to reduce the HOME loan amount.
4. Satisfactory review of a current appraisal ("current" as of date of loan closing) which breaks out the "as is" and "as built" values for each of the four existing parcels, to insure the limited partnership is not overpaying for the site.
5. Final rent schedules to be compared to maximum allowable rents and applicable utility allowance charts to determine final maximum rent rates.
# Development Permanent

<table>
<thead>
<tr>
<th>Date</th>
<th>October 20, 2017 vs. May 16, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Name</td>
<td>Deering Place</td>
</tr>
<tr>
<td>Project Address</td>
<td>510 Cumberland &amp; 61 Deering Place</td>
</tr>
<tr>
<td>Developer/Sponsor</td>
<td>Avesta</td>
</tr>
<tr>
<td>Total Units</td>
<td>2017 80 vs. 2018 75 Units</td>
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</tbody>
</table>

## Sources of Funds

<table>
<thead>
<tr>
<th>Source</th>
<th>May 2018</th>
<th>Change</th>
<th>Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>HUD 221(d)(4) - 1st Lien</td>
<td>$6,030,457</td>
<td>$310,517</td>
<td>$80,406</td>
</tr>
<tr>
<td>City of Portland HOME</td>
<td>$500,000</td>
<td>$200,000</td>
<td>$6,667</td>
</tr>
<tr>
<td>MSHA Subsidy</td>
<td>$-</td>
<td>$(1,000,000)</td>
<td>$0</td>
</tr>
<tr>
<td>AHP Subsidy + TD Grant</td>
<td>$500,000</td>
<td>$(325,000)</td>
<td>$6,667</td>
</tr>
<tr>
<td>Deferred development fee</td>
<td>$-</td>
<td>$(1,039,123)</td>
<td>$0</td>
</tr>
<tr>
<td>Existing Project Reserves</td>
<td>$60,000</td>
<td>$60,000</td>
<td>$800</td>
</tr>
<tr>
<td>Net Syndication Proceeds</td>
<td>$7,223,800</td>
<td>$47,018</td>
<td>$96,317</td>
</tr>
<tr>
<td><strong>Total Sources of Funds</strong></td>
<td><strong>$14,314,257</strong></td>
<td><strong>(1,746,588)</strong></td>
<td><strong>$190,857</strong></td>
</tr>
</tbody>
</table>

**Surplus/(GAP)**: $(1) Surplus/(GAP)

## Uses of Funds

### Hard Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Total</th>
<th>Change</th>
<th>Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Improvements</td>
<td>$562,500</td>
<td>$0</td>
<td>$7,500</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>$-</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>New Construction</td>
<td>$8,240,955</td>
<td>$61,636</td>
<td>$109,879</td>
</tr>
<tr>
<td>Contractor's Profit. 14.5%</td>
<td>$1,269,811</td>
<td>$5,768</td>
<td>$16,931</td>
</tr>
<tr>
<td>Hazardous Materials abatement</td>
<td>$-</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Demolition Cost (if contracted separately)</td>
<td>$-</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Bond Premium</td>
<td>$93,964</td>
<td>$1,106</td>
<td>$1,253</td>
</tr>
<tr>
<td>Other</td>
<td>$-</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Hard Cost Contingent 6.5%</td>
<td>$592,939</td>
<td>$(67,481)</td>
<td>6.23%</td>
</tr>
<tr>
<td><strong>Total Hard Costs</strong></td>
<td><strong>$10,261,169</strong></td>
<td><strong>$1,029</strong></td>
<td><strong>$143,469</strong></td>
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</tbody>
</table>

### Soft Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Total</th>
<th>Change</th>
<th>Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Permit &amp; Fees</td>
<td>$128,570</td>
<td>$18,527</td>
<td>$1,714</td>
</tr>
<tr>
<td>Survey &amp; Engineering</td>
<td>$51,000</td>
<td>$0</td>
<td>$680</td>
</tr>
<tr>
<td>Design &amp; Permitting 3.9%</td>
<td>$404,876</td>
<td>$61,976</td>
<td>$5,398</td>
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<tr>
<td>Borrower Legal (all closings, excluding)</td>
<td>$48,000</td>
<td>$0</td>
<td>$640</td>
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<tr>
<td>Title &amp; Recording</td>
<td>$13,312</td>
<td>$(1,688)</td>
<td>$(177)</td>
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<tr>
<td>Accounting</td>
<td>$10,000</td>
<td>$0</td>
<td>$133</td>
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<tr>
<td>Construction Period Taxes</td>
<td>$12,513</td>
<td>$(487)</td>
<td>$(167)</td>
</tr>
<tr>
<td>Construction Period Insurance</td>
<td>$30,000</td>
<td>$0</td>
<td>$400</td>
</tr>
<tr>
<td>Other: FF&amp;E, Security</td>
<td>$37,000</td>
<td>$4,000</td>
<td>$493</td>
</tr>
<tr>
<td>Other</td>
<td>$-</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Soft Costs</strong></td>
<td><strong>$735,271</strong></td>
<td><strong>$82,328</strong></td>
<td><strong>$9,804</strong></td>
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</tbody>
</table>
## Financing Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Loan Origination Fees</td>
<td>$8,660</td>
<td>$808</td>
<td>$115</td>
</tr>
<tr>
<td>Construction Period Interest</td>
<td>$258,057</td>
<td>$33,568</td>
<td>$3,441</td>
</tr>
<tr>
<td>Lender Inspection Fees</td>
<td>$-</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Letter of Credit Fee</td>
<td>$-</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Permanent Loan Fees &amp; FHA fees</td>
<td>$202,020</td>
<td>$17,342</td>
<td>$2,694</td>
</tr>
<tr>
<td>Construction Lender Legal</td>
<td>$-</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>$36,200</td>
<td>$(4,950)</td>
<td>$483</td>
</tr>
<tr>
<td><strong>Total Financing Costs</strong></td>
<td><strong>$504,937</strong></td>
<td><strong>$46,768</strong></td>
<td><strong>15.4%</strong></td>
</tr>
</tbody>
</table>

## Miscellaneous

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Survey</td>
<td>$8,000</td>
<td>$2,500</td>
<td>$107</td>
</tr>
<tr>
<td>Appraisal</td>
<td>$7,500</td>
<td>$1,500</td>
<td>$100</td>
</tr>
<tr>
<td>Environmental Study</td>
<td>$5,000</td>
<td>$1,500</td>
<td>$67</td>
</tr>
<tr>
<td>LIHTC Fees -- prepaid monitoring</td>
<td>$100,410</td>
<td>$10,535</td>
<td>$1,339</td>
</tr>
<tr>
<td>Other: Commissioning</td>
<td>$12,000</td>
<td>$(50,000)</td>
<td>$160</td>
</tr>
<tr>
<td>Relocation Costs</td>
<td>$150,000</td>
<td>$135,000</td>
<td>$2,000</td>
</tr>
<tr>
<td>Other</td>
<td>$-</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Soft Cost Contingency</td>
<td>1.64%</td>
<td>$25,000</td>
<td>$(23,989)</td>
</tr>
<tr>
<td><strong>Total Miscellaneous:</strong></td>
<td><strong>$307,910</strong></td>
<td><strong>$77,046</strong></td>
<td><strong>$4,105</strong></td>
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</table>

## Acquisition

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition: Buildings</td>
<td>$382,500</td>
<td>$(217,500)</td>
<td>$5,100</td>
</tr>
<tr>
<td>Acquisition: Land</td>
<td>$350,000</td>
<td>$(550,000)</td>
<td>$4,667</td>
</tr>
<tr>
<td>Acquisition: Legal</td>
<td>$-</td>
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<td>$0</td>
</tr>
<tr>
<td>Other</td>
<td>$-</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Acquisition</strong></td>
<td><strong>$732,500</strong></td>
<td><strong>$(767,500)</strong></td>
<td><strong>$9,767</strong></td>
</tr>
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</table>

## Reserves and Developer Fee

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Deficit Escrow</td>
<td>$301,523</td>
<td>$(175,721)</td>
<td>$4,020</td>
</tr>
<tr>
<td>Prefunded Replacement Reserve</td>
<td>$93,872</td>
<td>$(1,490)</td>
<td>$1,252</td>
</tr>
<tr>
<td>Taxes &amp; Insurance Escrow</td>
<td>$100,241</td>
<td>$(5,759)</td>
<td>$1,337</td>
</tr>
<tr>
<td>Developer Overhead</td>
<td>$562,500</td>
<td>$(187,500)</td>
<td>$7,500</td>
</tr>
<tr>
<td>Developer Profit</td>
<td>$-</td>
<td>$(964,123)</td>
<td>$0</td>
</tr>
<tr>
<td>Rent Up Reserve &amp; Marketing</td>
<td>$50,000</td>
<td>$(17,000)</td>
<td>$667</td>
</tr>
<tr>
<td>Other: Const Interest Reserve</td>
<td>$165,335</td>
<td>$165,335</td>
<td>$2,204</td>
</tr>
<tr>
<td><strong>Total Reserves and Developer Fee</strong></td>
<td><strong>$1,273,471</strong></td>
<td><strong>$(1,186,258)</strong></td>
<td><strong>$16,980</strong></td>
</tr>
</tbody>
</table>

## Total Uses of Funds

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Uses of Funds</strong></td>
<td><strong>$14,314,258</strong></td>
<td><strong>$(1,746,587)</strong></td>
<td><strong>$190,857</strong></td>
</tr>
</tbody>
</table>

Developer Fee Analysis: 4.31% (excluding reserves & developer fee)
## Project Operating Pro Forma

**Date:** May 22, 2018  
**Project Name:** Deering Place  
**Project Address:** 510 Cumberland & 61 Deering Place  
**Developer/Sponsor:** Avesta

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Number of Units</th>
<th>Per Unit Sq Ft</th>
<th>Total Sq Ft</th>
<th>Restriction on % Median Inc</th>
<th>Per Unit Gross Rent</th>
<th>Utility Deductions</th>
<th>Rent Subsidy</th>
<th>Per Unit Monthly Net Rent</th>
<th>Per Unit Rent Per Sq Ft</th>
<th>Total Monthly Net Income</th>
<th>Total Annual Net Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 BR</td>
<td>9</td>
<td>0</td>
<td>0</td>
<td>50%</td>
<td>$718</td>
<td>$45</td>
<td>$673</td>
<td>$6,057</td>
<td>$72,684</td>
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<tr>
<td>0 BR</td>
<td>6</td>
<td>0</td>
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<td>market</td>
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<td>$1,165</td>
<td>$6,990</td>
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<td>1 BR</td>
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<td>50%</td>
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<td>$52</td>
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</tr>
<tr>
<td>2 BR</td>
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<td>0</td>
<td>50%</td>
<td>$923</td>
<td>$64</td>
<td>$859</td>
<td>$3,436</td>
<td>$41,232</td>
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</tr>
<tr>
<td>2 BR</td>
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<td>0</td>
<td>40%</td>
<td>$738</td>
<td>$64</td>
<td>$674</td>
<td>$3,370</td>
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</tr>
<tr>
<td>2 BR</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>market</td>
<td>$1,615</td>
<td>$0</td>
<td>$1,615</td>
<td>$5,680</td>
<td>$66,160</td>
<td></td>
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</tr>
<tr>
<td>3 BR</td>
<td>8</td>
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<td>0</td>
<td>40%</td>
<td>$788</td>
<td>$78</td>
<td>$710</td>
<td>$5,680</td>
<td>$66,160</td>
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</tr>
<tr>
<td>3 BR</td>
<td>5</td>
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<td>50%</td>
<td>$973</td>
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<td>$895</td>
<td>$4,475</td>
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<td>4 BR</td>
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<td>50%</td>
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<td>$0</td>
<td>$0</td>
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<tr>
<td>4 BR</td>
<td>0</td>
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<td>0</td>
<td>60%</td>
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<td>$0</td>
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</tr>
<tr>
<td>Other</td>
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<td></td>
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<tr>
<td>Total</td>
<td>75</td>
<td>0</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$72,460</td>
<td>$869,520</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

-$87,000 change from 10/17
### Operating Expenses

**Rent Increase Rate**: 2.0%

**Expenses Increase Rate**: 3.0%

- **Note**: Year 1 is the first full year of stabilized operations

<table>
<thead>
<tr>
<th>Income from '17</th>
<th>Year 1</th>
<th>Year 1/Unit</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sch. Gross Income - Residential</td>
<td>$869,520</td>
<td>$11,594</td>
<td>$886,910</td>
<td>$904,049</td>
<td>$922,742</td>
<td>$941,196</td>
<td>$960,020</td>
<td>$979,221</td>
<td>$998,805</td>
<td>$1,018,781</td>
<td>$1,039,157</td>
</tr>
<tr>
<td>Vacancy Loss</td>
<td>5.0%</td>
<td>($43,478)</td>
<td>($580)</td>
<td>($44,346)</td>
<td>($45,232)</td>
<td>($46,137)</td>
<td>($47,066)</td>
<td>($48,001)</td>
<td>($48,961)</td>
<td>($49,940)</td>
<td>($50,939)</td>
</tr>
<tr>
<td>Other Income - laundry</td>
<td>$8,250</td>
<td>$110</td>
<td>$8,415</td>
<td>$8,583</td>
<td>$8,755</td>
<td>$8,930</td>
<td>$9,109</td>
<td>$9,291</td>
<td>$9,477</td>
<td>$9,666</td>
<td>$9,860</td>
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<tr>
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<tr>
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<td>$139,508</td>
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<td>$152,445</td>
<td>$157,018</td>
<td>$161,729</td>
<td>$166,580</td>
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</table>

Note: Year 1 is the first full year of stabilized operations.
### Taxes & Insurance

| Real Estate Taxes or PILOT     | $147,981 | $1,973 | $152,420 | $166,993 | $161,703 | $166,554 | $171,551 | $176,697 | $181,998 | $187,458 | $193,062 |
| Payroll Taxes / Fidelity Bond / Workers Comp / Health Ins. | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Insurance (property, liability) | $26,250 | $350 | $27,036 | $27,849 | $26,884 | $29,546 | $30,431 | $31,344 | $32,284 | $33,253 | $34,250 |
| Other                          | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Total Taxes & Insurance        | ($9,769) | $174,231 | $2,323 | $179,558 | $184,842 | $190,387 | $196,099 | $201,981 | $206,041 | $214,382 | $220,711 | $227,302 |

### Replacement Reserves

| ($6,250) | $33,750 | $450 | $34,763 | $35,805 | $36,880 | $37,986 | $39,126 | $40,299 | $41,508 | $42,753 | $44,036 |

### Operating Reserves

| $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |

### Total Expenses

| ($89,784) | $551,701 | $7,356 | $568,252 | $585,360 | $602,859 | $620,944 | $639,573 | $658,760 | $678,523 | $698,878 | $719,845 |

### Net Operating Income

| ($2,758) | $393,679 | $5,249 | $396,036 | $398,274 | $400,386 | $402,365 | $404,203 | $405,892 | $407,422 | $408,785 | $409,972 |

### Debt Service

| $37,048 | $344,855 | $4,598 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 |

### Total Debt Service (Must Pay)

| $344,855 | $4,598 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 |

### Cash Flow (after Must Pay Debt)


### Debt Service Coverage Ratio

| 1.14 | 1.15 | 1.15 | 1.16 | 1.17 | 1.17 | 1.18 | 1.18 | 1.18 | 1.19 | 1.19 |

### Cash Flow Debt Payments

| City Portland HOME | 50.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Cash Flow Retained by Project | $24,412 | $325 | $25,590 | $26,709 | $27,766 | $28,755 | $29,674 | $30,518 | $31,283 | $31,965 | $32,558 |

Retained Cash Flow % | 4%
### Operating Expenses

<table>
<thead>
<tr>
<th>Rent Increase Rate</th>
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<th>Year 11</th>
<th>Year 12</th>
<th>Year 13</th>
<th>Year 14</th>
<th>Year 15</th>
<th>Year 16</th>
<th>Year 17</th>
<th>Year 18</th>
<th>Year 19</th>
<th>Year 20</th>
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<th>Year 13</th>
<th>Year 14</th>
<th>Year 15</th>
<th>Year 16</th>
<th>Year 17</th>
<th>Year 18</th>
<th>Year 19</th>
<th>Year 20</th>
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<td>$214</td>
<td>$220</td>
<td>$227</td>
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<td>$241</td>
<td>$248</td>
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<th>Year 15</th>
<th>Year 16</th>
<th>Year 17</th>
<th>Year 18</th>
<th>Year 19</th>
<th>Year 20</th>
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<td>$412,912</td>
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### Debt Service

| **First Lien** | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 |
| **Second Lien** | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| **Other** | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| **Total Debt Service (Must Pay)** | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 | $344,855 |

| **Cash Flow (after Must Pay Debt)** | $66,118 | $66,923 | $67,522 | $67,903 | $68,057 | $67,970 | $67,631 | $67,026 | $66,146 | $64,974 |

| **Debt Service Coverage Ratio** | 1.19 | 1.19 | 1.20 | 1.20 | 1.20 | 1.20 | 1.20 | 1.19 | 1.19 | 1.19 |

### Cash Flow Debt Payments

<table>
<thead>
<tr>
<th><strong>Cash Flow Debt Payments</strong></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>DHC</strong></td>
<td>$177,709</td>
</tr>
<tr>
<td><strong>Developer Fee Loan</strong></td>
<td>$33,059</td>
</tr>
<tr>
<td><strong>Cash Flow Retained by Project</strong></td>
<td>$33,059</td>
</tr>
<tr>
<td><strong>Retained Cash Flow %</strong></td>
<td>4%</td>
</tr>
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</table>
ORDER APPROPRIATING
HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS
IN THE AMOUNT OF $300,000 TO THE
AVESTA HOUSING DEVELOPMENT CORPORATION
RE: 977 BRIGHTON AVENUE APARTMENTS

ORDERED, that the amount of $300,000 in Home Investment Partnerships (HOME) Program funds is hereby appropriated to the Avesta Housing Development Corporation for development costs for 977 Brighton Avenue Apartments; and

BE IT FURTHER ORDERED, the City Manager or his or her designee is authorized to execute any and all documents necessary to apply for, accept and appropriate the grant, and otherwise carry out the intent of this order.
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Planning and Urban Development Department Housing and Community Development Division

DATE: July 5, 2018

SUBJECT: Order Authorizing Financial Assistance in the amount of $300,000 in HOME Program Funds to the Avesta Housing Development Corporation Project entitled 977 Brighton Avenue Apartments

SPONSOR: Jill Duson, Chair, Housing Committee (June 27, 2018; voted 3-0 in favor)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 16, 2018 Final Action August 13, 2018

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

PRESENTATION: (List the presenter(s), type and length of presentation)
Mary Davis, HCD Division Director will be available to answer any questions

I. ONE SENTENCE SUMMARY

Avesta Housing Development Corporation (AHDC) is proposing to construct 40 1-bedroom units for seniors (55+). The development will include 6 units at market rate, 24 units affordable to households at or below 50% of the area median income and 10 units affordable to households at or below 60% of the area median income. AHDC is requesting financial assistance from the City in the form of (1) a HOME Loan in the amount of $300,000 and (2) Affordable Housing TIF (AHTIF) to assist with the project.

The HOME loan request is detailed in this memo. The AHTIF request is discussed in a separate memo.

II. AGENDA DESCRIPTION

Avesta Housing Development Corporation (AHDC) is proposing to construct 40 1-bedroom units for seniors (55+) on a site they own located at 977 Brighton Avenue. The development will include:
Eight (8) units will have project based rental assistance. As stated in the developer’s application:

"The 0.73-acre site currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction. The project consists of one 4-story building, placed at the front of the property so as to create maximum active street frontage. There will also be a parking lot of 32 cars and an external gathering area or patio for residents. Vegetative screening will be used to create a level of privacy for residents."

AHDC has requested two forms of financial assistance.

(1) HOME funds request: $300,000, 0% interest rate loan, deferred for 30 years.

Total City HOME Investment of $300,000/unit = $7,500.
Total City HOME Investment of $300,000/affordable unit = $8,824.

(2) Affordable Housing Tax Increment Financing (AHTIF). The AHTIF request was presented as first read on the June 18 council agenda and as a second read with council action on the July 16 council agenda. If approved, the Affordable Housing TIF financing will be provided through a Credit Enhancement Agreement at 75% of the increased taxable value, currently estimated at a 30-year annual average of $65,150, with an estimated total of $1,954,486 in captured revenue returned to the developer to offset project operating costs. The proposed project will be taxable with an estimated annual assessment of $3,200,000 and estimated annual taxes of $69,280. The remaining increased taxable value will be general fund revenue. TIF projections and proposed district map are included in the backup to this memo.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below.

The third party underwriting report makes the following recommendations:
Subject to availability of funding, a HOME loan in the amount of no more than $300,000, at zero percent interest, deferred for 30 years.

The HOME Affordable Housing Development Application made funding available in the amount of $1,080,174. The City received four applications requesting $1,741,540 in funding.

The staff recommendation to the Housing Committee did not include HOME funding for the project at 977 Brighton Avenue. The staff recommendation to the Housing Committee included funding for Deering Place at an additional $200,000, Front Street at $510,174 and 178 Kennebec Street at $370,000.

The Housing Committee voted to recommend HOME funding for Deering Place at an additional $200,000, Front Street at $580,174, 178 Kennebec Street at $0 and 977 Brighton Avenue at $300,000.

III. BACKGROUND

Avesta purchased the site in 2015. The development site contains eight contiguous lots in the Nasons Corner neighborhood and currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Increase access to rental and ownership housing that is safe and affordable for working and low-income families.

V. FINANCIAL IMPACT

The property is currently assessed at $291,100. When completed the project’s estimated tax assessed value is $3.2 million. HOME funds: $300,000, at zero percent interest, deferred for 30 years.

Total City HOME Investment of $300,000/unit - $7,500.
Total City HOME Investment of $300,000/affordable unit = $8,824.

Tax Increment Financing request: If approved, the Affordable Housing TIF financing will be provided through a Credit Enhancement Agreement at 75% of the increased taxable value, currently estimated at a 30-year annual average of $65,150, with an estimated total of $1,954,486 in captured revenue returned to the developer to off-set project operating costs. The proposed project will be taxable with an estimated annual assessment of $3,200,000 and estimated annual taxes of $69,280. The remaining increased taxable value will be general fund revenue.

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

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party
analysis is attached. The report indicates that the developer is well positioned to secure the remaining financing needed to move forward with this project and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below. With that being said, the third party report makes the following recommendations:

Subject to the availability of funding, a HOME loan in the amount of no more than $300,000, at zero percent interest, deferred for 30 years, with the following conditions prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.
2. Satisfactory review of relocation budget.
3. Satisfactory appraisal.

As part of the Maine State Housing Authority’s (MSHA) Qualified Allocation Plan (QAP) application due in February, the developers will need letters of commitment of support for their projects prior to the QAP submission deadline. If the Council agrees with the Housing Committee’s recommendation, this letter would include the recommendations of the third party underwriter and be conditioned on the completion of the following additional requirements:

1. The commitment will be subject to compliance with all HOME Program regulations including, but not limited to, satisfactory underwriting analysis, cost allocation, designation of HOME units and compliance with the new HOME Final Rule (effective August 23, 2013) and the Consolidated and Further Continuing Appropriations Acts of 2012 and 2013.
2. The commitment will include the requirement that the environmental review process be satisfactorily completed. The City’s agreement to provide funds will be conditioned on the determination to proceed with, modify or cancel the project based on the results of the environmental review.
3. Commitment of funds to be stated as “an amount up to the funding request based on maximization of LIHTC equity raise”, to ensure that the City’s contribution is leveraged to the maximum extent possible.
4. If applicable, documentation acceptable to the City that the acquisition cost is reasonably related to market value. This is a HOME Program requirement.
5. Commitment should be subject to the projections and assumptions noted in the project budgets and pro-forma submitted, for both HOME and TIF funding, and the City reserves the
right to reconsider and adjust their commitment if any significant alterations occur in the budget. A final commitment will be subject to a final budget.

6. Any substantial changes to the composition of the project, or the financial investment required, will be brought back to the Housing Committee and the City Council for review and approval.

A recommendation for City HOME funding by the City Council is not the same as approval of the overall project. After carefully weighing the potential benefits and impacts on the City and surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board will ultimately determine if a project meets those standards. Any funding awarded will be contingent on the project's final approval by the Planning Board.

VII. RECOMMENDATION

Approval by the City Council of the Housing Committee's recommendation of HOME funding in the amount of $300,000 at zero percent interest, with repayment deferred for 30 years.

VIII. LIST ATTACHMENTS

Excerpt HOME Application Information for 977 Brighton Avenue
Third Party Underwriting Analysis

Prepared by: Mary P. Davis, HCD Division Director
Date: July 5, 2018

Bean/agendarequestmemo/rev 1/23/2017
City of Portland HOME Funds Application
Project: 977 Brighton Avenue Apartments

Avesta Housing is requesting $300,000 of HOME funds from the City of Portland for our 977 Brighton Avenue Apartments project ("977 Brighton") at 977 Brighton Avenue in Portland, Maine.

The development involves the new construction of 40 1-bedroom rental apartments for seniors (55+ years of age), in one 4-story building. 34 of the apartments will be affordable and 6 will be market rate. 24 units will be affordable to households at or below 50% of area median income and 10 will be affordable to households at or below 60% of area median income. Portland Housing Authority has awarded project-based rental assistance to eight of the units at the project. All units with affordability restrictions will have a utility allowance factored into the tenant rent payment.

977 Brighton represents an opportunity to create much-needed affordable senior housing in an accessible location within Portland. The development site contains eight contiguous lots located in a highly walkable area in the Nasons Corner section of Portland. The project is located near many amenities and services, making it a prime location for housing: retail stores, a pharmacy, trails and restaurants are all located within a half mile. The site is also located within a tenth of a mile to a bus stop on the extensive Portland public transportation bus system, connecting residents with Portland's downtown as well as adjoining communities.

See the attached maps for more information about the project's siting within the City and relative to numerous nearby amenities.

As shown in the attached pictures, the 0.73-acre site currently contains a single-family home and a garage, both of which will be demolished and cleared prior to construction. The project will consist of one 4-story building, placed at the front of the property so as to create maximum active street frontage. There will also be a parking lot for 32 cars and an external gathering area or patio for residents. Vegetative screening will be used to create a level of privacy for residents. Storm water management systems will be used to ensure that the project does not adversely impact the vicinity of the subject parcel. Avesta will work with City staff and the Planning Board to ensure that the design of the project is consistent with neighborhood design characteristics.
Each apartment will be approximately 600 square feet and all accessibility requirements will be met. Additional amenities will include on-site laundry, a health room, a community room and resident service coordination.

977 Brighton Avenue Apartments will continue Avesta Housing’s commitment to construct and manage buildings designed to maximize energy performance, minimize adverse environmental impacts, provide healthy living spaces, conserve natural resources, and promote smart growth and sustainable development. All requirements of the City of Portland’s Green Building Ordinance will be met. Additionally, as alluded to in the attached information provided by the property manager, Avesta Housing Development Corporation, smoking at the project will be prohibited and educational materials on tobacco treatment programs will be provided to tenants.

These affordable units at 977 Brighton Avenue come at a critical time for the City. Vacancies in Portland are at historic lows while rents remain too high for thousands of local renter households. In 2017, Avesta alone received requests for affordable housing from nearly 3,800 households (over 1,300 of which were senior-led households) but was only able to provide housing to 393.

977 Brighton Avenue Apartments will create much-needed senior affordable rental housing in an area of the city that is rich with transit, services, and neighborhood amenities.
## 977 BRIGHTON AVENUE APARTMENTS

### Project Completion Schedule

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<thead>
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<th>Activity</th>
<th>Actual/Scheduled Date</th>
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<tr>
<td><strong>A. SITE</strong></td>
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<tr>
<td>Option/Contract</td>
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<tr>
<td>Site Acquisition</td>
<td>10/08/15</td>
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<tr>
<td>Municipal Approval</td>
<td>06/01/18</td>
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<td><strong>B. FINANCING</strong></td>
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<td>Construction Loan Commitment</td>
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<tr>
<td>Permanent Loan Commitment</td>
<td>09/01/18</td>
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<tr>
<td>Other Sources Committed</td>
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<td><strong>C. PLANS AND SPECIFICATIONS</strong></td>
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<tr>
<td>50%</td>
<td>02/01/19</td>
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<td>90%</td>
<td>03/01/19</td>
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<tr>
<td>100%</td>
<td>04/01/19</td>
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<tr>
<td><strong>D. CONSTRUCTION LOAN CLOSING</strong></td>
<td>05/01/19</td>
</tr>
<tr>
<td><strong>E. CONSTRUCTION START</strong></td>
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<tr>
<td><strong>F. SUBSTANTIAL COMPLETION</strong></td>
<td>05/01/20</td>
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<tr>
<td><strong>G. COMPLETION OF CONSTRUCTION</strong></td>
<td>05/01/20</td>
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<tr>
<td><strong>H. LEASE-UP</strong></td>
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<tr>
<td>Lease-up Begins</td>
<td>05/01/20</td>
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<tr>
<td>Sustained (95%) Occupancy</td>
<td>11/01/20</td>
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977 Brighton Avenue, Portland, Me.
PROJECT NAME: 977 Brighton Avenue
LOCATION: Portland

DEVELOPMENT ASSUMPTIONS

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<td>Architectural &amp; Design</td>
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<td>Legal</td>
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<td>Subtotal Soft Costs</td>
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<td>Subtotal Finance Costs</td>
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<td>Subtotal Fee and Reserves</td>
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<td>Total Development Costs</td>
<td>8,164,870</td>
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PRO FORMA DEVELOPMENT BUDGET

NET ACTUAL DEVELOPER FEE AVAILABLE: $550,000

% OF MAXIMUM DEVELOPER FEE: 185.9%

MAXIMUM DEVELOPER FEE AVAILABLE: $550,000

ACTUAL DEVELOPER FEE: $1,208,430

% OF MAXIMUM DEVELOPER FEE: 185.9%
## Flow of Funds

### Sources

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### Uses

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<td>1,522,405</td>
<td>1,522,405</td>
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<tr>
<td>Soft Costs</td>
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<td>Financing Costs</td>
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<td>Miscellaneous</td>
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<td>1,522,405</td>
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## Project Financing

### Sources

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$851
## Proposed Rent Schedule

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**Effective Gross Income:** 445,520

### AFFORDABLE MORTGAGE CALCULATION

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### OPERATING EXPENSES

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### Break Even Analysis

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## PROFORMA OPERATING INCOME AND EXPENSE STATEMENT

**7/24/20**

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## PROFORMA OPERATING INCOME AND EXPENSE STATEMENT, continued

**Yr 10**

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<td>27,043</td>
<td>24,826</td>
<td>22,414</td>
<td>19,798</td>
<td>16,971</td>
</tr>
<tr>
<td><strong>Cash Flow per Unit</strong></td>
<td>641</td>
<td>675</td>
<td>709</td>
<td>741</td>
<td>773</td>
<td>825</td>
<td>878</td>
<td>935</td>
<td>1000</td>
<td>1067</td>
<td>1134</td>
</tr>
<tr>
<td><strong>Debt Coverage Ratio(RLP)</strong></td>
<td>1.23</td>
<td>1.24</td>
<td>1.25</td>
<td>1.26</td>
<td>1.27</td>
<td>1.28</td>
<td>1.29</td>
<td>1.30</td>
<td>1.31</td>
<td>1.32</td>
<td>1.33</td>
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<tr>
<td><strong>Operating Reserve Balance</strong></td>
<td>242,627</td>
<td>254,758</td>
<td>267,456</td>
<td>280,871</td>
<td>294,515</td>
<td>309,660</td>
<td>325,143</td>
<td>341,401</td>
<td>358,471</td>
<td>376,394</td>
<td>395,214</td>
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## PROFORMA OPERATING INCOME AND EXPENSE STATEMENT, continued

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<tr>
<th>12/31/42</th>
<th>1/1/44</th>
<th>12/31/44</th>
<th>12/31/45</th>
<th>12/31/46</th>
<th>12/31/47</th>
<th>12/31/48</th>
<th>12/31/49</th>
<th>12/31/50</th>
<th>12/31/51</th>
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<tbody>
<tr>
<td><strong>Effective Gross Income</strong></td>
<td>709,494</td>
<td>722,634</td>
<td>737,086</td>
<td>751,628</td>
<td>766,864</td>
<td>782,302</td>
<td>797,846</td>
<td>813,893</td>
<td>848,213</td>
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<tr>
<td><strong>Less Operating Expense</strong></td>
<td>581,928</td>
<td>590,057</td>
<td>617,028</td>
<td>635,539</td>
<td>654,605</td>
<td>674,244</td>
<td>694,471</td>
<td>715,355</td>
<td>429,779</td>
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<tr>
<td><strong>Net Operating Income</strong></td>
<td>127,566</td>
<td>132,577</td>
<td>120,058</td>
<td>116,269</td>
<td>112,259</td>
<td>107,068</td>
<td>103,375</td>
<td>98,498</td>
<td>54,434</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Less Other Repay</strong></td>
<td>112,934</td>
<td>112,934</td>
<td>112,934</td>
<td>112,934</td>
<td>112,934</td>
<td>112,934</td>
<td>112,934</td>
<td>112,934</td>
<td>112,934</td>
</tr>
<tr>
<td><strong>Cash Flow</strong></td>
<td>13,922</td>
<td>10,643</td>
<td>7,124</td>
<td>3,356</td>
<td>(675)</td>
<td>(4,976)</td>
<td>(9,559)</td>
<td>(14,436)</td>
<td>(59,500)</td>
</tr>
<tr>
<td><strong>Cash Flow per Unit</strong></td>
<td>348</td>
<td>266</td>
<td>178</td>
<td>84</td>
<td>(17)</td>
<td>(124)</td>
<td>(238)</td>
<td>(361)</td>
<td>(2,507)</td>
</tr>
<tr>
<td><strong>Debt Coverage Ratio(RLP)</strong></td>
<td>1.12</td>
<td>1.09</td>
<td>1.06</td>
<td>1.03</td>
<td>0.99</td>
<td>0.96</td>
<td>0.92</td>
<td>0.87</td>
<td>0.48</td>
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<tr>
<td><strong>Operating Reserve Balance</strong></td>
<td>414,975</td>
<td>435,723</td>
<td>457,510</td>
<td>480,385</td>
<td>504,049</td>
<td>528,950</td>
<td>550,422</td>
<td>568,384</td>
<td>582,367</td>
</tr>
</tbody>
</table>
To: Mary Davis, City of Portland  
From: Anne Boynton, Urban Ventures, Inc.  
Re: 977 Brighton Ave, proposed by Avesta  
Date: June 12, 2018

Executive Summary

Avesta requests $300,000 in HOME funding and a 75% TIF to support their development of a 40 unit new construction senior apartment complex at 977 Brighton Ave. Avesta purchased the site proposed for this development in 2015. The lots currently contain a house and a garage, which will both be demolished. Though the area is suburban, the site is a short walk from the Pine Tree Shopping Center, providing access to a pharmacy and other shopping and dining options, and is less than 1/10th of a mile from a bus stop.

Sources and Uses

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AHP loan</td>
<td>$2,070,000</td>
<td>Construction (incl. site &amp; contingency)</td>
</tr>
<tr>
<td>AHP grant</td>
<td>$500,000</td>
<td>Soft costs (incl financing &amp; contingency)</td>
</tr>
<tr>
<td>LIHTC Equity</td>
<td>$5,294,870</td>
<td>Acquisition</td>
</tr>
<tr>
<td>City of Portland HOME</td>
<td>$300,000</td>
<td>Pre funded Reserves</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Developer Fee</td>
</tr>
<tr>
<td><strong>Total Sources:</strong></td>
<td><strong>$8,164,870</strong></td>
<td><strong>Total Uses:</strong> <strong>$8,164,870</strong></td>
</tr>
</tbody>
</table>

Avesta has received a commitment of funds for the AHP loan and $500,000 grant. Bangor Savings has issued a term sheet for both construction and permanent first mortgages. Avesta plans to submit an application for 9% LIHTCs in the upcoming round opening in September. Avesta seeks the $300,000 HOME and 75% TIF to support the application for LIHTCs.

For analysis of “Uses,” see Development Budget.

Development Budget

Construction Costs:

Construction costs are based on a letter of estimate from CWS Architects. This is a very broad brush estimate, without even a break out of demolition, site improvements, and anticipated cost per square foot for improvements provided in the architect’s letter. However, based on Avesta’s break out of site work, the estimated $170/sq foot for improvements should be more than sufficient for a pretty straightforward design and should accommodate some price inflation prior to construction start.

Soft Costs:

Soft costs are in the range of normal, with a few exceptions. Architectural seems high for a straightforward design, and the relatively small number of units drives the per unit architectural expense up to over $11,000 per unit. This does include $45,000 for owner’s representative construction management, which is typically a good investment in quality construction and smooth construction.
process, with minimal change orders. FF&E is also high at $61,000, which is $1,525 per unit. This is $25,000 for security cameras, $6,000 for custodial equipment, and $30,000 for common area and exterior furnishings. Since the “common area” is a single office and one interior lobby, plus exterior space, that seems quite high.

**Contingency:**

Contingency is budgeted at standard 5% for construction and a minimalist $25,000 for soft costs. These are insufficient given the stage of development. However, the construction figure seems high enough to cover a range of unanticipated price increases, and from a practical perspective, I consider much of the FF&E item to be contingency.

**Acquisition:**

Avesta proposes to sell the sites to the LLC for $280,000. Their acquisition price was $283,000. The assessed value is $291,100. While this seems a fair price, an appraisal supporting that price is a condition of any recommendation.

**Operating Budget & 20 Year Cashflow Projection**

**Project Income:**

Avesta plans a mixed income building, with 24 units for households below 50% AMI ($770 LIHTC, $1,028 w Project Based Vouchers), 10 units for households below 60% AMI ($924/mo), and 6 market rate units ($1,050/mo). Avesta has a commitment for 8 project based vouchers from the Housing Authority to provide a deeper subsidy for 8 of the 24 households at 50% AMI. Consistent with Portland policy, 4 units must house homeless seniors.

**Operating Expense**

The budgeted per unit operating cost appears high at $8,122, however, factoring out the TIF shows operating expenses of $6,918 per unit, which is in the middle range for affordable housing. Supportive services are budgeted consistent with Maine Housing’s requirements at $12,199. Utilities are generously budgeted at $1,700 per unit per year for 600 sq foot units of new construction meeting green standards. Maintenance also seems high at $2,140 for newly constructed, small, senior units, including $25,000 for grounds. They will be able to operate a bit leaner than these costs suggest.

**20 Year Cashflow & Debt Service Coverage Ratio (DSCR)**

Cashflow starts out at a comfortable 1.22 DSCR in year one with a 5% vacancy. However, with industry standard inflators of 2% for income and 3% for expenses, the cashflow gradually erodes. By year 20, DSCR is down to 1.05. Avesta’s projections show positive cashflow for 20 years by using a 2.5% income inflator for years 6-15. Creating positive cashflow by using more aggressive income inflators puts project success in the hands of one variable the developer does NOT control – increases in market price of rent. If, on the other hand, Avesta can find a way to trim maintenance from $2,140 to $2,015 per unit per year (for instance, trim grounds expense from $25,000 to $20,000), the year 1 DSCR is 1.26 and is 1.13 in year 20. There are ways the developer can control both the operating expenses and the rent revenue (out performing the budgeted 5% vacancy rate) which will support positive cashflow which don’t require aggressive assumptions regarding income inflation.
Developer Financials

Avesta is in good, and improving, financial condition. Avesta has provided audits for 2014, 2015, 2016, and internal financial statements for 2017. Prior year audits have been received by Avesta in late May or early June, so while not ideal to review unaudited financials for 2017, it is not out of line with the timing of audit finalization in prior years.

Current assets in 2016 of $9.6 million (audited) rise to $11.8 million in 2017 (unaudited), while current liabilities in 2016 of $4.9 million (audited) rise to $6.1 million 2017 (unaudited). The resulting Current Ratios (current assets divided by current liabilities) are healthy for their scale of operations -- 1.97 (2016 audited) and 1.93 (2017 unaudited). Net assets were $123 million in 2016 (audited) and $132 million in 2017 (unaudited). There has been significant sustained growth in net assets - which have more than doubled in the 5 years since 2012, when net assets were $66 million. In 2017, revenue continued to grow and exceed budget while operating expenses were held under budget. Depreciation resulted in a paper loss of $2,973,841, which is typical for a company with this financial structure, but this paper loss was more than outweighed by the growth in real estate equity.

This developer has the financial capacity to intervene in a development facing unexpected set backs and or cost over-runs to keep the development process moving forward. Their financial strength as an organization mitigates the risk of the thin soft cost contingency and the possibility of leaner than projected operating surpluses.

Recommendations

Subject to availability of funding, I recommend a loan in the amount of $300,000, zero percent interest, payment deferred for 30 years, and a 75% TIF, with the following conditions prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.
2. Satisfactory review of relocation budget.
3. Satisfactory appraisal
# Development Budget with Permanent Sources

<table>
<thead>
<tr>
<th>Date</th>
<th>6/7/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Name</td>
<td>977 Brighton</td>
</tr>
<tr>
<td>Project Address</td>
<td>977 Brighton</td>
</tr>
<tr>
<td>Developer/Sponsor</td>
<td>Avesta</td>
</tr>
<tr>
<td>Total Units</td>
<td>40</td>
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<tr>
<td>Total Square Feet</td>
<td>30,736</td>
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## Sources of Funds

<table>
<thead>
<tr>
<th>Source of Funds</th>
<th>Total</th>
<th>Per Unit</th>
<th>Per Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Financing - AHP Loan</td>
<td>$2,070,000</td>
<td>$51,750</td>
<td>$67</td>
</tr>
<tr>
<td>AHP Grant</td>
<td>$500,000</td>
<td>$12,500</td>
<td>$16</td>
</tr>
<tr>
<td>Equity (net LIHTC proceeds)</td>
<td>$5,294,870</td>
<td>$132,372</td>
<td>$172</td>
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<tr>
<td>Deferred development fee</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>City of Portland HOME</td>
<td>$300,000</td>
<td>$7,500</td>
<td>$10</td>
</tr>
<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Sources of Funds</strong></td>
<td><strong>$8,164,870</strong></td>
<td><strong>$204,122</strong></td>
<td><strong>$266</strong></td>
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## Uses of Funds

### Hard Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
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<th>Per Sq Ft</th>
</tr>
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<tbody>
<tr>
<td>Site Improvements</td>
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<td>$14,305</td>
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<td>Rehabilitation</td>
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<tr>
<td>New Construction</td>
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<td>$130,686</td>
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<td>Contractor's Profit, Overhead, &amp; Gen. Requirements</td>
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<td>$0</td>
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<tr>
<td>Hazardous Materials abatement (if contracted separately)</td>
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<td>$0</td>
</tr>
<tr>
<td>Demolition Cost (if contracted separately)</td>
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<td>$0</td>
</tr>
<tr>
<td>Bond Premium</td>
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<td>$0</td>
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<tr>
<td>Other</td>
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<td>$0</td>
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<td>Hard Cost Contingency (% of hard costs)</td>
<td>5.0%</td>
<td>$289,982</td>
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<td><strong>Total Hard Costs</strong></td>
<td><strong>$6,089,620</strong></td>
<td><strong>$152,241</strong></td>
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### Soft Costs

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<th>Total</th>
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<th>Per Sq Ft</th>
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</thead>
<tbody>
<tr>
<td>Building Permit &amp; Fees</td>
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<td>$2,048</td>
<td>$3</td>
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<td>Survey &amp; Engineering</td>
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<tr>
<td>Design &amp; Permitting (% of const exp)</td>
<td>8.6%</td>
<td>$461,000</td>
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<td>Borrower Legal (all closings, excluding syndication legal)</td>
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<td>Title &amp; Recording</td>
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<td>Accounting</td>
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<td>Construction Period Taxes</td>
<td>$12,000</td>
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<td>$0</td>
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<tr>
<td>Construction Period Insurance</td>
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<td>$0</td>
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<tr>
<td>Other: FF&amp;E, Security</td>
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<td>$1,525</td>
<td>$2</td>
</tr>
<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td><strong>Total Soft Costs</strong></td>
<td><strong>$746,821</strong></td>
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### Financing Costs

<table>
<thead>
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<th>Total</th>
<th>Per Unit</th>
<th>Per Sq Ft</th>
</tr>
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<tbody>
<tr>
<td>Construction Loan Origination Fees</td>
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<tr>
<td>Construction Period Interest</td>
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<td>Lender Inspection Fees</td>
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<tr>
<td>Item</td>
<td>Amount 1</td>
<td>Amount 2</td>
<td>Amount 3</td>
</tr>
<tr>
<td>-----------------------------------------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>----------</td>
</tr>
<tr>
<td>Letter of Credit Fee</td>
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<td>$0</td>
<td>$0</td>
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<tr>
<td>Permanent Loan Fee</td>
<td>$10,000</td>
<td>$250</td>
<td>$0</td>
</tr>
<tr>
<td>Construction Lender Legal</td>
<td>$12,000</td>
<td>$300</td>
<td>$0</td>
</tr>
<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Financing Costs</strong></td>
<td><strong>$192,896</strong></td>
<td><strong>$4,822</strong></td>
<td><strong>$6</strong></td>
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<tr>
<td><strong>Miscellaneous</strong></td>
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<tr>
<td>Market Survey</td>
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<tr>
<td>Appraisal</td>
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<tr>
<td>Environmental Study</td>
<td>$12,700</td>
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<td>LIHTC Fees -- prepaid monitoring</td>
<td>$40,000</td>
<td>$1,000</td>
<td>$1</td>
</tr>
<tr>
<td>Other: Commissioning</td>
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<td>$0</td>
<td>$0</td>
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<tr>
<td>Relocation Costs</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Other -- 3rd Party Consultants</td>
<td>$18,000</td>
<td>$450</td>
<td>$1</td>
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<tr>
<td>Soft Cost Contingency (% of soft costs excl Dev Fee)</td>
<td>$25,000</td>
<td>$625</td>
<td>$1</td>
</tr>
<tr>
<td><strong>Total Miscellaneous:</strong></td>
<td><strong>$105,400</strong></td>
<td><strong>$2,635</strong></td>
<td><strong>$10</strong></td>
</tr>
<tr>
<td><strong>Acquisition</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisition: Buildings</td>
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<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Acquisition: Land</td>
<td>$280,000</td>
<td>$7,000</td>
<td>$9</td>
</tr>
<tr>
<td>Acquisition: Legal</td>
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<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Acquisition</strong></td>
<td><strong>$280,000</strong></td>
<td><strong>$7,000</strong></td>
<td><strong>$9</strong></td>
</tr>
<tr>
<td><strong>Reserves and Developer Fee</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Deficit Escrow</td>
<td>$141,859</td>
<td>$3,546</td>
<td>$5</td>
</tr>
<tr>
<td>Prefunded Replacement Reserve</td>
<td>$52,274</td>
<td>$1,307</td>
<td>$2</td>
</tr>
<tr>
<td>Taxes &amp; Insurance Escrow</td>
<td>$28,500</td>
<td>$715</td>
<td>$1</td>
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<tr>
<td>Developer Overhead</td>
<td>$487,500</td>
<td>$12,188</td>
<td>$16</td>
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<tr>
<td>Developer Profit</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Rent Up Reserve &amp; Marketing</td>
<td>$40,000</td>
<td>$1,000</td>
<td>$1</td>
</tr>
<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td><strong>Total Reserves and Developer Fee</strong></td>
<td><strong>$750,133</strong></td>
<td><strong>$18,753</strong></td>
<td><strong>$24</strong></td>
</tr>
<tr>
<td><strong>Total Uses of Funds</strong></td>
<td><strong>$8,164,870</strong></td>
<td><strong>$204,122</strong></td>
<td><strong>$272</strong></td>
</tr>
</tbody>
</table>

Developer Fee Analysis:  
Total Fees: **$487,500**  
Percent of TDC: **6.54%** (excluding reserves & developer fee)
# Project Operating Pro Forma

**Date**: June 12, 2018  
**Project Name**: 977 Brighton  
**Project Address**: 977 Brighton  
**Developer/Sponsor**: Avesta  

## Rental Income

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Number of Units</th>
<th>Per Unit Sq Ft</th>
<th>Total Sq Ft</th>
<th>Restriction on % Median Inc</th>
<th>Per Unit Monthly Gross Rent</th>
<th>Utility Deductions</th>
<th>Rent Subsidy</th>
<th>Per Unit Monthly Net Rent</th>
<th>Per Unit Net Rent Per Sq Ft</th>
<th>Total Monthly Net Income</th>
<th>Total Annual Net Rent</th>
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<td>$36,084</td>
<td>$433,008</td>
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</table>
Operating Expenses

<table>
<thead>
<tr>
<th>Rent Increase Rate</th>
<th>2.0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenses Increase Rate</td>
<td>3.0%</td>
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</tbody>
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Note: Year 1 is the first full year of stabilized operations

<table>
<thead>
<tr>
<th>Income</th>
<th>Year 1</th>
<th>Year 1/Unit</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
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<tbody>
<tr>
<td>Sch, Gross Income - Residential</td>
<td>$433,008</td>
<td>$10,825</td>
<td>$441,668</td>
<td>$450,502</td>
<td>$459,512</td>
<td>$468,702</td>
<td>$478,076</td>
<td>$487,637</td>
<td>$497,390</td>
<td>$507,338</td>
<td>$517,485</td>
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<tr>
<td>Vacancy Loss</td>
<td>($21,850)</td>
<td>($541)</td>
<td>($22,083)</td>
<td>($22,525)</td>
<td>($22,976)</td>
<td>($23,435)</td>
<td>($23,904)</td>
<td>($24,382)</td>
<td>($24,870)</td>
<td>($25,367)</td>
<td>($25,874)</td>
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<tr>
<td>Other Income (laundry)</td>
<td>$2,998</td>
<td>$75</td>
<td>$3,058</td>
<td>$3,119</td>
<td>$3,182</td>
<td>$3,246</td>
<td>$3,310</td>
<td>$3,376</td>
<td>$3,444</td>
<td>$3,513</td>
<td>$3,583</td>
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<tr>
<td>TIF - 75% requested</td>
<td>$48,171</td>
<td>$1,204</td>
<td>$49,616</td>
<td>$51,105</td>
<td>$52,638</td>
<td>$54,217</td>
<td>$55,843</td>
<td>$57,519</td>
<td>$59,244</td>
<td>$61,022</td>
<td>$62,852</td>
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<td>Effective Gross Income</td>
<td>$462,527</td>
<td>$11,563</td>
<td>$472,259</td>
<td>$482,200</td>
<td>$492,355</td>
<td>$502,729</td>
<td>$513,326</td>
<td>$524,151</td>
<td>$535,209</td>
<td>$546,505</td>
<td>$558,046</td>
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| Administrative               |        |          |         |         |         |         |         |         |         |         |         |
| Management Fee               | $24,672 | $617     | $25,412 | $26,175 | $26,960 | $27,769 | $28,602 | $29,460 | $30,343 | $31,254 | $32,191 |
| Marketing Expense            | $0      | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       |
| Legal                        | $1,500  | $35      | $1,545   | $1,591   | $1,639   | $1,688   | $1,739   | $1,791   | $1,845   | $1,900   | $1,957   |
| Audit & Accounting           | $5,000  | $125     | $5,150   | $5,305   | $5,464   | $5,628   | $5,796   | $5,970   | $6,149   | $6,334   | $6,524   |
| Admin Other                  | $6,000  | $150     | $6,180   | $6,365   | $6,556   | $6,753   | $6,956   | $7,164   | $7,379   | $7,601   | $7,829   |
| Total Administrative          | $61,844 | $1,546   | $63,699  | $65,610  | $67,579  | $69,606  | $71,694  | $73,845  | $76,060  | $78,342  | $80,692  |

| Supportive Services          |        |          |         |         |         |         |         |         |         |         |         |
| Utilities                    | $12,199 | $305     | $12,565 | $12,942 | $13,330 | $13,730 | $14,142 | $14,566 | $15,003 | $15,453 | $15,917 |

<p>| Utilities                    |        |          |         |         |         |         |         |         |         |         |         |
| Fuel Oil                     | $18,000 | $450     | $18,540 | $19,096 | $19,669 | $20,259 | $20,867 | $21,493 | $22,138 | $22,802 | $23,486 |
| Natural Gas                  | $0      | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       |
| Electric                     | $34,000 | $850     | $35,020 | $36,071 | $37,153 | $38,267 | $39,415 | $40,598 | $41,816 | $43,070 | $44,362 |
| Water / Sewer                | $16,000 | $400     | $16,480 | $16,974 | $17,484 | $18,008 | $18,548 | $19,105 | $19,678 | $20,268 | $20,876 |
| Other                        | $0      | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       |
| Total Utilities              | $68,000 | $1,700   | $70,040 | $72,141 | $74,305 | $76,535 | $78,831 | $81,196 | $83,631 | $86,140 | $88,725 |</p>
<table>
<thead>
<tr>
<th>Year</th>
<th>Year 1</th>
<th>Year 1/Unit</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grounds</td>
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<td>$625</td>
<td>$25,750</td>
<td>$26,523</td>
<td>$27,318</td>
<td>$28,138</td>
<td>$28,982</td>
<td>$30,747</td>
<td>$31,669</td>
<td>$32,619</td>
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<tr>
<td>Janitorial</td>
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<td>$6,768</td>
<td>$7,002</td>
<td>$7,212</td>
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<td>$7,881</td>
<td>$8,117</td>
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<td>$20,500</td>
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<td>Taxes &amp; Insurance</td>
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<td>$1,606</td>
<td>$66,166</td>
<td>$68,141</td>
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<td>$72,290</td>
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<td>$83,804</td>
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<td>$19,572</td>
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<tr>
<td>Total Taxes &amp; Insurance</td>
<td>$79,229</td>
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<td>$81,606</td>
<td>$84,054</td>
<td>$86,576</td>
<td>$89,173</td>
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<td>$135,657</td>
<td>$134,967</td>
<td>$134,161</td>
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<tr>
<td>First Lien</td>
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<td>Total Debt Service (Must Pay)</td>
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<tr>
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<td>$616</td>
<td>$24,707</td>
<td>$24,610</td>
<td>$24,425</td>
<td>$24,149</td>
<td>$23,776</td>
<td>$23,302</td>
<td>$22,723</td>
<td>$22,033</td>
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<tr>
<td>Cash Flow Retained by Project</td>
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<td>$616</td>
<td>$24,707</td>
<td>$24,610</td>
<td>$24,425</td>
<td>$24,149</td>
<td>$23,776</td>
<td>$23,302</td>
<td>$22,723</td>
<td>$22,033</td>
<td>$21,227</td>
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<td>Retained Cash Flow %</td>
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<td>6%</td>
<td>6%</td>
<td>6%</td>
<td>6%</td>
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<td>6%</td>
<td>6%</td>
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</tr>
</tbody>
</table>
### Operating Expenses

<table>
<thead>
<tr>
<th>Rent Increase Rate</th>
<th>2.0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenses Increase Rate</td>
<td>3.0%</td>
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</table>

<table>
<thead>
<tr>
<th>Income</th>
<th>Year 11</th>
<th>Year 12</th>
<th>Year 13</th>
<th>Year 14</th>
<th>Year 15</th>
<th>Year 16</th>
<th>Year 17</th>
<th>Year 18</th>
<th>Year 19</th>
<th>Year 20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sch. Gross Income - Residential</td>
<td>$527,834</td>
<td>$538,391</td>
<td>$549,159</td>
<td>$560,142</td>
<td>$571,345</td>
<td>$582,772</td>
<td>$594,427</td>
<td>$606,316</td>
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<td>Other income (laundry)</td>
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<td>$3,728</td>
<td>$3,802</td>
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<td>$3,956</td>
<td>$4,035</td>
<td>$4,116</td>
<td>$4,198</td>
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<td>TIF - 75% requested</td>
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<td>$66,680</td>
<td>$68,680</td>
<td>$70,741</td>
<td>$72,663</td>
<td>$75,049</td>
<td>$77,300</td>
<td>$79,619</td>
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<td>$581,879</td>
<td>$594,184</td>
<td>$606,754</td>
<td>$619,597</td>
<td>$632,717</td>
<td>$646,122</td>
<td>$659,817</td>
<td>$673,810</td>
<td>$688,106</td>
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| Administrative | | | | | | | | | | |
| Advertising | $33,157 | $34,152 | $35,176 | $36,232 | $37,319 | $38,438 | $39,591 | $40,779 | $42,002 | $43,263 |
| Office Payroll & Benefits | $33,157 | $34,152 | $35,176 | $36,232 | $37,319 | $38,438 | $39,591 | $40,779 | $42,002 | $43,263 |
| Office Supplies, Phone, Misc. | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Mgr or Super Rent Free Unit | $2,016 | $2,076 | $2,139 | $2,203 | $2,269 | $2,337 | $2,407 | $2,479 | $2,554 | $2,630 |
| Audit & Accounting | $6,720 | $6,921 | $7,129 | $7,343 | $7,563 | $7,790 | $8,024 | $8,264 | $8,512 | $8,768 |
| Admin Other | $8,063 | $8,305 | $8,555 | $8,811 | $9,076 | $9,348 | $9,628 | $9,917 | $10,215 | $10,521 |
| Total Administrative | $83,113 | $85,607 | $88,175 | $90,820 | $93,545 | $96,351 | $99,241 | $102,219 | $105,285 | $108,444 |

| Supportive Services | | | | | | | | | | |
| $16,394 | $16,886 | $17,393 | $17,915 | $18,452 | $19,006 | $19,576 | $20,163 | $20,768 | $21,391 |

<p>| Utilities | | | | | | | | | | |
| Fuel Oil | $24,190 | $24,916 | $25,664 | $26,434 | $27,227 | $28,043 | $28,885 | $29,751 | $30,644 | $31,563 |
| Electric | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Gas | $45,063 | $47,064 | $48,476 | $49,930 | $51,428 | $52,971 | $54,560 | $56,197 | $57,883 | $59,619 |
| Water / Sewer | $21,503 | $22,148 | $22,812 | $23,497 | $24,201 | $24,927 | $25,675 | $26,446 | $27,239 | $28,056 |
| Other | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Total Utilities | $91,386 | $94,128 | $96,952 | $99,860 | $102,856 | $105,942 | $109,120 | $112,394 | $115,765 | $119,238 |</p>
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<th>Year 11</th>
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<th>Year 13</th>
<th>Year 14</th>
<th>Year 15</th>
<th>Year 16</th>
<th>Year 17</th>
<th>Year 18</th>
<th>Year 19</th>
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<td>$35,644</td>
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<td>Grounds</td>
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<td>$6,921</td>
<td>$7,129</td>
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<td>$40,118</td>
<td>$41,321</td>
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<td>Elevator, HVAC, pool contracts</td>
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<td>$27,685</td>
<td>$28,515</td>
<td>$29,371</td>
<td>$30,252</td>
<td>$31,159</td>
<td>$32,094</td>
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<td>$34,049</td>
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<td>Other</td>
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<td>$0</td>
<td>$0</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Total Maintenance</td>
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<td>$122,045</td>
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<th>Taxes &amp; Insurance</th>
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<th></th>
<th></th>
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</thead>
<tbody>
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<td>Real Estate Taxes or PILOT</td>
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<td>$94,322</td>
<td>$97,152</td>
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<td>Payroll Taxes / Fidelity Bond / Workers Comp / Health Ins.</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td></td>
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<tr>
<td>Insurance (property, liability)</td>
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<td>$20,764</td>
<td>$21,386</td>
<td>$22,028</td>
<td>$22,689</td>
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<td>$24,793</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Total Taxes &amp; Insurance</td>
<td>$106,477</td>
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<td>$112,962</td>
<td>$116,350</td>
<td>$119,841</td>
<td>$123,436</td>
<td>$127,139</td>
<td>$130,963</td>
<td>$134,882</td>
<td>$138,929</td>
</tr>
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</table>

| Replacement Reserves      | $24,190  | $24,916  | $25,664  | $26,434  | $27,221  | $28,043  | $28,885  | $29,751  | $30,644  | $31,563  |
| Operating Reserves        | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       | $0       |
| Total Expenses            | $436,601 | $449,699 | $463,190 | $477,085 | $491,398 | $506,140 | $521,324 | $535,964 | $553,073 | $569,665 |

| Net Operating Income      | $133,234 | $132,180 | $130,994 | $129,669 | $128,199 | $126,577 | $124,798 | $122,854 | $120,737 | $118,441 |

<table>
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<tr>
<th>Debt Service</th>
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<th></th>
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</thead>
<tbody>
<tr>
<td>First Lien</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
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<td>Second Lien</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Other</td>
<td>$0</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Total Debt Service (Must Pay)</td>
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<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td>$112,934</td>
<td></td>
</tr>
</tbody>
</table>

| Cash Flow (after Must Pay Debt) | $20,300  | $19,246  | $18,060  | $16,735  | $15,265  | $13,643  | $11,864  | $9,920   | $7,803   |

| Debt Service Coverage Ratio| 1.18     | 1.17     | 1.16     | 1.15     | 1.14     | 1.12     | 1.11     | 1.09     | 1.07     | 1.05     |

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<tr>
<th>Cash Flow Debt Payments</th>
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<th></th>
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<tbody>
<tr>
<td>DHCD</td>
<td>0.0%</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Developer Fee Loan</td>
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<td>$0</td>
<td>$0</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
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<td></td>
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<tr>
<td>Cash Flow Retained by Project</td>
<td>$20,300</td>
<td>$19,246</td>
<td>$18,060</td>
<td>$16,735</td>
<td>$15,265</td>
<td>$13,643</td>
<td>$11,864</td>
<td>$9,920</td>
<td>$7,803</td>
<td></td>
</tr>
</tbody>
</table>

| Retained Cash Flow %      | 8%       |          |          |          |          |          |          |          |          |          |
ORDER APPROPRIATING
HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS
IN THE AMOUNT OF $580,174 TO THE
PORTLAND HOUSING DEVELOPMENT CORPORATION
RE: FRONT STREET

ORDERED, that the amount of $580,174 in Home Investment Partnerships (HOME) Program funds is hereby appropriated to the Portland Housing Development Corporation for development costs for Front Street; and

BE IT FURTHER ORDERED, the City Manager or his or her designee is authorized to execute any and all documents necessary to apply for, accept and appropriate the grant, and otherwise carry out the intent of this order.
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: July 5, 2018

SUBJECT: Order Authorizing Financial Assistance in the amount of $580,174 in HOME Program Funds to the Portland Housing Development Corporation Project entitled Front Street

SPONSOR: Jill Duson, Chair, Housing Committee
(June 27, 2018; voted 3-0 in favor)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading July 16, 2018 Final Action August 13, 2018

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

PRESENTATION: (List the presenter(s), type and length of presentation)
Mary Davis, HCD Division Director will be available to answer any questions

I. ONE SENTENCE SUMMARY

Portland Housing Development Corporation is requesting HOME funding to assist in the re-development of affordable family rental housing on Front Street.

II. AGENDA DESCRIPTION

Portland Housing Development Corporation is requesting HOME funding to assist in the re-development of affordable family rental housing on Front Street. The developer is proposing to demolish and re-develop the existing 50 units of housing and add an additional 61 units of mixed-income rental housing.

The development will include:
This project is seeking 4% Low Income Housing Tax Credit and tax-exempt debt with Maine Housing. It will not proceed on the same timetable as the other three proposals who will be seeking 9% Low Income Housing Tax Credits. The developer has engaged in significant public outreach in the East Deering Neighborhood. A neighborhood meeting was held on November 7, 2017 and the Planning Board held a workshop on November 14, 2017. The Planning Department has made significant commitments to the neighborhood to ensure that the design of the project is contextual to the neighborhood. To ensure these commitments are met, staff is recommending funding for this project.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is an experienced developer and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below.

The HOME Affordable Housing Development Application made funding available in the amount of $1,080,174. The City received four applications requesting $1,741,540 in funding.

The staff recommendation to the Housing Committee included HOME funding for Deering Place at an additional $200,000, Front Street at $510,174, 178 Kennebec Street at $370,000 and 977 Brighton Avenue at $0.

The Housing Committee voted to recommend HOME funding for Deering Place at an additional $200,000, Front Street at $580,174, 178 Kennebec Street at $0 and 977 Brighton Avenue at $300,000.
III. BACKGROUND

As stated in the developer’s application “Front Street is currently a 50-unit Public Housing community in the East Deering neighborhood of Portland, Maine. The project was built in 1971 as part of Portland’s Urban Renewal effort and the creation of Franklin Arterial to connect the interstate with the Downtown tourist area of the Portland peninsula. Over 200 residential structures, considered a blighted area, were taken by eminent domain and demolished in Portland’s Bayside neighborhood. A portion of those families were moved to temporary housing at Front Street....

“47 years later, this “temporary” housing was identified in Portland Housing Authority’s Strategic Vision Plan of 2015 as the top priority for re-development due to deterioration of buildings due to poor construction quality and structural issues due to poor soils.”

“PHA is proposing a single phase approach to not only demolish and re-develop the existing 50 units of housing, but add an additional 61 units of mixed-income family rental housing.....”

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Increase access to rental and ownership housing that is safe and affordable for working and low-income families.

V. FINANCIAL IMPACT

HOME Funds: $580,174 at zero percent interest, deferred for 30 years.

Total City HOME Investment of $580,174/unit - $5,227.
Total City HOME Investment of $580,174/affordable unit - $6,593.

At a later date, developer has indicated that they will seek additional city assistance through an affordable housing tax increment financing district/credit enhancement agreement as well as funding from the Housing Trust Fund in an amount up to $851,094 (total city HOME and HTF investment requested $1,431,268).

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

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City HOME funding. The third party analysis is attached. The report indicates that the developer is well positioned to secure the remaining financing needed to move forward with this project and has the financial capacity to keep the development process moving forward.

It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma
will need to be reviewed and analyzed to confirm the appropriateness of the initial HOME funding recommendation noted below. Conditions to be met prior to loan closing:

1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.
2. Commitment of all sources on terms and conditions acceptable to City of Portland, including acceptable cashflow waterfall, and cashflow projection which shows retirement of developer fee loan and City of Portland loans;
3. Revised operating budget reflective of higher utility costs and cashflow projection satisfactory to City.

As part of the Maine State Housing Authority’s (MSHA) Qualified Allocation Plan (QAP) application due in February, the developers will need letters of commitment of support for their projects prior to the QAP submission deadline. If the Council agrees with the Housing Committee’s recommendation, this letter would include the recommendations of the third party underwriter and be conditioned on the completion of the following additional requirements:

1. The commitment will be subject to compliance with all HOME Program regulations including, but not limited to, satisfactory underwriting analysis, cost allocation, designation of HOME units and compliance with the new HOME Final Rule (effective August 23, 2013) and the Consolidated and Further Continuing Appropriations Acts of 2012 and 2013.
2. The commitment will include the requirement that the environmental review process be satisfactorily completed. The City’s agreement to provide funds will be conditioned on the determination to proceed with, modify or cancel the project based on the results of the environmental review.
3. Commitment of funds to be stated as “an amount up to the funding request based on maximization of LIHTC equity raise”, to ensure that the City’s contribution is leveraged to the maximum extent possible.
4. If applicable, documentation acceptable to the City that the acquisition cost is reasonably related to market value. This is a HOME Program requirement.
5. Commitment should be subject to the projections and assumptions noted in the project budgets and pro-forma submitted, for both HOME and TIF funding, and the City reserves the right to reconsider and adjust their commitment if any significant alterations occur in the budget. A final commitment will be subject to a final budget.
6. Any substantial changes to the composition of the project, or the financial investment required, will be brought back to the Housing Committee and the City Council for review and approval.
A recommendation for City HOME funding by the City Council is not the same as approval of
the overall project. After carefully weighing the potential benefits and impacts on the City and
surrounding neighborhood against the standards in the Land Use Ordinance, the Planning Board
will ultimately determine if a project meets those standards. Any funding awarded will be
contingent on the project’s final approval by the Planning Board.

VII. RECOMMENDATION

Approval by the City Council of the Housing Committee’s recommendation of HOME funding
in the amount of $580,174 at zero percent interest, with repayment deferred for 30 years.

VIII. LIST ATTACHMENTS

Excerpt HOME Application Information for Front Street
Third Party Underwriting Analysis

Prepared by: Mary P. Davis
Date: July 5, 2018
PORTLAND HOUSING DEVELOPMENT CORPORATION / FRONT STREET HOUSING REDEVELOPMENT, LP
HOME APPLICATION
PROJECT SUMMARY

**Front Street Re-Development - Detailed Project Proposal**

**Summary - Request for Funding**
Portland Housing Development Corporation (PHDC) and Front Street Housing Redevelopment, LP are requesting $841,540 in grant funding from the City of Portland’s HOME program to assist in the re-development of affordable family rental housing in Portland, Maine. PHDC is requesting these HOME funds as a critical early step in securing other funding to replace outdated housing and bring new housing to a mixed-income community.

**Project Summary and Description of Housing**
Front Street is currently a 50-unit Public Housing community in the East Deering neighborhood of Portland, Maine. The project was built in 1971 as part of Portland’s Urban Renewal effort and the creation of Franklin Arterial to connect the interstate with the Downtown tourist area of the Portland peninsula. Over 200 residential structures, considered a blighted area, were taken by eminent domain and demolished in Portland’s Bayside neighborhood. A portion of those families were moved to temporary housing at Front Street in Portland’s East Deering neighborhood.

47 years later, this “temporary” housing was identified in Portland Housing Authority’s Strategic Vision Plan of 2015 as the top priority property for re-development due to deterioration of buildings due to poor construction quality and structural issues due to poor soils. A 2012 Physical Needs Assessment concluded that the buildings are at the end of their useful life, and an Obsolescence Study in 2016 determined that renovations would be costlier than demolition and new construction.

PHA is proposing a single-phase approach to not only demolish and re-develop the existing 50 units of housing, but add an additional 61 units of mixed-income family rental housing that will be durable, beautiful and extremely energy efficient. Please note there is an adjacent 10-unit homeownership project that will be developed on the existing Front Street parcel along Illsley Street, but is not part of the rental housing project and is not part of this application.

**Existing Housing Unit Distribution**

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</tr>
<tr>
<td>2-Bedroom</td>
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</tr>
<tr>
<td>3-Bedroom</td>
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<tr>
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<tr>
<td>5-Bedroom</td>
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**Front Street Utilization**

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</tr>
<tr>
<td>2-Bedroom</td>
<td>N/A</td>
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<tr>
<td>3-Bedroom</td>
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<tr>
<td>4-Bedroom</td>
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<tr>
<td>5-Bedroom</td>
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<tr>
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**Proposed Housing Unit Distribution**

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<td>850</td>
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<tr>
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<td>1100</td>
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<tr>
<td>4-bedroom</td>
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<td>1225</td>
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<tr>
<td>5-bedroom</td>
<td>4</td>
<td>1400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>111</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Population Served**
Households currently living at Front Street are Extremely-Low Income, (ELI), or Very-Low Income, (VLI). There are currently 49 occupied units; 35 households, (about 71%), have extremely-low incomes. Current households range in size from one-person to ten-persons. Households are predominantly between three- and six-persons. A unique feature of Front Street is its 4- and 5-bedroom units for larger families. PHA has a public housing waiting list with 1,800 families and several of those on the waiting list are looking for 4- and 5-bedroom units.

PHA is applying to HUD under Section 18 Demolition and Disposition of the Housing Act of 1937 to re-develop Front Street public housing. Section 18 allows all residents the right to compensation for temporary relocation and PHA is pledging 100% Right of Return. Residents will be relocated with Tenant Protection Vouchers in private housing or will be able to move to some of the other 1,000 units of public housing owned by PHA in Portland. We are anticipating at least half of the current families will choose to return to the re-developed Front Street. PHA is pledging 50 Project Based Vouchers to the new project. These will ensure those returning after relocation will have a subsidized unit. 23 units (20%) will be market rate with a goal of protecting existing ELI families while diversifying incomes in the development and neighborhood. The balance of units will be at or below 50% and 60% of Area Median Income.
Proposed Use of Funds, Market Demand and Measures of Success

Our first and foremost measure of success will be 111 new units of affordable housing. Portland has over 3,000 people on the Section 8 waiting list and there are over 13,000 people statewide who often have to wait 3-5 years for an affordable home. This project will clearly have an effect on over a hundred families. Please see the attached market study to understand the market demand.

The Front Street Redevelopment project has partnered with local social service providers to go beyond beautiful new apartments for its residents and provide critical services to help residents thrive in the community. The focus of these services is to enable empowerment and self-sufficiency. The following services are committed to the project and letters of commitment are available upon request:

- Boys and Girls Club of Southern Maine – After School programs
- Goodwill – Employment and job training supportive services
- LearningWorks – English language and literacy programs and YouthBuild Program
- The Opportunity Alliance – Early Head Start Family Visiting Program

Financial Feasibility

There is no doubt that Front Street’s legacy of a placing low-income housing on a former City dump with poor structural soils combined with drastic cuts to public housing over the life of the project has left this property in desperate need of redevelopment. It also means the project has costs that many other projects do not have: The size of the site is two City blocks spanning 4 acres. 50 families will be temporarily moved, re-housed and returned, all with financial support required in the Uniform Relocation Act. The project has a DEP VRAP plan for remediation of the soils. Hazardous materials will need to be removed from the buildings prior to demolition.

These initial costs are considered “Seller’s costs.” PHA has received $250,000 of CDBG funds from the City of Portland as well as a $125,000 grant from the TD Charitable Foundation Housing for Everyone competition in 2017. These funds, as well as potential EPA Brownfields funds and PHA non-federal reserves will pay for all “Seller Cost” that are NOT part of this application.

The project has already secured $3,900,000 of AHP funds from the Federal Home Loan Bank of Boston through our construction lender, Bath Savings. We are applying to MaineHousing for 4% LIHTC and Tax-Exempt Debt and will request a City of Portland Housing Trust Fund 0% loan as well. Please see the attached pro forma development budget, sources and uses, operating budget and 15-year operating pro forma.

Capacity to Develop the Project

The Portland Housing Authority hired Jay Waterman as their Real Estate Development Director over three years ago. Since that time, Bayside Anchor, a 45-unit mixed-income multi-family affordable housing project has been built and occupied. Mr. Waterman is the project manager for the Front Street project. Mark Adelson, PHA’s Executive Director, is also integrally involved in the project, assisting with the Relocation Plan for temporary relocation of Front Street families. Our HUD application process is being supported by Joe Schiff, a former HUD deputy undersecretary. Our relocation planning is being supported by Andrew Daniels of MAPPLAN Partners. Gary Vogel of Drummond Woodsum is our legal counsel. Our property management firm will be Avesta Housing.

PHA has assembled a top-notch design team for the project, including Utile Architecture and Planning from Boston, Carroll Associates Landscape Architects, Allied Engineering, Ransom Environmental Consulting, and Thornton Tomasetti to assist with Passive House certification.

Neighborhood and Design Compatibility

Front Street has been affordable public housing for the last 47 years. The project has been a low-density development that has the potential for significantly more density with the Division 30 changes. We feel the proposed design will have a more connective fabric with the surrounding neighborhood than the existing building. Walkability, scale, connectivity and permeability are all part of the design. We have worked with City planning and urban design staff for the last 18 months on this project and will continue to work with them as we bring this to the planning board in the Summer of 2018.
<table>
<thead>
<tr>
<th>Activity</th>
<th>Actual/Scheduled Date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. SITE</strong></td>
<td></td>
</tr>
<tr>
<td>Option/Contract</td>
<td>01/05/17</td>
</tr>
<tr>
<td>Site Acquisition</td>
<td>06/15/19</td>
</tr>
<tr>
<td>Zoning Approval</td>
<td>08/15/18</td>
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<td>Site Analysis</td>
<td>10/15/17</td>
</tr>
<tr>
<td><strong>B. FINANCING</strong></td>
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</tr>
<tr>
<td>Construction Loan Commitment</td>
<td>09/01/18</td>
</tr>
<tr>
<td>Permanent Loan Commitment</td>
<td>09/01/18</td>
</tr>
<tr>
<td>Other Sources Committed</td>
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</tr>
<tr>
<td><strong>C. PLANS AND SPECIFICATIONS</strong></td>
<td></td>
</tr>
<tr>
<td>50%</td>
<td>10/15/18</td>
</tr>
<tr>
<td>90%</td>
<td>02/01/19</td>
</tr>
<tr>
<td>100%</td>
<td>03/15/19</td>
</tr>
<tr>
<td><strong>D. CONSTRUCTION LOAN CLOSING</strong></td>
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<tr>
<td></td>
<td>06/15/19</td>
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<tr>
<td><strong>E. CONSTRUCTION START</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>06/20/19</td>
</tr>
<tr>
<td><strong>F. COMPLETION OF CONSTRUCTION</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>09/01/20</td>
</tr>
<tr>
<td><strong>G. LEASE-UP</strong></td>
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<tr>
<td>Initial Lease-up</td>
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<td>Sustained (95%) Occupancy</td>
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Please account for application processing - approximately 60 days from the application due date.
### Sources

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<thead>
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<th>Actual</th>
<th>Source</th>
<th>Actual</th>
<th>Source</th>
<th>Actual</th>
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<td>Equity yield</td>
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<td>99.99%</td>
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<td>Equity Raise</td>
<td>99.99%</td>
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<td>Historic Credit STATE</td>
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<td>Equity yield</td>
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<td>Other</td>
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<td>EquityRaise</td>
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</table>
| Total Equity | 8,377,850 | Gross Square Footage | 152,000 | $1,088,000 |}

### Development Assumptions

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<td>Total LIHTC (45%)</td>
<td>50</td>
<td>Operating Expense: 3.00% 3.00% 3.00% 3.00%</td>
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<tr>
<td># 60% AMI</td>
<td>30</td>
<td>Other Income: 2.00% 2.00% 2.00% 2.00%</td>
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<tr>
<td>60% AMI (W/ROHMC)</td>
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<td>Construction Period: 6% 10% 15% 20%</td>
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<tr>
<td>60% AMI (LHI/TMC)</td>
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<td>Construction Contingency: 2.00%</td>
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<tr>
<td>60% AMI (ROH/MC)</td>
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<td>Total</td>
</tr>
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</table>

### Market Survey

| Market Survey | 5,000 | Appraisal | 0.00%
|--------------|--------|-----------|--------|
| Environmental Study | 15,000 | 2,000 | 0.00%
| Title| 1,000 | 0.00%
| Title & Recording | 800 | 0.00%
| Construction Period Tax | 1,000 | 0.00%
| Construction Period Insurance | 1,000 | 0.00%
| Subtotal Construction Costs | 1,000 | 0.00%

### Subtotal Soft Costs

| Subtotal Soft Costs | 1,019,799 | 0 | 1,019,799 |

### Market Value

| Market Value | 17,181,469 | Total Market Value | 20.7% |

### Development Budget

#### Residential

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<th>Development Budget</th>
<th>Per Unit</th>
<th>Commercial</th>
<th>Total</th>
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<td>1,326,000</td>
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<td>196,800</td>
<td>16,618,400</td>
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<td>403,000</td>
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<td>Builder Profit</td>
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<td>1,019,799</td>
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<tr>
<td>Subtotal Construction</td>
<td>22,026,797</td>
<td>198,446</td>
<td>22,225,243</td>
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### Total Equity

| Total Equity | 8,377,850 |

### Front Street Re-Development - Sources and Uses

#### Sources

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<tr>
<th>Source</th>
<th>Development Fee Loan</th>
<th>2,400,000</th>
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<tr>
<td>Tax Exempt Bond Loan</td>
<td>14,000,000</td>
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</tr>
<tr>
<td>FHA Loan</td>
<td>3,400,000</td>
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</tr>
<tr>
<td>City Housing Trust Funds</td>
<td>3,927,686</td>
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#### Uses

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<tr>
<th>Uses</th>
<th>Construction</th>
<th>20,246,797</th>
<th>$1,088,000</th>
<th>LIHTC</th>
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<td>City HOME Funds</td>
<td>3,927,686</td>
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<tr>
<td>Net Syndication</td>
<td>8,377,850</td>
<td>99.99% Credit Allocation</td>
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<td></td>
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</table>

#### Synergy

| Synergy | 8,377,850 |

#### Sponsor Loan

| Sponsor Loan | 0 |

#### Total

| Total | 30,594,875 |

### Adjusted TDC Index Calculation

| Adjusted TDC Index Calculation | 20,246,797 |

### Changes to this pro forma version

111 units

| Changes to this pro forma version | 20,246,797 |

### MHTC Ashom

| MHTC Ashom | 3,927,686 |

### Actual Developer Fee

| Actual Developer Fee | 3,927,686 |

### % of Maximum Developer Fee

| % of Maximum Developer Fee | 99.99% |

### NET DEVELOPER FEE COLLECTED

| NET DEVELOPER FEE COLLECTED | 1,500,000 |

### NET DEVELOPER FEE

| NET DEVELOPER FEE | 1,500,000 |

### BET MAXIMUM DEVELOPER FEE

| BET MAXIMUM DEVELOPER FEE | 3,927,686 |
## FLOW OF FUNDS

<table>
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<tr>
<th>Sources</th>
<th>CLC 11/11/19</th>
<th>CLC 01/11/19</th>
<th>CLC 06/11/19</th>
<th>CLC 11/11/19</th>
<th>PLC 12/10/19</th>
<th>PLC 01/11/19</th>
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</tr>
<tr>
<td>MH Subsidy</td>
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<td>0</td>
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<td>0</td>
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<tr>
<td>Tax Exempt Bond Loan</td>
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### PROJECT FINANCING

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<th>Term</th>
<th>Loan</th>
<th>Yr. 1-5</th>
<th>Yr. 6-10</th>
<th>Yr. 11-30</th>
<th>Annual Disbursement</th>
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<td>Source 2: Tax Exempt Bond Loan</td>
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<td>772,898</td>
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<td>Source 3: AHP Loan</td>
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<td>Source 5: City Housing Trust Fund</td>
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<td>Source 6: City FairHOME</td>
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<td>Source 7: AHP Subsidy</td>
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### COLLATERAL COVERAGE

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<tr>
<th>Source</th>
<th>Amount</th>
<th>Rate</th>
<th>Term</th>
<th>Loan</th>
<th>Yr. 1-5</th>
<th>Yr. 6-10</th>
<th>Yr. 11-30</th>
<th>Annual Disbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source 1: MH Subsidy</td>
<td>0.00%</td>
<td>50</td>
<td>30</td>
<td>First</td>
<td>0</td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Source 2: Tax Exempt Bond Loan</td>
<td>14,945,415</td>
<td>5.50%</td>
<td>30</td>
<td>First</td>
<td>772,898</td>
<td>772,898</td>
<td>772,898</td>
<td>3,200,000</td>
</tr>
<tr>
<td>Source 3: AHP Loan</td>
<td>3,000,000</td>
<td>5.50%</td>
<td>30</td>
<td>First</td>
<td>219,203</td>
<td>219,203</td>
<td>219,203</td>
<td>219,203</td>
</tr>
<tr>
<td>Source 4: Seller Note</td>
<td>0.00%</td>
<td>30</td>
<td>30</td>
<td></td>
<td>0</td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Source 5: City Housing Trust Fund</td>
<td>0.00%</td>
<td>30</td>
<td>30</td>
<td></td>
<td>0</td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Source 6: City FairHOME</td>
<td>0.00%</td>
<td>30</td>
<td>30</td>
<td></td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Source 7: AHP Subsidy</td>
<td>0.00%</td>
<td>30</td>
<td>30</td>
<td></td>
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<td>0</td>
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<tr>
<td>Source 8: Development Fee Loan</td>
<td>2,400,000</td>
<td>0.00%</td>
<td>30</td>
<td>cash flow</td>
<td>0</td>
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<td>0</td>
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<tr>
<td>Source 9: Net Syndication</td>
<td>8,309,922</td>
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<td></td>
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<td>0</td>
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<tr>
<td>Capitalization Gap</td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Total</td>
<td>30,084,605</td>
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</table>
## Programme Rent Schedule

<table>
<thead>
<tr>
<th>Type</th>
<th>4% LIHTC</th>
<th>6% LIHTC</th>
<th>8% LIHTC</th>
<th>10% LIHTC</th>
<th>12% LIHTC</th>
<th>14% LIHTC</th>
<th>Subtotals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Units</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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</tr>
<tr>
<td>Rent</td>
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<td>$1,000</td>
<td>$1,000</td>
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<td>$1,000</td>
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### Rent Schedule

<table>
<thead>
<tr>
<th>Rent Type</th>
<th>4% LIHTC</th>
<th>6% LIHTC</th>
<th>8% LIHTC</th>
<th>10% LIHTC</th>
<th>12% LIHTC</th>
<th>14% LIHTC</th>
<th>Subtotals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Rent</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Market Rent</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Vacant Rent</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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</tbody>
</table>

### Rent Sensitivity

<table>
<thead>
<tr>
<th>Rent Sensitivity</th>
<th>4% LIHTC</th>
<th>6% LIHTC</th>
<th>8% LIHTC</th>
<th>10% LIHTC</th>
<th>12% LIHTC</th>
<th>14% LIHTC</th>
<th>Subtotals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Rent</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Market Rent</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Vacant Rent</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<td>$0</td>
<td>$0</td>
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</table>

### Operating Expenses

<table>
<thead>
<tr>
<th>Expense Type</th>
<th>Residential</th>
<th>Annual</th>
<th>Per Unit</th>
</tr>
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<tbody>
<tr>
<td>Administrative</td>
<td>$100,450</td>
<td>$988</td>
<td></td>
</tr>
<tr>
<td>Management Charges</td>
<td>$100,450</td>
<td>$988</td>
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<tr>
<td>Marketing Expenses</td>
<td>$900</td>
<td>$9</td>
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</tr>
<tr>
<td>Legal Expenses</td>
<td>$4,000</td>
<td>$39</td>
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<tr>
<td>Auditing Expenses</td>
<td>$7,500</td>
<td>$69</td>
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</tr>
<tr>
<td>Other Administrative Expenses</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Administrative Expenses</td>
<td>$205,799</td>
<td>$2,075</td>
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</tr>
<tr>
<td>Operating Expenses</td>
<td>$232,000</td>
<td>$1,978</td>
<td></td>
</tr>
<tr>
<td>Janitorial Payroll</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Janitorial Supplies and Equipment</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Janitorial Contractual Services</td>
<td>$40,000</td>
<td>$360</td>
<td></td>
</tr>
<tr>
<td>Natural Gas Heat &amp; HW</td>
<td>$45,650</td>
<td>$415</td>
<td></td>
</tr>
<tr>
<td>Electricity</td>
<td>$50,000</td>
<td>$458</td>
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</tr>
<tr>
<td>Water and Sewer</td>
<td>$40,000</td>
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<tr>
<td>Garbage and Trash Removal</td>
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<tr>
<td>Vehicle and Equipment Expenses</td>
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<td></td>
</tr>
<tr>
<td>Other Operating Expenses</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

### Summary

<table>
<thead>
<tr>
<th>Item</th>
<th>Value</th>
</tr>
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<tbody>
<tr>
<td>Gross Income</td>
<td>$1,126,346</td>
</tr>
<tr>
<td>Operating Expenses</td>
<td>$1,978,407</td>
</tr>
<tr>
<td>Net Operating Income</td>
<td>$3,848,000</td>
</tr>
<tr>
<td>Net Income</td>
<td>$11,000</td>
</tr>
</tbody>
</table>

### Affordability Mortgage Calculation

- Effective Gross Income: $1,126,346
- Annual Operating Expenses: $1,978,407
- Realized NOI: $3,848,000
- DSC: 1.5
- Other DSC: 772,498
- Balance: 236,034
- Affordability Mortgage: 9.5% (3,007,129)

### Breakdown Analysis

- Operating Income: $3,848,000
- Gross Revenues: $1,504,000
- Break-even Occupancy: 95%
# Pro Forma Operating Income and Expense Statement

<table>
<thead>
<tr>
<th>Period</th>
<th>06 Months</th>
<th>12 Months</th>
<th>24 Months</th>
<th>36 Months</th>
<th>48 Months</th>
<th>60 Months</th>
<th>72 Months</th>
<th>84 Months</th>
<th>96 Months</th>
<th>108 Months</th>
<th>130 Months</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PLC</td>
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<td>PLC</td>
<td>PLC</td>
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<tr>
<td></td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
<td>12/31/16</td>
</tr>
<tr>
<td>Effective Gross Income</td>
<td>$2,477,370</td>
<td>$2,477,370</td>
<td>$2,477,370</td>
<td>$2,477,370</td>
<td>$2,477,370</td>
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<td>$2,477,370</td>
<td>$2,477,370</td>
<td>$2,477,370</td>
</tr>
<tr>
<td>Less Operating Expense</td>
<td>$1,872,730</td>
<td>$1,872,730</td>
<td>$1,872,730</td>
<td>$1,872,730</td>
<td>$1,872,730</td>
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<td>$1,872,730</td>
<td>$1,872,730</td>
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<tr>
<td>Loss RLF Repay</td>
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<td>$727,480</td>
<td>$727,480</td>
<td>$727,480</td>
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<td>$727,480</td>
<td>$727,480</td>
<td>$727,480</td>
<td>$727,480</td>
</tr>
<tr>
<td>Less Other Repay</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
<td>$219,023</td>
</tr>
<tr>
<td>Cash Flow per Unit</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
<td>$1.46</td>
</tr>
<tr>
<td>Debt Coverage Ratio (RLF)</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
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<tr>
<td>NH Subsidy</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Tax-Exempt Bond Loan</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
</tr>
<tr>
<td>Principal Balance (RLF)</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
<td>$11,593,229</td>
</tr>
<tr>
<td>Operating Reserve Balance</td>
<td>$462,094</td>
<td>$371,691</td>
<td>$2,070,033</td>
<td>$1,034,049</td>
<td>$1,500,050</td>
<td>$2,289,446</td>
<td>$2,505,548</td>
<td>$2,986,065</td>
<td>$4,638,079</td>
<td>$5,592,098</td>
<td>$5,895,277</td>
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</tbody>
</table>

**Debt Coverage Ratio (RLF):** 0.00

**NH Subsidy:** 0

**Tax-Exempt Bond Loan:** $11,593,229

**Principal Balance (RLF):** $11,593,229

**Operating Reserve Balance:** $462,094
To: Mary Davis, City of Portland
From: Anne Boynton, Urban Ventures, Inc.
Re: Front Street Housing Redevelopment LP
Developed by Portland Housing Development Corporation (PHDC)
Date: June 3, 2018

Executive Summary
The Front Street Redevelopment will replace 50 units of deteriorated “temporary housing” built in 1971 which is suffering from structural problems with 111 units of new rental housing and a 10 unit homeownership development (which is not part of this request). Due to a range of complications including underlying soil contamination and soil structure issues throughout the 4 acre site, size of units (includes 17 units with 4 or 5 bedrooms), zoning constraints limiting project height to 3 stories, and commitments to the neighborhood on design issues, this is quite an expensive development, with a total development cost of $30 million (which excludes all demolition and much of the site work.) The per unit development cost is $271,032. PHDC is requesting a HOME loan of $841,540 and is anticipating a Housing Trust Fund request of $589,728, for a total capital investment from the City of Portland of $1,431,268.

In order to make use of the 4% LIHTCs and tax exempt bond financing, PHDC is giving up their current property tax exempt ownership structure and is requesting a 75% TIF with an estimated value of $146,148 in year 1. The TIF will return an estimated $48,712 to the City in year 1, raising over time, from this property which would not otherwise be on the tax rolls.

Sources and Uses

Sources:
- 1st Mortgage: $14,045,415
- AHP 2nd lien: $3,400,000
- AHP subsidy: $500,000
- LIHTC Equity: $8,307,892
- Deferred Dev Fee: $2,400,000
- HOME – Portland: $841,540
- Housing Trust Fund – Portland: $589,728

Sources of Funds: $30,084,575

Uses:
- Site Improvements: $1,326,000
- Hard Construction: $19,651,902
- Hard Cost Contingency: $1,048,895
- Soft & Misc. Costs: $1,839,918
- Interest & Financing Costs: $1,019,750
- Acquisition: 0
- Reserves: $1,298,111
- Developer Fee: $3,900,000

Uses of Funds: $30,084,576

For analysis of “Uses,” see Development Budget.

Development Budget
The Total Development Cost for this project is very high, particularly considering there is no acquisition cost and the units will ultimately be modest in scale and amenities (for instance, the 5 bedroom units have only 1.5 baths and a total of 1,400 square feet). Of the six projects receiving HOME commitments in the past 2 years, this project costs 32% more per unit than the next most expensive project (Boyd...
Street). Unfortunately, most of this additional cost is an outgrowth of the unique site conditions and neighborhood considerations – either directly in construction costs, architectural & engineering expense, and in construction period interest. Short of abandoning the site or reconfiguring for a narrower, taller structure, there is not a lot of room to reduce costs.

**Construction Costs:**

Over $1.9 million of the site preparation costs will be borne by the PHA prior to transferring the site to the Front Street LP, including hazardous material removal, demolition of existing structures, removal of contaminated soils, and relocation of existing residents. None of these expenses are included in the project budget. Even so, there is still $1,326,000 in ADDITIONAL site improvements to be borne by the project to address inadequate soil structures and the extensive soil remediation. Construction techniques to secure the foundation on the old landfill will be more expensive than typical.

The existing development is all larger units and the new development will include 44 units of 3 bedrooms or larger. These larger units also push construction costs up – to the largest units are only 1400 sq ft with 1.5 baths, so they are not over investing in amenities. Construction costs are based on an overall conceptual design estimate by Wright-Ryan, so there is not currently much detail to evaluate in terms of value engineering opportunities.

**Soft Costs:**

Soft costs are generally in line with other Portland area developments except as related to the extraordinary site conditions which drives up architectural, engineering, and the high total development cost which drives up construction loan interest. Overall high costs also push up soft costs which are calculated on a percentage basis: operating reserve, replacement reserve, and developer fee. Developer fee budgeted at $3.9 million and is calculated at the maximum allowable by Maine Housing. This works out to 15.64% of total development cost excluding reserves and developers fee. The developer commits to lend 62% of developer fee ($2.4 million) back to the project for a cash out developer fee of $1.5 million.

**Contingency:**

Hard cost contingency is at 5% which is QUITE thin considering the very preliminary stage of development. The costs are estimated based on an October 2018 start date which is not realistic, so there will be construction inflation which needs to be factored in. Also soil conditions can be very difficult to estimate. We should expect these costs to rise over time.

**Acquisition:**

Acquisition price is ZERO.

**Operating Budget & 20 Year Cashflow Projection**

**Project Income:**

The PHA is providing 50 project based vouchers to insure that every returning resident has an affordable unit. There will be 23 market rate 1 and 2 bedroom units, with rents of $990 & $1,170 respectively. PHDC states these are discounted 10% vs. true market rate. There will be 38 units affordable at 50% or
60% of AMI with rents ranging from $880 for a 1 bedroom to $1,406 for a 3 bedroom. Vacancy is budgeted at 5%.

**Operating Expense**

Total operating cost per unit is $7,730, towards the upper end of affordable housing operating costs. However this does not account for the TIF. A property with an equivalent real estate tax subsidy in the form of a PILOT would show operating expenses of $6,413, exactly in range for affordable housing. Administration is slightly high at $2,101 per unit. Utilities are currently thin at $1,234 per unit – given large units and large families, this is inadequate. PHDC has conducted a utility review of comparable units and agrees to increase the utility line item to $1,527 per unit. Given energy efficient construction and a range of unit sizes, this should be sufficient. Annual contribution to Reserves for Replacement is $450/unit, which should be sufficient even given the larger units and anticipation of some wear and tear from larger families.

**20 Year Cashflow & Debt Service Coverage Ratio (DSCR)**

The projected year 1 Debt Service Coverage Ratio (DSCR) is an adequate 1.16. With industry standard inflators of 2% for income and 3% for expense, the projections show the DSCR gradually increasing to 1.43 in year 20.

Since there is a hefty developer fee loan -- $2.4 mill – which the investors will insist is repaid from cashflow prior to the end of the 15 year tax credit compliance period, there is not a lot of leeway in projected cashflow to retire the City investment in the early years. If the cashflow is divided 75% to the developer fee loan, projections show the developer fee loan fully retired in year 14. Ten percent of cashflow is the minimum which should be retained by the project. If 15% of cashflow goes to the City, that would be a repayment of about $24,000 in the first year, rising to $50,000 by year 14 when the developer fee loan is fully repaid. The percentage of cashflow paid to the City should be structured to increase at the point the developer fee loan is repaid. If the cashflow share paid to the City rises to 50% when the developer fee is repaid, the full City investment is retired in year 19.

**Developer Financials**

Portland Housing Authority has submitted audits for FY2014, 2015, 2016 and 2017. Their fiscal year ends 6/30. Their audit as of 6/30/17 showed strong and improving financial health, with current assets of $13.7 million and current liabilities of $1.7 million, resulting in a current ratio of 8. The Quick Ratio (cash and cash equivalents divided by current liabilities) is a remarkably healthy 4.9. In 2017, they increased their Net Position by $1,104,212, as growth in revenues exceeded growth in expenses. This brought their total Net Worth to over $20 million. Overall, this organization has very strong financial health. This developer has the financial capacity to intervene in a development facing unexpected setbacks and or cost over-runs to keep the development process moving forward. Their financial strength as an organization mitigates the risk of the thin hard and soft cost contingency.

**Recommendations**

At this time, I recommend a HOME loan in the amount of $480,174, zero percent interest, payment from cashflow with cashflow waterfall acceptable to City, with the following conditions prior to loan closing:
1. All standard construction loan conditions, including satisfactory review of final contract with GC consistent with budgeted estimates, and total contractor overhead, profit and general conditions of not to exceed 14% of net construction costs.

2. Commitment of all sources on terms and conditions acceptable to City of Portland, including acceptable cashflow waterfall, and cashflow projection which shows retirement of developer fee loan and City of Portland loans;

3. Revised operating budget reflective of higher utility costs and cashflow projection satisfactory to City.
# Development Budget with Permanent Sources

**Date:** 5/15/2018  
**Project Name:** Front Street  
**Project Address:**  
**Developer/Sponsor:**  
**Total Units:** 111  
**Total Square Feet:** 60,000 (incorrect)  
**Total:** $1,431,268

## Sources of Funds

<table>
<thead>
<tr>
<th>Source</th>
<th>Total</th>
<th>Per Unit</th>
<th>Per Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Financing - 1st Lien</td>
<td>$14,045,415</td>
<td>$126,535</td>
<td>$234</td>
</tr>
<tr>
<td>Permanent Financing - AHP Loan $3.4 mill Subsidy $500k</td>
<td>$3,900,000</td>
<td>$35,135</td>
<td>$66</td>
</tr>
<tr>
<td>Equity (LIHTC/tenant contributions)</td>
<td>$8,307,892</td>
<td>$74,846</td>
<td>$138</td>
</tr>
<tr>
<td>Deferred development fee</td>
<td>$2,400,000</td>
<td>$21,622</td>
<td>$40</td>
</tr>
<tr>
<td>HOME -- City of Portland</td>
<td>$841,540</td>
<td>$7,581</td>
<td>$14</td>
</tr>
<tr>
<td>Housing Trust Fund -- City of Portland</td>
<td>$589,728</td>
<td>$5,313</td>
<td>$10</td>
</tr>
<tr>
<td><strong>Total Sources of Funds</strong></td>
<td>$30,084,575</td>
<td>$271,032</td>
<td>$501</td>
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</table>

## Uses of Funds

### Hard Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Total</th>
<th>Per Unit</th>
<th>Per Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Improvements</td>
<td>$1,326,000</td>
<td>$11,946</td>
<td>$22</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>New Construction</td>
<td>$18,421,902</td>
<td>$165,963</td>
<td>$307</td>
</tr>
<tr>
<td>Contractor's Profit, Overhead, &amp; Gen. Requirements 6.0%</td>
<td>$1,160,000</td>
<td>$10,831</td>
<td>$20</td>
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<tr>
<td>Hazardous Materials abatement (if contracted separately)</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Demolition Cost (if contracted separately)</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Bond Premium</td>
<td>$50,000</td>
<td>$450</td>
<td>$1</td>
</tr>
<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Hard Cost Contingency (% of hard costs) 5.0%</td>
<td>$1,048,895</td>
<td>$9,450</td>
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<td><strong>Total Hard Costs</strong></td>
<td>$22,026,797</td>
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### Soft Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Total</th>
<th>Per Unit</th>
<th>Per Sq Ft</th>
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</thead>
<tbody>
<tr>
<td>Building Permit &amp; Fees</td>
<td>$322,613</td>
<td>$2,908</td>
<td>$5</td>
</tr>
<tr>
<td>Survey &amp; Engineering</td>
<td>$103,900</td>
<td>$936</td>
<td>$2</td>
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<tr>
<td>Design &amp; Permitting (% of const exp) 5.0%</td>
<td>$945,000</td>
<td>$8,514</td>
<td>$16</td>
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<tr>
<td>Borrower Legal (all closings, excluding syndication legal)</td>
<td>$73,000</td>
<td>$658</td>
<td>$1</td>
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<tr>
<td>Title &amp; Recording</td>
<td>$15,000</td>
<td>$135</td>
<td>$0</td>
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<tr>
<td>Accounting</td>
<td>$8,000</td>
<td>$72</td>
<td>$0</td>
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<tr>
<td>Construction Period Taxes</td>
<td>$2,000</td>
<td>$18</td>
<td>$0</td>
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<tr>
<td>Construction Period Insurance</td>
<td>$25,000</td>
<td>$225</td>
<td>$0</td>
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<tr>
<td>Other: FF&amp;E, Security</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td><strong>Total Soft Costs</strong></td>
<td>$1,494,513</td>
<td>$13,464</td>
<td>$25</td>
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### Financing Costs

<table>
<thead>
<tr>
<th>Category</th>
<th>Total</th>
<th>Per Unit</th>
<th>Per Sq Ft</th>
</tr>
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<tbody>
<tr>
<td>Construction Loan Origination Fees</td>
<td>$8,500</td>
<td>$77</td>
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<td>Construction Period Interest</td>
<td>$700,000</td>
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<td>Lender Inspection Fees</td>
<td>$28,750</td>
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<td>Letter of Credit Fee</td>
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<tr>
<td>Permanent Loan Fee</td>
<td>$282,500</td>
<td>$2,545</td>
<td>$6</td>
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<tr>
<td>Construction Lender Legal</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
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<td><strong>Total Financing Costs</strong></td>
<td><strong>$1,019,750</strong></td>
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<table>
<thead>
<tr>
<th><strong>Miscellaneous</strong></th>
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<tr>
<td>Market Survey</td>
<td>$5,200</td>
<td>$47</td>
<td>$0</td>
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<tr>
<td>Appraisal</td>
<td>$6,000</td>
<td>$54</td>
<td>$0</td>
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<tr>
<td>Environmental Study</td>
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<td>$0</td>
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<td>LIHTC Fees -- prepaid monitoring</td>
<td>$142,625</td>
<td>$1,285</td>
<td>$2</td>
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<td>Other: Commissioning</td>
<td>$47,080</td>
<td>$424</td>
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<tr>
<td>Relocation Costs</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Other -- FF&amp;E</td>
<td>$89,000</td>
<td>$802</td>
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<tr>
<td>Soft Cost Contingency (% of soft costs excl Dev Fee)</td>
<td>$42,000</td>
<td>$378</td>
<td>$1</td>
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<td><strong>Total Miscellaneous:</strong></td>
<td><strong>$35,405</strong></td>
<td><strong>$3,112</strong></td>
<td><strong>$6</strong></td>
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<table>
<thead>
<tr>
<th><strong>Acquisition</strong></th>
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</thead>
<tbody>
<tr>
<td>Acquisition: Buildings</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Acquisition: Land</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Acquisition: Legal</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td><strong>Total Acquisition</strong></td>
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<table>
<thead>
<tr>
<th><strong>Reserves and Developer Fee</strong></th>
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</thead>
<tbody>
<tr>
<td>Operating Deficit Escrow</td>
<td>$925,000</td>
<td>$8,333</td>
<td>$15</td>
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<tr>
<td>Prefunded Replacement Reserve</td>
<td>$196,519</td>
<td>$1,770</td>
<td>$3</td>
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<td>Taxes &amp; Insurance Escrow</td>
<td>$126,592</td>
<td>$1,140</td>
<td>$2</td>
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<td>Developer Overhead</td>
<td>$2,000,000</td>
<td>$18,018</td>
<td>$33</td>
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<tr>
<td>Developer Profit</td>
<td>$1,900,000</td>
<td>$17,117</td>
<td>$32</td>
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<td>Rent Up Reserve &amp; Marketing</td>
<td>$50,000</td>
<td>$450</td>
<td>$1</td>
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<tr>
<td>Other</td>
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<td>$0</td>
<td>$0</td>
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<tr>
<td><strong>Total Reserves and Developer Fee</strong></td>
<td><strong>$5,198,111</strong></td>
<td><strong>$46,830</strong></td>
<td><strong>$87</strong></td>
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</table>

<table>
<thead>
<tr>
<th><strong>Total Uses of Funds</strong></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>$30,084,576</strong></td>
<td><strong>$271,032</strong></td>
<td><strong>$501</strong></td>
</tr>
</tbody>
</table>

Developer Fee Analysis:

Total Fees: $3,900,000
Percent of TDC: 15.64% (excluding reserves & developer fee)
# Project Operating Pro Forma

**Date:** May 15, 2018  
**Project Name:**  
**Project Address:** Front Street  
**Developer/Sponsor:**

## Rental Income:

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Number of Units</th>
<th>Per Unit Sq Ft</th>
<th>Total Sq Ft</th>
<th>Restriction on Median Inc.</th>
<th>Per Unit Monthly Gross Rent</th>
<th>Utility Deductions</th>
<th>Rent Subsidy</th>
<th>Per Unit Monthly Net Rent</th>
<th>Total Monthly Net Income</th>
<th>Total Annual Net Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 BR</td>
<td>7</td>
<td>PBV 50%</td>
<td>$845</td>
<td>$845</td>
<td>#DIV/0!</td>
<td>50%</td>
<td>0</td>
<td>#DIV/0!</td>
<td>$5,915</td>
<td>$70,980</td>
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<td>1 BR</td>
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<td>$845</td>
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<td>#DIV/0!</td>
<td>$9,295</td>
<td>$111,540</td>
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<tr>
<td>2 BR</td>
<td>7</td>
<td>PBV 50%</td>
<td>$1,013</td>
<td>$1,013</td>
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<td>50%</td>
<td>0</td>
<td>#DIV/0!</td>
<td>$7,091</td>
<td>$85,082</td>
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<tr>
<td>2 BR</td>
<td>19</td>
<td>0 50%</td>
<td>$1,013</td>
<td>$1,013</td>
<td>#DIV/0!</td>
<td>50%</td>
<td>0</td>
<td>#DIV/0!</td>
<td>$19,247</td>
<td>$230,988</td>
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<tr>
<td>2 BR</td>
<td>12</td>
<td>0 market</td>
<td>$1,170</td>
<td>$1,170</td>
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<td>50%</td>
<td>0</td>
<td>#DIV/0!</td>
<td>$14,040</td>
<td>$164,880</td>
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<tr>
<td>3 BR</td>
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<td>PBV 50%</td>
<td>$1,171</td>
<td>$1,171</td>
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<td>50%</td>
<td>0</td>
<td>#DIV/0!</td>
<td>$5,855</td>
<td>$70,260</td>
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<tr>
<td>3 BR</td>
<td>19</td>
<td>PBV 50%</td>
<td>$1,171</td>
<td>$1,171</td>
<td>#DIV/0!</td>
<td>50%</td>
<td>0</td>
<td>#DIV/0!</td>
<td>$22,249</td>
<td>$266,988</td>
</tr>
<tr>
<td>3 BR</td>
<td>3</td>
<td>0 60%</td>
<td>$1,406</td>
<td>$1,406</td>
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<td>$50,616</td>
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<tr>
<td>4 BR</td>
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<td>#DIV/0!</td>
<td>$16,991</td>
<td>$203,892</td>
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<tr>
<td>Other</td>
<td>4</td>
<td>PBV 50%</td>
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<td>$5,756</td>
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<tr>
<td>Total</td>
<td>111</td>
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<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$121,555</td>
<td>$1,458,708</td>
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</tbody>
</table>

6.59% budgeted vacancy per pro forma
<table>
<thead>
<tr>
<th>Year</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Sch. Gross Income - Residential</td>
<td>$1,458,708</td>
<td>$1,487,882</td>
<td>$1,517,640</td>
<td>$1,547,993</td>
<td>$1,578,862</td>
<td>$1,610,532</td>
<td>$1,642,742</td>
<td>$1,675,597</td>
<td>$1,709,198</td>
<td>$1,743,291</td>
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<tr>
<td>Vacancy Loss</td>
<td>5.0%</td>
<td>$(72,935)</td>
<td>$(74,384)</td>
<td>$(75,882)</td>
<td>$(77,400)</td>
<td>$(78,948)</td>
<td>$(80,527)</td>
<td>$(82,137)</td>
<td>$(83,760)</td>
<td>$(85,435)</td>
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<tr>
<td>Other income: PBV/HAP Diff.</td>
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<td>$473,921</td>
<td>$483,399</td>
<td>$493,067</td>
<td>$502,926</td>
<td>$512,987</td>
<td>$523,247</td>
<td>$533,712</td>
<td>$544,386</td>
<td>$555,273</td>
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<tr>
<td>Other income (laundry)</td>
<td>$11,100</td>
<td>$100</td>
<td>$11,322</td>
<td>$11,779</td>
<td>$12,016</td>
<td>$12,266</td>
<td>$12,500</td>
<td>$12,750</td>
<td>$13,006</td>
<td>$13,266</td>
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<tr>
<td>TIF - 75%</td>
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<td>$155,083</td>
<td>$156,184</td>
<td>$156,348</td>
<td>$154,575</td>
<td>$157,867</td>
<td>$161,224</td>
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<tr>
<td><strong>Effective Gross Income</strong></td>
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<td>$2,216,595</td>
<td>$2,260,927</td>
<td>$2,306,146</td>
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<td>$2,399,314</td>
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<tr>
<td><strong>Administrative</strong></td>
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<td></td>
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<tr>
<td>Management Fee</td>
<td>$109,630</td>
<td>$112,919</td>
<td>$116,306</td>
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<td>Management Charges</td>
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<td>$119,796</td>
<td>$123,300</td>
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<td>$130,904</td>
<td>$134,831</td>
<td>$138,876</td>
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<tr>
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<td>$8,358</td>
<td>$8,609</td>
<td>$8,867</td>
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<tr>
<td>Tenant Computer network</td>
<td>$2,500</td>
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<td>$3,157</td>
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<td><strong>Total Administrative</strong></td>
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<td><strong>Supportive Services</strong></td>
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<tr>
<td></td>
<td>$32,000</td>
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<td>$34,967</td>
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<td>$40,537</td>
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<td><strong>Utilities</strong></td>
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<tr>
<td>Fuel Oil</td>
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<td>Natural Gas</td>
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<tr>
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<td>Year 2</td>
<td>Year 3</td>
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<td>Year 5</td>
<td>Year 6</td>
<td>Year 7</td>
<td>Year 8</td>
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<tr>
<th>Taxes &amp; Insurance</th>
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<tr>
<td>Real Estate Taxes or PILOT</td>
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<td>Payroll Taxes / Fidelity Bond / Workers Comp</td>
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<thead>
<tr>
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<table>
<thead>
<tr>
<th>Debt Service</th>
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<tbody>
<tr>
<td>First Lien - Tax Exempt Bond</td>
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<tr>
<td>Second Lien - AHP Loan</td>
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<td>Total Debt Service (Must Pay)</td>
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<thead>
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<th>Cash Flow (after Must Pay Debt)</th>
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<table>
<thead>
<tr>
<th>Debt Service Coverage Ratio</th>
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<tr>
<th>Cash Flow Debt Payments</th>
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<tr>
<th>Cash Flow Retained by Project</th>
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<th>Retained Cash Flow %</th>
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### Operating Expenses

<table>
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<th>Income</th>
<th>Year 11</th>
<th>Year 12</th>
<th>Year 13</th>
<th>Year 14</th>
<th>Year 15</th>
<th>Year 16</th>
<th>Year 17</th>
<th>Year 18</th>
<th>Year 19</th>
<th>Year 20</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sch. Gross Income - Residential</strong></td>
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<td>$1,813,720</td>
<td>$1,849,094</td>
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<td>$1,963,229</td>
<td>$2,002,463</td>
<td>$2,042,543</td>
<td>$2,083,394</td>
<td>$2,126,062</td>
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<tr>
<td><strong>Vacancy Loss</strong></td>
<td>($88,908)</td>
<td>($90,866)</td>
<td>($92,500)</td>
<td>($94,350)</td>
<td>($96,237)</td>
<td>($98,161)</td>
<td>($100,125)</td>
<td>($102,127)</td>
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<tr>
<td><strong>Other Income (laundry)</strong></td>
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<td><strong>Office Payroll &amp; Benefits</strong></td>
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### Supportive Services

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<th>Year 13</th>
<th>Year 14</th>
<th>Year 15</th>
<th>Year 16</th>
<th>Year 17</th>
<th>Year 18</th>
<th>Year 19</th>
<th>Year 20</th>
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<tbody>
<tr>
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<td>Exterminating</td>
<td>Trash Removal</td>
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<td>Maintenance</td>
<td>Elevator, HVAC, pool contracts</td>
<td>Other</td>
<td>Total Maintenance</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>------------</td>
<td>---------------</td>
<td>---------------</td>
<td>----------</td>
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### Taxes & Insurance

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<th>Year</th>
<th>Real Estate Taxes or PILOT</th>
<th>Payroll Taxes / Fidelity Bond / Workers Comp / Health Ins.</th>
<th>Insurance (property, liability)</th>
<th>Other</th>
<th>Total Taxes &amp; Insurance</th>
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### Replacement Reserves

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<th>Replacement Reserves</th>
<th>Operating Reserves</th>
<th>Total Replacement Reserves</th>
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### Total Expenses

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<thead>
<tr>
<th>Year</th>
<th>Total Expenses</th>
<th>Net Operating Income</th>
<th>Debt Service</th>
<th>Cash Flow Debt Payments</th>
<th>Cash Flow Retained by Project</th>
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</thead>
<tbody>
<tr>
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### Debt Service Coverage Ratio

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AMENDMENT TO ZONING MAP
RE: 1000, 1002/1004 AND 1020 CONGRESS STREET

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

That the Zoning Map of the City of Portland, dated December 2000, as amended
and on file in the Department of Planning and Urban Development, and
incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is
amended by adopting the following map change amendment and specifically
rezoning property at 1000, 1002/1004 and 1020 Congress Street from Low Impact
Industrial Zone (Ilb) to Neighborhood Community Zone (B-2), as shown below.
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English

FROM: Stuart O’Brien, Director, Planning Division

DATE: June 28, 2018

SUBJECT: Zoning Map Amendment for 1000, 1002/1004, and 1020 Congress Street

SPONSOR: Sean Dundon, Chair, Portland Planning Board

Public Hearing, June 26, 2018. Board unanimously (5-0, Whited, Eaton absent) to recommend to City Council the zoning map amendment.

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading: July 16, 2018 Final Action: August 13, 2018

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

PRESENTATION: (List the presenter(s), type and length of presentation)
Sean Dundon, Chair, Planning Board and Stuart O’Brien, Director, Planning Division- 5 to 10 minutes total

I. ONE SENTENCE SUMMARY
The Planning Board recommends the zoning map amendment from Industrial-Low Impact IL zone to Business Community B-2 zone for the parcels at 1000, 1002/1004, 1006; and 1020 Congress Street.

II. AGENDA DESCRIPTION
The applicant, 1006 Congress LLC, requested a zoning map amendment for a 19,800 sq. ft. property at 1006 Congress Street, which is located at the corner of Congress and Westfield Streets. The parcel is in the Industrial-Low Impact IL zone. The requested map amendment is to change the zoning from IL to Business Community B-2. The site is surrounded by I-L to the south, Residential R-6 to the west and north and B-2 on the eastern side. The majority of the buildings within the R-6 areas are multifamily buildings.

At the workshop on May 17, 2018, the Planning Board considered the request and recommended advertising an expanded area of B-2 along Congress Street for consideration at the public hearing. The expanded area included the surrounding properties at 1000, 1002/1004, and 1020 Congress Street (see map below), which would connect to the larger B-2 area in Libbytown. The rezoning to the B-2 zone would allow a wide range of commercial uses not allowed in the IL zone, such as retail, restaurants, neighborhood center and general businesses and professional offices.

On June 26, 2018, the Board held a public hearing and voted unanimously (5-0, Eaton and Whited absent) to recommend to City Council the zoning map amendment from Industrial-Low Impact IL zone to Business Community B-2 zone for the parcels at 1000, 1002/1004, 1006, and 1020 Congress Street.

III. BACKGROUND
1006 Congress LLC requested a zoning map amendment for the property at 1006 Congress Street. The building has been used as a place of assembly (church) for many years and it was built in the 1800’s as a Captain’s House and barn. The applicant noted that the building is not conducive to
reuse for industrial uses and is more suited to the business uses allowed in the B-2 zone. The B-2 zone is located nearby for the commercial areas along Congress and St. John Streets. The Planning Board directed the staff to advertise a larger area to encompass the other non-residential parcels along Congress Street. These properties include the requested parcel and surrounding properties at 1000, 1002/1004, and 1020 Congress Street.

In addition, staff reached out to the owners of the properties to be included. The owner of Atlantic Hardware and the property at 1004 Congress Street, Jack McInerny, responded and stated concerns about being included within the B-2 zone. Mr. McInerny stated in his letter that he does not want to lose the current use of the lumberyard. According to the City's record, the use of this property is wood distribution center, which is allowed in the B-2 zone as a conditional use. The Board made a recommendation with the following motion, "subject to the determination of the permitted uses of Atlantic Hardwoods, 1002/1004 Congress Street".

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED
The Planning Board concurred with the applicant's assessment that the proposed zoning amendment is in conformance with Portland 2030- Comprehensive Plan. In addition to the applicant's assessment, staff have identified below a number of the specific Comprehensive Plan goals and policies that focus on target areas for job growth and supporting zoning amendments for priority growth areas. The Libbytown area is a priority node for transformation.

The central vision of Portland's Plan 2030 is represented by the venn diagram demonstrating the integral interrelation of the community's core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. The vision conveys the need to balance the City's goals for job growth and transforming Portland through orderly growth and development to be balanced with needs for connectivity of the street grid, sustainability of infrastructure and security in the sense of public safety.

V. FINANCIAL IMPACT
The proposed map amendment will allow current uses in this area to operate as permitted uses and allows property owners to renovate and reinvest in uses appropriately located along a major arterial.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION
The property is located in Libbytown, which is to the west of Congress Street's downtown district. The area is comprised of residential properties combined with smaller commercial properties.

The applicant has set out the arguments in support of the B-2 zone in the attached narrative (Attachment A of the Planning Board report). The site and the surrounding parcels from Congress Street to Fore River Parkway are in the IL zone. The I-L zone is designed to act as a buffer between neighboring residential zones and I-M or I-H zones allowing for uses that are low intensity in nature and therefore compatible with neighboring residences.

The parcel abuts developed industrial uses on two sides, which are part of this industrial area. The existing IL zone emphasizes, in addition to employment-creating industrial uses, a wide range of uses that are generally smaller in scale with some exceptions. The IL provides sites for breweries and other artisan uses that are allowed in the I-L zone, but not in the B-2 zone. Planning staff recommended retaining the industrial area off of Westfield Street, as there are general industrial uses and there is a potential for industrial reuse of those structures.

The proposed B-2 zoning designation allows a range of residential uses on upper floors. It also allows bed and breakfast and hostels on upper floors. The zone permits restaurants, day care facilities, neighborhood centers and a wide range of commercial and institutional uses, including retail establishments, offices, personal services, business services, places of assembly, clinics, municipal uses,
and schools. Both zones allow day care facilities, neighborhood centers, and studios for artists, photographers and craftspersons.

**VII. PLANNING BOARD RECOMMENDATION**
At the public hearing on June 26, 2018, the Planning Board unanimously (5-0, Whited, Eaton absent) found that rezoning to the Business Community B-2 zone for the property located at 1000, 1002/1004, 1006, and 1020 Congress Street, as shown on the map below is consistent with the Comprehensive Plan for the City of Portland, subject to the determination of the permitted uses of Atlantic Hardwoods, 1002/1004 Congress Street.

![Map of 1000-1020 Congress Street](image)

**VIII. LIST ATTACHMENTS**
PLANNING BOARD MEMO ATTACHMENTS
1. Economic Development (Greg Mitchell)
2. Public Comment
   - PC1 Brett Gabor 3-27-18
   - PC2 Nikki Anderson 4-12-18
   - PC3 Jack McInerney 06-06-2018
   - PC4 John Fitzgerald 06-06-2018

APPLICANT’S SUBMITTALS
A. Zoning Application
B. Cover Letter - 1006 Congress Street Zoning Amendment Application
C. 1006 Congress Quitclaim Deed
D. Response to Staff Cover Letter
E. Neighborhood Meeting Certificate and Minutes

PLANS
- Plan 1 1006 Congress Site Plan
- Plan 2 Proposed Zoning Map
- Plan 3 Vicinity map 1006 Congress Street

Prepared by: Shukria Wiar, Planner
Date: June 28, 2018
MEMORANDUM

To: Tuck O’Brien, Planning Division Director
From: Greg Mitchell, Economic Development Director
Date: April 13, 2018
RE: Importance of Retaining Portland’s Industrial-Zoned Real Estate

OVERVIEW
The purpose of this memo is to discuss the importance of retaining industrial-zoned property in the City of Portland. This resource is finite as the majority of developable real estate in the City has been built out, and it will be very difficult to rezone property to expand Portland’s industrial base.

Over time, Portland has seen its industrial property reduced. Pressure from market forces and societal needs have driven the decrease and rezoning of industrial space primarily to business zones in order to accommodate mixed use neighborhoods. Admittedly, these neighborhoods are filling a vital need, providing increased housing as well as businesses that serve the City’s residents and its burgeoning tourism market.

However, in this current environment, retaining Portland’s remaining industrial-zoned real estate for industrial uses is crucial to continue to grow and strengthen the City’s economy. The vacancy rate of industrial space throughout the Greater Portland area has plummeted from 8% in 2011 to 1.25% in 2017. In Portland it’s only 1.1%. Property in industrial zones supports a variety of businesses, many of which are manufacturers that are a vital source of quality jobs that pay livable wages. Their employee base often represents a range of educational levels, providing jobs for those with limited education and/or skills to those with advanced degrees.

LIMITED INDUSTRIAL SPACE IMPACTS
Over the past few years, the City’s Economic Development Department has been receiving increasing requests from companies seeking vacant industrial space or undeveloped industrial acreage for new construction. Some of these requests simply cannot be accommodated given the City’s finite industrial property and its extremely low vacancy rate. When the expansion needs of existing Portland-based industrial companies cannot be accommodated locally and/or new industrial opportunities cannot be accommodated, this represents a loss to Portland’s tax base and associated employment.
TRENDS IN INDUSTRIAL SPACE DEMAND
Portland’s industrial-zoned areas include Riverside Street, Riverside Industrial Parkway, Warren Avenue, Presumpscot Street, Bishop Street, Pine Tree Industrial Parkway, Canco Road, Outer Congress, sections of East Bayside and a few others. It is important to maintain as much acreage as possible in these zones.

Eimskip has established its U.S. port presence in the City of Portland at the International Marine Terminal on Commercial Street. The access to international markets that this is generating is expected to attract cold storage and other investment opportunities.

Portland’s food and drink production sector has been in a growth mode, with a range of craft/artisanal companies sprouting up. This trend has the potential to expand food and drink manufacturing in the City and, therefore, contribute further to the demand for industrial space.

RECOMMENDATIONS
To summarize, Portland’s industrial space is very limited and should be preserved to the maximum extent possible.

Regarding the request from the owners of 1006 Congress Street to rezone their property from IL to B-2, this seems to represent a unique set of circumstances that will not be displacing industrial uses. However, allowing for this use should be addressed in a site specific fashion.

In conclusion, I would not recommend amendments to permitted uses throughout the City’s industrial zones that would reduce the opportunity for industrial business attraction and growth on Portland’s remaining industrial real estate.
Shukria Wiar <shukriaw@portlandmaine.gov>

1006 Congress Street- Rezone from IL to B2

Greg Mitchell <gmitchell@portlandmaine.gov>  Thu, Jun 7, 2018 at 12:45 PM
To: Shukria Wiar <shukriaw@portlandmaine.gov>
Cc: Nelle Hanig <nrh@portlandmaine.gov>

Shukria,

Please forgive the delayed response. Nelle is on vacation this week.

The Economic Development Department is supportive of the proposed expanded zone change, in this location, from IL to B-2 for all properties which front Congress Street.

Let me know if you have any questions or require additional input.

Greg A. Mitchell, Director
Economic Development Department
City of Portland
389 Congress Street
Portland, Maine 04101
Tel. 207.874.8945
Fax 207.756.8217
Portland, Maine  Yes. Life's good here.
MEMORANDUM

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From: Greg Mitchell, Economic Development Director
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However, in this current environment, retaining Portland’s remaining industrial-zoned real estate for industrial uses is crucial to continue to grow and strengthen the City’s economy. The vacancy rate of industrial space throughout the Greater Portland area has plummeted from 8% in 2011 to 1.25% in 2017. In Portland it’s only 1.1%. Property in industrial zones supports a variety of businesses, many of which are manufacturers that are a vital source of quality jobs that pay livable wages. Their employee base often represents a range of educational levels, providing jobs for those with limited education and/or skills to those with advanced degrees.

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In conclusion, I would not recommend amendments to permitted uses throughout the City's industrial zones that would reduce the opportunity for industrial business attraction and growth on Portland's remaining industrial real estate.
1004 Congress Street, CBL 076-A-023, is one of the properties that will be impacted by the proposed map amendment for the properties within the vicinity of 1006-1008 Congress Street. The current use of the property by Atlantic Hardwoods was established in 1999 under permit 99-0958. The proposed use was for a “Wood Distribution Ctr”. The zoning review considered the use as building contractor with retail as an ancillary use. This was a permitted use in the I-L zone. The website for Atlantic Hardwood states that they provide or install “Custom Hardwood Flooring, Atlantic Plank Flooring, Carpets, Moldings, Staircases, Counter Tops and all types of Millwork”. Since these products are either provided for direct sale to customers or installed by the company in the customer’s home or business, the use would be considered retail which is a permitted use in the B-2 Zone under section 14-182.

Ann Machado
Zoning Administrator
Re: Public Comment for 1006 Congress Rezoning

1 message

Barbara Barhydt <bab@portlandmaine.gov>  
To: Brett Gabor <brett.gabor@gmail.com>  
Cc: Shukria Wiar <shukriaw@portlandmaine.gov>, "Munson, Jennifer" <jmy@portlandmaine.gov>  

Thank you for your comments. The applicant asked to postpone this item, so the Planning Board will not discuss it this afternoon. We will include your comments when this comes forward. We don't have a meeting date for this item yet.

Thank you.

Barbara

Barbara Barhydt  
Development Review Services Manager  
Planning Division  
389 Congress Street 4th Floor  
Portland, ME 04101  
(207) 874-8699  
Fax: (207) 756-8256  
bab@portlandmaine.gov

On Tue, Mar 27, 2018 at 9:45 AM, Brett Gabor <brett.gabor@gmail.com> wrote:

To the Planning Board:

I wish to comment on the rezoning of 1006 Congress. I am in favor of rezoning this lot, which borders Congress but does not border any residential lots, to a more appropriate commercial zone. The current industrial zone is less compatible with a lively streetscape along Congress than a business zone, which could contain a workplace, cafe, restaurant, or other amenity. The developers have been accessible to neighbors and have made good-faith attempts to listen to their concerns and I believe they will continue to be good neighbors.

Best,

Brett Gabor  
40 Frederic Street
Good afternoon Council, City Manager and Planning Board,

Please find our attached letter in support of the zoning change for 1006 Congress St,

Best Regards,
Nikki Anderson
Libbytown Neighborhood Association
March 20, 2018  
Planning Board  
389 Congress St  
4th Floor  
Portland, ME 04101

Dear Members of the Planning Board,

The Libbytown Neighborhood Association writes in favor of the application to rezone 1006 Congress Street. This particular property presents an opportunity to bring desired amenities to an area that is currently growing beyond its former industrial nature.

Currently, the lot is zoned light industrial. This disallows many uses that would be highly regarded by neighbors, such as a restaurant, cafe, market, office space, or similar businesses that would be valued by those living in the vicinity.

The persons seeking the zoning change own more lots along Westfield Street, but have reasonably requested that only the lot that abuts Congress Street (and does not abut residential uses) be rezoned. Over the last year representatives of the owners have shown a willingness to engage with neighbors and listen to concerns that are brought forward about businesses currently located upon their property. They have expressed a desire for uses of the land that are in accordance with those expressed by many neighborhood residences.

We hope that the Planning Board will consider this particular zoning application as a means to expand the allowed uses beyond merely industrial, which will help provide a lively neighborhood atmosphere where people live, play, and work.

Warm regards,

The Libbytown Neighborhood Association
Good afternoon Council, City Manager and Planning Board,

Please find our attached letter in support of the zoning change for 1006 Congress St,

Best Regards,
Nikki Anderson
Libbytown Neighborhood Association
March 20, 2018
Planning Board
369 Congress St
4th Floor
Portland, ME 04101

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We hope that the Planning Board will consider this particular zoning application as a means to expand the allowed uses beyond merely industrial, which will help provide a lively neighborhood atmosphere where people live, play, and work.

Warm regards,

The Libbytown Neighborhood Association
June 6, 2018

Shukria Wiar
Planner
City of Portland, Maine

Dear Shukria,

I am reaching out to let the planning board know our input with regards to the recommended proposed zoning change for 1000, 1004, 1006 & 1020 Congress Street.

The planning board needs to recognize Atlantic Hardwoods as what it actually is. The map amendment has the use as retail/warehouse, but it is actually a Lumber yard. Atlantic Hardwoods has outdoor storage of lumber, as well as an outside dust collection system and an exterior sawdust container. This has been in place for 20 years and there is no intention of changing business operations.

My concerns are as follows:

- A zone change from IL to B-2 would specifically not allow lumber yards.
- A “grandfather” or variance would reduce the future value of the business to a potential buyer.
- A zone change from IL to B-2 would also make the existing businesses at 1000 Congress Street and 1020 Congress Street non-conforming.
- Portland has very limited industrial areas left, only 12 percent of Portland is zoned industrial. Libby Town and East Bayside are primarily Low Impact Industrial.
- Concerns about minimizing our industrial space was well put by the Economic Development Department about loss to Portland’s tax base and associated employment.

"To summarize, Portland’s industrial space is very limited and should be preserved to the maximum extent possible. Regarding the request from the owners of 1006 Congress Street to rezone their property from IL to B-2, this seems to represent a unique set of circumstances that will not be displacing industrial uses. However, allowing for this use should be addressed in a site-specific fashion."

I would not oppose a zone change for 1006 Congress Street as our abutter has proposed, but I would have the following concerns:

- Our exterior dust containment system is noisy and starts at 5:00 AM
- There could be significant odor issues during operating hours
- Abutters to a potential Residential Complex may need to comply with new noise level.
- Abutters may also need to deal with new setbacks for any addition that the business may require.

I agree with the City’s Economic Development Department that the need for industrial space remains and is vital to the City of Portland. The proposed development of the former Rufus
Deering parcel on Commercial Street has removed a key supplier of building materials from the peninsula. Atlantic Hardwoods has helped fill this void and plays an integral role in Portland’s growth.

Several of our employees, including myself live and work in Portland and it is concerning to see the “Red Brick” character of our warehouses turning into modern condominiums. As tax payers we hate to see the loss of businesses and addition of residences. This change only adds to the Cities’ burden of educational costs, utilities, police and fire while reducing the tax base from job creating businesses.

I am unable to attend the public hearing on June 12 or the Neighborhood Meeting at the Portland Eagles on June 19, but please forward my remarks so they are part of the record.

Sincerely,

Jack McInerny
Atlantic Hardwoods, Inc
1004 Congress Street
Portland, Maine 04102
207-773-9663

Portland, Maine. Yes!
Wood’s good here.
Rezoning 1006 Congress Street and vicinity

JOHN FITZGERALD <johnfitzgerald@fitzgeraldtile.com>  
To: Shukria Wiar <shukriaw@portlandmaine.gov>  
Wed, Jun 6, 2018 at 2:06 PM

Dear Ms. Wiar,

I am the owner of Fitzgerald Tile, 13 Westfield Street, Portland, immediately adjacent to 1006 Congress Street. I support amending the zoning map and would like my property added to the proposal the Planning Board will consider on Tuesday June 12. May I come by and talk to you about the proposal and the possibility of adding my property to it? John Fitzgerald
QUITCLAIM DEED
(with Covenant)

KNOW ALL PERSONS BY THESE PRESENTS, that, DELTA REALTY
LLC, a Maine limited liability company with a principal place of business and mailing
address of 380 Warren Avenue, Portland, Maine 04103, for consideration paid, grants to
1006 CONGRESS STREET, LLC, a Maine limited liability company, with a principal
place of business and mailing address of 1550 Sunset Ridge Drive, Laguna Beach,
California 92651, with QUITCLAIM COVENANT, the land and improvements in the
City of Portland, County of Cumberland and State of Maine, bounded and described as
follows:

A certain lot or parcel of land, with the buildings thereon, situated in Portland,
County of Cumberland and State of Maine, on the southerly side of Congress
Street, being part of the homestead lot formerly owned and occupied by Frederick
W. Clark, late of said Portland, deceased, bounded and described as follows:

Commencing at a point on the westerly side of said, homestead on a right-of-way
called Westfield Street, formerly Cumberland Place, one hundred eighty-four and
five tenths (184.5) feet northerly from the rear line of said lot; thence by the
westerly side of said lot bounding on the said right-of-way one hundred thirty-one
and five tenths (131.5) feet to Congress Street; thence southeasterly by said
Congress Street one hundred fourteen and two tenths (114.2) feet to an angle;
thence continuing southeasterly by said Congress Street two and eight tenths (2.8)
feet to a stake; thence South forty-five degrees twenty-four minutes (45° 24')
West by land now or formerly of Mary E. McKenney one hundred eighty-seven
and sixty-five one hundredths (187.65) feet to a stake at a point distant one
hundred eighty-four and five tenths (184.5) feet northerly in a perpendicular line
from said rear line of said homestead lot; thence on a line parallel with the rear
line of said Homestead lot North thirty degrees twenty-five minutes (30° 25')
West one hundred and fifty-two and five tenths (152.5) feet, to the point of
beginning.

Also, a right-of-way in common with others over so much of the thirty (30) foot
strip of land as adjoins the premises hereby conveyed on the rear, said way
extending to Westfield Street, together with a right-of-way in common with others
in Westfield Street.

Being the same premises conveyed to Delta Realty LLC by Quitclaim Deed from
the Deliverance Center, dated November 9, 2015 and recorded in the Cumberland
County Registry of Deeds in Book 32723, Page 215.

IN WITNESS WHEREOF, Delta Realty LLC has caused this instrument to be
signed and sealed in its company name by Andrea E. Girard, its Manager, thereunto duly
authorized this 26th day of July, 2017.
STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

July 26, 2017

Then personally appeared before me the above named Andrea E. Girard, Manager of Delta Realty LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity, and the free act and deed of Delta Realty LLC.

Notary Public/Attorney at Law

[Signature]

[License Number]
April 11, 2018

Ms. Shukria Wiar, Planner  
Development Review Coordinator  
City of Portland – Planning Authority  
389 Congress Street  
Portland, ME 04101

Subject: Application for Rezoning – 1006 Congress Street  
Applicant: 1006 Congress LLC

Dear Shukria:

Stantec is assisting the applicant in their request for rezoning of the property at 1006 Congress Street. We have received your email transmission of April 6, 2018 and offer the following information related to the relayed questions.

Comment #1 How is the circulation and parking handled for the site?

Response: The intent is that the site’s primary access will be off Westfield Street, as it currently exists today. Basically, there is a poorly defined curb opening along Westfield that allows vehicles to enter the rear of the property for parking etc. This appears to be the primary historic site access. There is also an existing curb opening along Congress Street that appears to offer very limited use to the property. That curb opening also appears to allow for limited access to the neighboring property, used by Atlantic Hardwoods for access to their sawdust collection equipment. Moving forward the primary site plan objective is to maintain the Westfield Access for two-way vehicle movements. The site plan also contemplates a one-way directional movement from the rear of the site onto Congress Street. Congress Street in one-way inbound at this location, so vehicle exiting movements will be right turning only. The site plan contemplates traditional 90-degree parking at the rear of the building and some parallel spaces along the drive exiting onto Congress Street.

Comment #2 Is that a shared access way to the rear or a street of some type?

Response: The survey plan by Owen Haskell Inc identifies a 30’ wide R.O.W. labeled as Cumberford Place. To the best of our understanding this ROW is not a publicly accepted way nor has it in the past been constructed as a City Street etc. According to the deeds for both the applicant’s property at #1006 Congress and the Fitzgerald property (TM 76-A-26), each property has access rights to the 30’ wide ROW and thus over time each owner has made use of this space for access from Westfield Street. Copies of the property deeds accompany this letter.

Comment #3 What is the status of Cumberland Place and does the owner have rights in it?

Design with community in mind
Response: See previous response and accompanying deeds which show evidence of the owner's rights to use the ROW for access from Westfield. We have purposely shown on the concept plan an access driveway only and not any parking, given the shared rights between the property owners. The proposed zoning request to B-2 is likely to provide increased opportunity for business services to the offered on the property, and the Westfield Street access seems like an ideal condition, thereby affording only limited exiting vehicle movements onto Congress Street.

Comment #4: We also need to analyze the surrounding uses and zones and how is the rezone meeting the Comprehensive plan?

Response:

The following is a brief summary of the existing zoning patterns in the vicinity of the site as identified by the zoning map information contained in the original application:

1. The site is currently located in the Industrial Low Impact Zone (IL), which is defined by Congress Street to the north, Westfield Street back to the Fore River Parkway to the west and south and the Maine Central Rail corridor to the east. Land uses include the Cumberland County Correctional Facility, A Cross Fit Training facility, Atlantic Hardwoods, and Bunker Brewing at the end of Westfield Street. Paulins Tire and Auto Care is also located on the west side of Westfield Street, and Fitzgerald Tile is located south of the subject site on Westfield Street, within the IL zone.
2. Within the site vicinity there are two R6 zones principally defined by single family homes or apartments. These are located within the area bounded by Park Avenue and Congress Street or by Frederic Street westerly to the Highway.
3. Other land north of Congress Street over to Park Street and easterly to the St. John Street/Valley Street neighborhood is zoned as B-2 and is characterized by various Businesses, including medical offices, motels, shops, retail, restaurants and related business uses.
4. Contract Zone 31 is located at the end of Frederic Street and is associated with a housing development.

The original application cover letter from Archetype PA, dated January 2, 2018, provides a brief analysis of the requested zoning change to B-2 and findings regarding compliance with the Comprehensive plan. Given the breadth of B-2 zoning area to the north and east of the site as well as the character of the existing building within the subject property, it is our opinion that the requested zoning change will result in a wider opportunity of land use for the site. This then is consistent with the comprehensive plan goals of complete neighborhoods. As defined, the B-2 Zone is to provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in a major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and
circulation patterns. We believe that the site's location off Congress Street and the existing proximity of B-2 zoning areas near to the subject site, make for a reasonable and rational approach for this re-zoning request.

If you have any questions with regards to the information submitted, please contact our office.

Sincerely,

Stephen Bushey

STANTEC CONSULTING SERVICES INC.
Stephen Bushey, PE
Associate
Phone: 207-887-3478
Fax: 207-883-3376
Stephen.Bushey@stantec.com

c: Jennifer Lauren Packard, 1006 Congress LLC
Bill Hopkins, Archetype PA
QUITCLAIM DEED
(with Covenant)

KNOW ALL PERSONS BY THESE PRESENTS, that, DELTA REALTY LLC, a Maine limited liability company with a principal place of business and mailing address of 380 Warren Avenue, Portland, Maine 04103, for consideration paid, grants to 1006 CONGRESS STREET, LLC, a Maine limited liability company, with a principal place of business and mailing address of 1550 Sunset Ridge Drive, Laguna Beach, California 92651, with QUITCLAIM COVENANT, the land and improvements in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

A certain lot or parcel of land, with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, on the southerly side of Congress Street, being part of the homestead lot formerly owned and occupied by Frederick W. Clark, late of said Portland, deceased, bounded and described as follows:

Commencing at a point on the westerly side of said, homestead on a right-of-way called Westfield Street, formerly Cumberland Place, one hundred eighty-four and five tenths (184.5) feet northerly from the rear line of said lot; thence by the westerly side of said lot bounding on the said right-of-way one hundred thirty-one and five tenths (131.5) feet to Congress Street; thence southeasterly by said Congress Street one hundred fourteen and two tenths (114.2) feet to an angle; thence continuing southeasterly by said Congress Street two and eight tenths (2.8) feet to a stake; thence South forty-five degrees twenty-four minutes (45° 24') West by land now or formerly of Mary E. McKenney one hundred eighty-seven and sixty-five one hundredths (187.65) feet to a stake at a point distant one hundred eighty-four and five tenths (184.5) feet northerly in a perpendicular line from said rear line of said homestead lot; thence on a line parallel with the rear line of said Homestead lot North thirty degrees twenty-five minutes (30° 25') West one hundred and fifty-two and five tenths (152.5) feet, to the point of beginning.

Also, a right-of-way in common with others over so much of the thirty (30) foot strip of land as adjoins the premises hereby conveyed on the rear, said way extending to Westfield Street, together with a right-of-way in common with others in Westfield Street.

Being the same premises conveyed to Delta Realty LLC by Quitclaim Deed from the Deliverance Center, dated November 9, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32723, Page 215.

IN WITNESS WHEREOF, Delta Realty LLC has caused this instrument to be signed and sealed in its company name by Andrea E. Girard, its Manager, thereunto duly authorized this 26th day of July, 2017.
STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

July 26, 2017

Then personally appeared before me the above named Andrea E. Girard, Manager of Delta Realty LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity, and the free act and deed of Delta Realty LLC.

Notary Public/Attorney at Law
Andre Duchette, Bar No. 9878

Received
Recorded Register of Deeds
Jul 26, 2017 01:04:24P
Cumberland County
Nancy A. Lane
Know All Men by these Presents.

That Riverside Realty Corporation, a corporation organized and existing under the laws of the State of Maine and located at Portland in the County of Cumberland and State of Maine in consideration of One Dollar and other valuable considerations,

paid by Mary E. Fitzgerald of Somerville, and John J. Mulkerin of Arlington, County of Middlesex, Commonwealth of Massachusetts, Trustees under Declaration of Trust dated the 1st day of October, 1967, said Trust Agreement to be recorded herewith, the receipt whereof it does hereby acknowledge, does hereby grant, bargain, sell and convey, unto the said Mary E. Fitzgerald and John J. Mulkerin, Trustees as aforesaid, their successors and assigns forever, a certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, being a part of the Homestead lot of F. W. Clark, bounded and described as follows: Commencing at the southwesterly corner of said Homestead lot on a right-of-way called Cumberland Place, at the easterly corner of land sold by the said F. W. Clark to Franklin J. Rollins, and running northerly by the westerly line of said Homestead lot and by said right-of-way, one hundred fifty-four and five tenths (154.5) feet; thence easterly on a line parallel with the rear line of said Homestead lot, to the easterly line of said Homestead lot at a right-of-way called Ogdensburg Street; thence southerly by the easterly line of said Homestead lot and on said right-of-way to the rear line of said lot; thence by the rear line of said lot, by said land sold to said Rollins, to the point of beginning.

Also, a right-of-way in common to a passageway thirty (30) feet wide adjoining the above-described lot on the north, running from the westerly side of said lot to the easterly side of said lot. Also, a right-of-way in common as reserved by said Frederick W. Clark on the easterly and westerly side of said Homestead lot, running from Congress Street to the rear of said Homestead.

This conveyance is made subject to a mortgage from the grantor herein to the Union Mutual Life Insurance Company dated October 15, 1971 and being recorded in Volume 3195, Page 805, Cumberland County Registry of Deeds on which there is owed the principal sum of $46,905.25, which said mortgage and the debt thereby secured the grantees herein assume and agree to pay and assume and agree to abide thereby all according to the terms thereof as a part of the consideration of this deed.

This conveyance is further made subject to a lease to the A. B. Dick Company of New England, Inc., which said lease and the interest in the grantor therein have been assigned to the grantees herein by Assignment of even date herewith.
Real estate taxes assessed against the aforesaid premises by the City of Portland in contemplation of law as of April 1, 1973 shall be pro-rated between the grantor and grantees herein as of the date of delivery of this deed.

Being the same premises conveyed to the grantor herein by deed of Millard F. Coffin dated July 23, 1969 and recorded in Cumberland County Registry of Deeds in Book 3096, Page 193.

To have and to hold the aforesaid and bargained premises with all the privileges and appurtenances thereof to the said Mary E. Fitzgerald and John J. Mulkerin, Trustees as aforesaid, their heirs and assigns, to them and their use and behoof forever.

And the said Grantor Corporation does hereby COVENANT with the successors said Grantees , their heirs and assigns, that it is lawfully seized in fee of the premises, that they are free of all incumbrances; except as aforesaid;

that it has good right to sell and convey the same to the said Grantees to hold as aforesaid; and that it and its successors, shall and will WARRANT AND DEFEND the same to the said Grantees, their heirs and assigns forever, against the lawful claims and demands of all persons, except as aforesaid.
In Witness Whereof, the said Riverside Realty Corporation

Company has caused this instrument to be sealed with its corporate

seal and signed in its corporate name by Edward S. Boulos, Jr.,

its President

duly authorized, this 31st day of December

in the year one thousand nine hundred and seventy-four

Said, sealed and delivered

in presence of

RIVERSIDE REALTY CORPORATION

By

Its President

State of Maine.

County of Cumberland \ No.  December 31 1974

Then personally appeared the above named Edward S. Boulos, Jr.

President of said Grantor

Corporation as aforesaid, and acknowledged the foregoing instru-

ment to be his free act and deed in his said capacity, and the

free act and deed of said corporation.

Before me,

[Signature]

Justice of the Peace.

JAN 3 1974

REGISTRY OF DEEDS, CUMBERLAND COUNTY MAINE
Received at \ B HC N \, and recorded in
BOOK 3498 PAGE 36

[Signature] Register
April 11, 2018

Ms. Shukria Wiar, Planner
Development Review Coordinator
City of Portland – Planning Authority
389 Congress Street
Portland, ME 04101

Subject: Application for Rezoning – 1006 Congress Street
Applicant: 1006 Congress LLC

Dear Shukria:

Stantec is assisting the applicant in their request for rezoning of the property at 1006 Congress Street. We have received your email transmission of April 6, 2018 and offer the following information related to the relayed questions.

Comment #1 How is the circulation and parking handled for the site?

Response: The intent is that the site’s primary access will be off Westfield Street, as it currently exists today. Basically, there is a poorly defined curb opening along Westfield that allows vehicles to enter the rear of the property for parking etc. This appears to be the primary historic site access. There is also an existing curb opening along Congress Street that appears to offer very limited use to the property. That curb opening also appears to allow for limited access to the neighboring property, used by Atlantic Hardwoods for access to their sawdust collection equipment. Moving forward the primary site plan objective is to maintain the Westfield Access for two-way vehicle movements. The site plan also contemplates a one-way directional movement from the rear of the site onto Congress Street. Congress Street is one-way inbound at this location, so vehicle exiting movements will be right turning only. The site plan contemplates traditional 90-degree parking at the rear of the building and some parallel spaces along the drive exiting onto Congress Street.

Comment #2 Is that a shared access way to the rear or a street of some type?

Response: The survey plan by Owen Haskell Inc identifies a 30’ wide R.O.W. labeled as Cumberford Place. To the best of our understanding this ROW is not a publicly accepted way nor has it in the past been constructed as a City Street etc. According to the deeds for both the applicant’s property at #1006 Congress and the Fitzgerald property (TM 76-A-26), each property has access rights to the 30’ wide ROW and thus over time each owner has made use of this space for access from Westfield Street. Copies of the property deeds accompany this letter.

Comment #3 What is the status of Cumberland Place and does the owner have rights in it?

Design with community in mind
Response: See previous response and accompanying deeds which show evidence of the owner's rights to use the ROW for access from Westfield. We have purposely shown on the concept plan an access driveway only and not any parking, given the shared rights between the property owners. The proposed zoning request to B-2 is likely to provide increased opportunity for business services to the offered on the property, and the Westfield Street access seems like an ideal condition, thereby affording only limited exiting vehicle movements onto Congress Street.

Comment #4: We also need to analyze the surrounding uses and zones and how is the rezone meeting the Comprehensive plan?

Response:

The following is a brief summary of the existing zoning patterns in the vicinity of the site as identified by the zoning map information contained in the original application:

1. The site is currently located in the Industrial Low Impact Zone (IL), which is defined by Congress Street to the north, Westfield Street back to the Fore River Parkway to the west and south and the Maine Central Rail corridor to the east. Land uses include the Cumberland County Correctional Facility, A Cross Fit Training facility, Atlantic Hardwoods, and Bunker Brewing at the end of Westfield Street. Paulins Tire and Auto Care is also located on the west side of Westfield Street, and Fitzgerald Tile is located south of the subject site on Westfield Street, within the IL zone.

2. Within the site vicinity there are two R6 zones principally defined by single family homes or apartments. These are located within the area bounded by Park Avenue and Congress Street or by Frederic Street westerly to the Highway.

3. Other land north of Congress Street over to Park Street and easterly to the St. John Street/Valley Street neighborhood is zoned as B-2 and is characterized by various Businesses, including medical offices, motels, shops, retail, restaurants and related business uses.

4. Contract Zone 31 is located at the end of Frederic Street and is associated with a housing development.

The original application cover letter from Archetype PA, dated January 2, 2018 provides a brief analysis of the requested zoning change to B-2 and findings regarding compliance with the Comprehensive plan. Given the breadth of B-2 zoning area to the north and east of the site as well as the character of the existing building within the subject property, it is our opinion that the requested zoning change will result in a wider opportunity of land use for the site. This then is consistent with the comprehensive plan goals of complete neighborhoods. As defined, the B-2 Zone is to provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in a major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and

Design with community in mind
circulation patterns. We believe that the site's location off Congress Street and the existing proximity of B-2 zoning areas near to the subject site, make for a reasonable and rational approach for this re-zoning request.

If you have any questions with regards to the information submitted, please contact our office.

Sincerely,

Stephen Bushey, PE
Associate
Phone: 207-887-3478
Fax: 207-883-3376
Stephen.Bushey@stantec.com

c: Jennifer Lauren Packard, 1006 Congress LLC
   Bill Hopkins, Archetype PA
QUITCLAIM DEED  
(with Covenant)

KNOW ALL PERSONS BY THESE PRESENTS, that, DELTA REALTY LLC, a Maine limited liability company with a principal place of business and mailing address of 380 Warren Avenue, Portland, Maine 04103, for consideration paid, grants to 1006 CONGRESS STREET, LLC, a Maine limited liability company, with a principal place of business and mailing address of 1550 Sunset Ridge Drive, Laguna Beach, California 92651, with QUITCLAIM COVENANT, the land and improvements in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

A certain lot or parcel of land, with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, on the southerly side of Congress Street, being part of the homestead lot formerly owned and occupied by Frederick W. Clark, late of said Portland, deceased, bounded and described as follows:

Commencing at a point on the westerly side of said, homestead on a right-of-way called Westfield Street, formerly Cumberland Place, one hundred eighty-four and five tenths (184.5) feet northerly from the rear line of said lot; thence by the westerly side of said lot bounding on the said right-of-way one hundred thirty-one and five tenths (131.5) feet to Congress Street; thence southeasterly by said Congress Street one hundred fourteen and two tenths (114.2) feet to an angle; thence continuing southeasterly by said Congress Street two and eight tenths (2.8) feet to a stake; thence South forty-five degrees twenty-four minutes (45° 24') West by land now or formerly of Mary E. McKenney one hundred eighty-seven and sixty-five one hundredths (187.65) feet to a stake at a point distant one hundred eighty-four and five tenths (184.5) feet northerly in a perpendicular line from said rear line of said homestead lot; thence on a line parallel with the rear line of said Homestead lot North thirty degrees twenty-five minutes (30° 25') West one hundred and fifty-two and five tenths (152.5) feet, to the point of beginning.

Also, a right-of-way in common with others over so much of the thirty (30) foot strip of land as adjoins the premises hereby conveyed on the rear, said way extending to Westfield Street, together with a right-of-way in common with others in Westfield Street.

Being the same premises conveyed to Delta Realty LLC by Quitclaim Deed from the Deliverance Center, dated November 9, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32723, Page 215.

IN WITNESS WHEREOF, Delta Realty LLC has caused this instrument to be signed and sealed in its company name by Andrea E. Girard, its Manager, thereunto duly authorized this 26th day of July, 2017.
STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

Then personally appeared before me the above named Andrea E. Girard, Manager of Delta Realty LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity, and the free act and deed of Delta Realty LLC.

Witness

Notary Public/Attorney at Law

Received
Recorded Register of Deeds
Jul 26, 2017 01:04:24P
Cumberland County
Nancy A. Lane
Know All Men by these Presents.

That Riverside Realty Corporation, a corporation organized and existing under the laws of the State of Maine and located at Portland in the County of Cumberland and State of Maine in consideration of One Dollar and other valuable considerations,

paid by Mary E. Fitzgerald of Somerville, and John J. Mulkerin of Arlington, County of Middlesex, Commonwealth of Massachusetts, Trustees under Declaration of Trust dated the 1st day of October, 1967, said Trust Agreement to be recorded herewith, the receipt whereof it does hereby acknowledge, does hereby give, grant, bargain, sell and convey, unto the said Mary E. Fitzgerald and John J. Mulkerin, Trustees as aforesaid, their heirs and assigns forever, a certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, being a part of the Homestead lot of F. W. Clark, bounded and described as follows: Commencing at the southwesterly corner of said Homestead lot on a right-of-way called Cumberland Place, at the easterly corner of land sold by the said F. W. Clark to Franklin J. Rollins, and running northerly by the westerly line of said Homestead lot and by said right-of-way, one hundred fifty-four and five tenths (154.5) feet; thence easterly on a line parallel with the rear line of said Homestead lot, to the easterly line of said Homestead lot, at a right-of-way called Ogdensburg Street; thence southerly by the easterly line of said Homestead lot and on said right-of-way to the rear line of said lot; thence by the rear line of said lot, by said land sold to said Rollins, to the point of beginning.

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This conveyance is made subject to a mortgage from the grantor herein to the Union Mutual Life Insurance Company dated October 15, 1971 and being recorded in Volume 3195, Page 805, Cumberland County Registry of Deeds on which there is owed the principal sum of $46,008.55, which said mortgage and the debt thereby secured the grantees herein assume and agree to pay and assume and agree to abide thereby all according to the terms thereof as a part of the consideration of this deed.

This conveyance is further made subject to a lease to the A. B. Dick Company of New England, Inc., which said lease and the interest in the grantor therein have been assigned to the grantees herein by Assignment of even date herewith.
Real estate taxes assessed against the aforesaid premises by the City of Portland in contemplation of law as of April 1, 1973 shall be pro-rated between the grantor and grantees herein as of the date of delivery of this deed.

Being the same premises conveyed to the grantor herein by deed of Millard F. Coffin dated July 23, 1969 and recorded in Cumberland County Registry of Deeds in Book 3056, Page 193.

To have and to hold the aforesaid and bargained premises with all the privileges and appurtenances thereof to the said Mary E. Fitzgerald and John J. Mulkerin, Trustees as aforesaid, successors their heirs and assigns, to them and their use and behoof forever.

And the said Grantor Corporation does hereby COVENANT with the successors said Grantees, their heirs and assigns, that it is lawfully seized in fee of the premises, that they are free of all incumbrances: except as aforesaid; that it has good right to sell and convey the same to the said Grantees to hold as aforesaid; and that it and its successors, shall and will WARRANT AND DEFEND the same to the said Grantees, successors their heirs and assigns forever, against the lawful claims and demands of all persons, except as aforesaid.
In Witness Whereof, the said Riverside Realty Corporation

Company has caused this instrument to be sealed with its corporate

seal and signed in its corporate name by Edward S. Boulos, Jr.,

its President

thereunto duly authorized, this 31st day of December

in the year one thousand nine hundred and seventy-

fifth.

Signed, sealed and delivered
in presence of

RIVERSIDE REALTY CORPORATION

By

Its President

State of Maine.

County of Cumberland as December 31, 1975

Then personally appeared the above named Edward S. Boulos, Jr.

President of said Grantee

Corporation as aforesaid, and acknowledged the foregoing instru-

ment to be his free act and deed in his said capacity, and the

free act and deed of said corporation.

Before me,

JAN 3 1974

REGISTRY OF DEEDS, CUMBERLAND COUNTY, MAINE

Received at 2:36:04PM, and recorded in
BOOK 3498 PAGE 38 to little Nup" Register.
I, Stephen Bushey of Stantec, hereby certify that a Neighborhood Meeting was held on June 19, 2018 at the Eagles Club, 184 St. John Street, Portland, Maine at 5:30 PM.

I also certify that on June 5, 2018 (which is at least ten (10) days prior to the Neighborhood Meeting) invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1,000 feet of a proposed industrial subdivision or industrial zone change.

2. Residents on the “interested parties” list.

3. A digital copy of the notice was also provided to the Planning Division (jmy@portlandmaine.gov and ldoabson@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list who receive e-mail notices.

Signed,

[Signature]

June 20, 2018

Date

Attached to this certification are:

1. Meeting invitation
2. Sign-in sheet
3. Meeting minutes
## Meeting Notes

**Neighborhood meeting**
1006 Congress St Rezone request /

<table>
<thead>
<tr>
<th>Date/Time:</th>
<th>June 19, 2018 / 5:30 pm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Place:</td>
<td>Eagles Club St John Street</td>
</tr>
<tr>
<td>Next Meeting:</td>
<td></td>
</tr>
<tr>
<td>Attendees:</td>
<td>See attendance list</td>
</tr>
<tr>
<td>Absentees:</td>
<td></td>
</tr>
<tr>
<td>Distribution:</td>
<td>City planning- Shukria Wiar</td>
</tr>
</tbody>
</table>

**Item:**

Stephen Bushey introduced landowners, Jennifer Packard and David Packard to those attending and briefly provided an overview of the purpose of the meeting and the proposal for a rezone request at the 1006 Congress St property. SB explained the request to change the zone from IL to B2 and the basis of the request. It was further explained that the Planning Board considered the request at a workshop meeting about a month ago and that the item will be on the June 26th PB Public hearing agenda at which time the PB will make a recommendation to the City Council regarding the rezone request. It is expected that the City Council will have two readings of the rezone article over the course of July and perhaps into August. SB explained that the Planning Authority is interested in extending the B2 zone to additional properties and that the Department is in the process of speaking to additional landowners in the area regarding this prospective zoning change.

Attendees asked questions regarding the original IL zoning and anticipated uses for the property at 1006 Congress. Jennifer Packard provided a brief history and background to the building at 1006 Congress and explained their interest in prospective tenants, such as a restaurant, café, small retail or similar uses. The group discussed various other ancillary topics including surrounding land uses, history of development in the area and expectations for the future. Generally, the group seemed supportive of the proposed zoning change.

The meeting adjourned at 6:30 pm.

The foregoing is considered to be a true and accurate record of all items discussed. If any discrepancies or inconsistencies are noted, please contact the writer immediately.

Stantec Consulting Services Inc.

Design with community in mind
Design with community in mind.
June 5, 2018

Dear Neighbor:

Please join us for a Neighborhood Meeting to discuss our request for rezoning of the existing Captain’s House Building and property at 1006 Congress Street (Tax map 076, lot A022) in Portland, Maine from the I-L Zone to the B-2 Zone. The rezone request will be considered during a Public Hearing by the Portland Planning Board on June 26, 2018 at which time the Board will make a recommendation to the City Council. The City Council is expected to take action in July or August, 2018.

Meeting Location: Portland Eagles
184 St. John Street
Portland, Maine
(park in the large lot and enter through that door)

Meeting Date: Tuesday, June 19, 2018
Meeting Time: 5:30 PM

The City Code requires that property owners within 500 feet (except notices must be sent to property owners within 1,000 feet for industrial zoning map amendments and industrial subdivisions) of the proposed development and residents on an “interested parties list”, be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board. The meeting will last no more than 30-45 minutes.

If you have any questions, please feel free to contact Steve Bushey, P.E. at 207-883-3355.

Sincerely,

STANTEC CONSULTING SERVICES, INC.

Stephen R. Bushey, P.E.
Associate

Note: Under Section 14-32(C) and 14-525 of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within three weeks of submitting a preliminary application or two weeks of submitting a final site plan application, if a preliminary plan was not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division 4th Floor, 389 Congress Street, Portland, ME 04101 or by email to: bob@portlandmaine.gov
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Contact Info</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve Bushy</td>
<td>Shuntel</td>
<td>207-752-9359</td>
</tr>
<tr>
<td>John Marchiolin</td>
<td>349 Park Ave</td>
<td>413 205-8515</td>
</tr>
<tr>
<td>David Packard</td>
<td>100% Congress</td>
<td>426 3946</td>
</tr>
<tr>
<td>Jennifer Packard</td>
<td></td>
<td>207 939 3130</td>
</tr>
<tr>
<td>Deborah Heald</td>
<td>212 St. John St.</td>
<td>207-831-7490</td>
</tr>
<tr>
<td>Zack Barowitz</td>
<td>22 Huntress St.</td>
<td>838-6120</td>
</tr>
<tr>
<td>John Fitzgerald</td>
<td>12 Westfield St.</td>
<td>81-740-3559</td>
</tr>
<tr>
<td>Caroline Losnack</td>
<td>22 Huntress St.</td>
<td>440 219-3192</td>
</tr>
<tr>
<td>George Rheault</td>
<td>28 Hanover St.</td>
<td>207-808-8223</td>
</tr>
</tbody>
</table>
Portland’s Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City’s Land Use Code. Attached is the application form for a Zoning Map, Text Amendment or Contract/Conditional Rezonings.

Portland’s development review process and requirements are outlined in the Land Use Code (Chapter 14), Design Manual and Technical Manual.

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8719
planning@portlandmaine.gov

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.
I. Project Information (Please enter n/a on those fields that are not applicable)

<table>
<thead>
<tr>
<th>Project Name:</th>
<th>1006 Congress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Development Address:</td>
<td>1006 Congress Street</td>
</tr>
<tr>
<td>Project Description:</td>
<td>Repairs and restoration of existing building to use for multiple tenant spaces.</td>
</tr>
<tr>
<td>Chart/Block/Lot:</td>
<td>76-A-22</td>
</tr>
<tr>
<td>Right, Title or Interest (Please identify the status of the applicant’s right, title, or interest in the subject property – for example a deed, option or contract to purchase or lease the subject property)</td>
<td>Owner, deed attached.</td>
</tr>
<tr>
<td>Existing Use (Describe the existing use of the subject property)</td>
<td>Vacant</td>
</tr>
<tr>
<td>Current Zoning Designation:</td>
<td>IL</td>
</tr>
<tr>
<td>Proposed Use of the Property (Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property)</td>
<td>Business Offices with possible cafe on first floor.</td>
</tr>
<tr>
<td>Vicinity Map (Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use)</td>
<td></td>
</tr>
<tr>
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<tr>
<td>Zip Code:</td>
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<td><strong>OWNER</strong></td>
<td></td>
</tr>
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<td>---</td>
<td>---</td>
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<tr>
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<tr>
<td>E-mail:</td>
<td><a href="mailto:detmer@archetypepa.com">detmer@archetypepa.com</a>, <a href="mailto:sue@archetypepa.com">sue@archetypepa.com</a></td>
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<td>Matthew Miller, P.E. M2 Structural Engineering, P.C.</td>
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<td>Address:</td>
<td>23 Thornbury Way</td>
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<td><strong>E-mail:</strong></td>
<td><a href="mailto:ebrewer@owenhaskell.com">ebrewer@owenhaskell.com</a></td>
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| **ARCHITECT** |  |
| --- |  |
| **Name:** | Archetype Architects |
| **Address:** | 48 Union Wharf |
| **City/State:** | Portland, ME |
| **Zip Code:** | 04101 |
| **Work #:** | 207-772-6022 |
| **Home #:** |  |
| **Cell #:** |  |
| **Fax #:** |  |
| **E-mail:** | detmer@archetypepa.com |

| **ATTORNEY** |  |
| --- |  |
| **Name:** | Andre Duchatte |
| **Address:** | 30 Milk Street, 5th floor |
| **City/State:** | Portland, ME |
| **Zip Code:** | 04101 |
| **Work #:** | 207-828-2005 |
| **Home #:** |  |
| **Cell #:** |  |
| **Fax #:** |  |
| **E-mail:** | aduchette@tmfattorneys.com |

| **DESIGNATED PERSON(S) FOR UPLOADING INTO e-PLAN** |  |
| --- |  |
| **Name:** | Susan Geffers |
| **E-mail:** | sue@archetypepa.com |

| **Name:** | Katherine Detmer |
| **E-mail:** | detmer@archetypepa.com |

| **Name:** |  |
| **E-mail:** |  |
### III. APPLICATION FEES (check applicable review)

<table>
<thead>
<tr>
<th></th>
<th>Zoning Map Amendment</th>
<th>$3,000.00</th>
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<tbody>
<tr>
<td>✓</td>
<td>from ( IL ) zone to ( B2 ) zone</td>
<td></td>
</tr>
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<td></td>
<td>Zoning Text Amendment</td>
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<tr>
<td></td>
<td>to Section 14- (?)</td>
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<td></td>
<td>Combination Zoning Text Amendment and Zoning Map Amendment</td>
<td>$4,000.00</td>
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### IV. FEES ASSESSED AND INVOICED SEPARATELY

- Notices to abutters (receipt of application, workshop and public hearing meetings) ($0.75 each)
- Legal Ad in the Newspaper (% of total ad)
- Planning Review ($52.00 hour)
- Legal Review ($75.00 hour)
- Third Party Review (all outside reviews or analysis, eg. Traffic/Peer Engineer, are the responsibility of the applicant and will be assessed and billed separately)
VI. APPLICANT SIGNATURE

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a *legal signature* per Maine state law.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for a Map Amendment, Text Amendment, Conditional or Contract Rezoning review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.

<table>
<thead>
<tr>
<th>Signature of Applicant:</th>
<th>William Hopkins</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>11/10/2017</td>
</tr>
</tbody>
</table>
Portland’s Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Zoning Map, Text Amendment or Contract/Conditional Rezonings.

Portland’s development review process and requirements are outlined in the Land Use Code (Chapter 14), Design Manual and Technical Manual.

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8719
planning@portlandmaine.gov

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.
I. Project Information (Please enter n/a on those fields that are not applicable)

<table>
<thead>
<tr>
<th>Project Name:</th>
<th>1006 Congress</th>
</tr>
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<tbody>
<tr>
<td>Proposed Development Address:</td>
<td>1006 Congress Street</td>
</tr>
<tr>
<td>Project Description:</td>
<td>Repairs and restoration of existing building to use for multiple tenant spaces.</td>
</tr>
<tr>
<td>Chart/Block/Lot:</td>
<td>76-A-22</td>
</tr>
<tr>
<td>Right, Title or Interest (Please identify the status of the applicant's right, title, or interest in the subject property — for example a deed, option or contract to purchase or lease the subject property)</td>
<td>Owner, deed attached.</td>
</tr>
<tr>
<td>Existing Use (Describe the existing use of the subject property)</td>
<td>Vacant</td>
</tr>
<tr>
<td>Current Zoning Designation:</td>
<td>IL</td>
</tr>
<tr>
<td>Proposed Use of the Property (Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property)</td>
<td>Business Offices with possible cafe on first floor.</td>
</tr>
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Vicinity Map (Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use)

Site Plan (On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan — to scale — by the applicant. (Scale to suit, range from 1’ = 10’ to 1’ = 50’.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood)

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**ATTORNEY**

<table>
<thead>
<tr>
<th>Name:</th>
<th>Andre Ouchatte</th>
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<tbody>
<tr>
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<td>30 Milk Street, 5th floor</td>
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**DESIGNATED PERSON(S) FOR UPLOADING INTO e-PLAN**

<table>
<thead>
<tr>
<th>Name:</th>
<th>Susan Geffers</th>
</tr>
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<tbody>
<tr>
<td>E-mail:</td>
<td><a href="mailto:sue@archetypepa.com">sue@archetypepa.com</a></td>
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</table>

### IV. FEES ASSESSED AND INVOICED SEPARATELY

- Notices to abutters (receipt of application, workshop and public hearing meetings) ($0.75 each)
- Legal Ad in the Newspaper (% of total ad)
- Planning Review ($52.00 hour)
- Legal Review ($75.00 hour)
- Third Party Review (all outside reviews or analysis, eg. Traffic/Peer Engineer, are the responsibility of the applicant and will be assessed and billed separately)
VI. APPLICANT SIGNATURE

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a *legal signature* per Maine state law.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for a Map Amendment, Text Amendment, Conditional or Contract Rezoning review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.

<table>
<thead>
<tr>
<th>Signature of Applicant:</th>
<th>William Hopkins</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>11/10/2017</td>
</tr>
</tbody>
</table>
Barbara Barhydt  
Development Review Services Manager  
Planning Division  
389 Congress Street 4th Floor  
Portland, ME 04101

Dear Ms. Barhydt,

We are proposing that the property located at 1006/1008 Congress Street be re-zoned from I-L to B-2.

The current zone, I-L is one that is designated to act as a buffer between neighboring residential zones and I-M or I-H zones allowing for uses that are low intensity in nature and therefore compatible with neighboring residences.

B-2 is a zone designated for mixed uses, including commercial, housing and services that serve the adjoining neighborhoods. This zone provides a large range of uses, with an ideal location including along arterials that are accessible by cars, pedestrians and bicycles.

By both the nature of the existing building and Portland’s Comprehensive Plan, the B-2 zone seems a much better fit for the address in discussion.

The existing building is a beautiful Captain’s House and barn built in the late 1800s with an addition that was added around the 1970s. Being able to keep the existing structure would be the sustainable approach. The interior spaces are smaller and want to remain so due to the nature of the masonry structure therefore being ill-suited to any industrial use.

The site sits along Congress Street where the street acts as a major connector between isolated R-6 zones and a large B-2 zone. The street is already heavily used by vehicles. By adding mixed-use at the site, which has accessible sidewalks in place, pedestrian use would be encouraged. Westfield Street is also important in the discussion because it has been designated as part of the Portland Trail system. Currently the area does not read as an inviting trail system, but by adding the proposed ability for mixed-use, the building could better serve and enhance the trail.

While the I-L zone is designed to be compatible, it seems better fitting with the Comprehensive Plan and more important that a site be zoned as B-2. It is located at an intersection joining residences, business, vehicular and pedestrian traffic. As B-2 1006 Congress Street could serve its surroundings and help to encourage a healthy and diverse neighborhood while also providing the opportunity for new and relocated businesses bringing with them jobs.

Sincerely,

William K. Hopkins  
Registered Architect
January 2, 2018

Barbara Barhydt
Development Review Services Manager
Planning Division
389 Congress Street 4th Floor
Portland, ME 04101

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Sincerely,

William K. Hopkins
Registered Architect
AMENDMENT TO PORTLAND CITY CODE
CHAPTER 24 SEWERS
RE: INDUSTRIAL PRETREATMENT PROGRAM
TRANSFER TO PORTLAND WATER DISTRICT

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

1. That Chapter 24, Sections 24-50, 24-52, 24-55 and 24-57 of
the Portland City Code are hereby amended to read as
follows:

Sec. 2450. Discharge permit.

(a) All categorical users and other dischargers of
industrial wastes shall obtain a discharge permit from the
Department of Public Works–Portland Water District, as required
by rule. New users shall obtain permits
prior to any discharge. Applications and permits shall be in a
form prescribed by the Department of Public Works–Portland Water
District and shall be subject to an application fee of three
hundred dollars ($300.00) per permit as set by the Portland Water
District. Additionally, each permit shall be subject to an
issuance fee which shall equal the direct and indirect costs of
any previous advertisement of noncompliance and any other
outside services which in the discretion of the Department of
Public Works are required in order to review and evaluate the
application or to implement a pretreatment program for such
permitted user.

...

Sec. 2452. Right of entry.

The Department of Public Works, or the Portland Water
District as its agent, bearing proper credentials and
identification, shall be permitted to enter upon all properties
with sewer or stormwater drainage systems connected to the
public sewer and producing industrial or process wastes, at reasonable times and upon reasonable notice for the purpose of inspection, observation, measurement, sampling and testing or otherwise enforce the rules, including copying of reports and records relating to the industrial pretreatment program in accordance with the provisions of this article.

...

Sec. 2455. Written notice required.

Fortyfive (45) days' written notice shall be given to the Department of Public Works and the Portland Water District by any person proposing to:

(a) Substantially change the volume or character of pollutants over that being discharged into the treatment system at time of enactment of this article;

(b) Create a new discharge into the treatment system of pollutants from any source which would be a new source as defined in section 306 of the act if such a source were discharging pollutants elsewhere;

(c) Create a new discharge into the treatment system of pollutants from any source which would be subject to section 301 of the act if it were discharging such pollutants elsewhere.

...

Sec. 2457. Appeals.

(a) Whenever the person receiving written notice shall deem himself or herself aggrieved by an order made by the Department of Public Works, the person may file an appeal to the city manager within ten (10) days of the date of the written notice, and the person shall be afforded a hearing on the matter before the city manager or his or her designee, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

(b) In cases of applicability or interpretation of this article, the city manager may revoke such order made by the Department of Public Works.

(c) In cases where compliance with such order made by the Department of Public Works would cause undue hardship, the city
manager may extend the time limit of such order or they may permit exceptions to, or waive requirements of, or grant a variance from the specific provisions of this article, subject always to the rule that the city manager shall give due consideration to the purposes of this article in eliminating existing pollution, preventing further pollution and promoting the public health, safety and welfare.

(d) This Section shall not apply to notices of violation or other determinations issued by the Portland Water District. Any notices issued by the Portland Water District under this Article shall be subject to review by the superior court under Rule 80B of the Maine Rules of Procedure within thirty (30) days of the decision.
established by the state and the federal government. All this is in furtherance of the health, welfare, comfort and convenience of the inhabitants of the city. As part of this mission and regulations from the Environmental Protection Agency, an Industrial Pretreatment Program (IPP) is required to provide discharge permits to industrial users of a sewer system to ensure that they do not have a negative on the collection system and wastewater treatment facility. Three sections of the ordinance are being revised in tandem with the Rules and Regulations for Use of the Sewer System to allow the Portland Water District (PWD) to administer the IPP. These changes will not impact the goals of the Ordinance.

The specific changes to Chapter 24: Sewers are as follows:

- Section 24-50 Discharge Permit: Changed requirement to obtain a discharge permit from the Department of Public Works to the Portland Water District.
- Section 24-55 Written Notice Required: Added Portland Water District for written notice under certain scenarios.
- Section 24-57 Appeals: Added a section indicating that the appeals process does not apply to notices of violations or other determinations issued by the Portland Water District under their role as the City’s designee for the Industrial Pretreatment Program.

These changes, along with the changes to the Rules and Regulations for Use of the Sewer System which are also being communicated to the Council at its July meeting, will allow for a transition of responsibilities and regulatory authority of the IPP to the PWD. The City will remain responsible for the rest of the articles within Chapter 24 and the Rules and Regulations for Use of the Sewer System.

Currently, City of Portland Water Resources Division Compliance Staff administer the program and send all of the collected and submitted information to the Portland Water District. The City also completes any necessary follow up that the PWD requests. The transfer will limit the amount of redundant effort required for the PWD to meet their permit requirements and allow City of Portland Water Resources Division Compliance Staff to focus on the regulatory requirements that the City is directly responsible for, including the Municipal Separated Storm Sewer System, the Combined Sewer Overflow Permit, and Administrative Order requirements as part of the Consent Decree levied against the City by the Environmental Protection Agency. The Industrial Pretreatment Program Owner’s Manual has been updated to reflect the shift of responsibilities.

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

The intended result is to update the Code of Ordinances to effectuate the transfer of the administration, management, and regulatory authority of the Industrial Pretreatment Program from the City of Portland to the PWD. This will allow the PWD to meet the requirements of the Maine Pollutant Discharge Elimination Permit (MEPDES) which they hold and allow City of Portland Water Resources Division Compliance staff to focus more on the regulatory requirements associated with the permits and administrative order that the City is responsible for.
MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English

FROM: Benjamin Pearson, P.E., Compliance Coordinator, Water Resources Division, Department of Public Works

DATE: June 28th, 2018

SUBJECT: Ordinance Change - Chapter 24: Sewers

SPONSOR: Corporation Counsel

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading ___________ Final Action ___________

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

PRESENTATION: (List the presenter(s), type and length of presentation)
None

I. ONE SENTENCE SUMMARY

Staff are proposing amendments to Chapter 24 of the City Code to effectuate a transfer of responsibility for the administration and management of the Industrial Pretreatment Program from the City to the Portland Water District.

II. AGENDA DESCRIPTION

In early April, the City Manager and the Portland Water District (PWD) executed a memorandum of understanding (MOU) documenting a plan to transfer responsibility for the administration and management of the Industrial Pretreatment Program (IPP) from the City to PWD. This transfer of responsibility is in line with the arrangement that PWD has with Westbrook and Gorham. The MOU contemplated changes to the City's Code of Ordinances to effectuate the shift of responsibility to PWD. Those proposed revisions to Chapter 24 are now being presented to the Council for its consideration. If these amendments to Chapter 24 are approved, the shift contemplated by the MOU will take effect.

III. BACKGROUND

The purpose of Chapter 24: Sewers is to eliminate existing pollution, and to prevent further pollution caused by inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the pollution abatement schedule for the Portland Regional Wastewater Plan
V. FINANCIAL IMPACT

By shifting the responsibility and administration of the Industrial Pretreatment Program, the annual assessment for wastewater services from the Portland Water District will increase. This increase was included in the most recent assessment and amounted to an 8.2% in the Environmental Services line based on a $21,041 increase due to the creation of an Industrial Pretreatment Program Supervisor. This amount accounted for 5% of the $406,452 increase in the assessment from 2017 and an overall increase of 0.17% of the 2018 Wastewater Assessment of $12,248,424.

Due to the changes, items from the sewer administration operating budget will be removed including the purchase of additional wastewater sampling equipment and maintenance ($5,750 in Fiscal Year 2018) and associated management program license fees ($5,355 annually). Additionally, the City will no longer collect a $300 permit fee upon the issuance of a permit which currently amounts to $7,200 each permit cycle of three years, or a loss of an annual average revenue of $2,400.

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

These changes will have an impact on Industrial sewer users in that they will no longer report data to the City but rather directly to the Portland Water District (PWD) as they assume the regulatory authority associated with the Industrial Pretreatment Program (IPP). The Portland Water District currently manage the IPP for both Gorham and Westbrook and have the ability and resources to efficiently manage the program for Portland. Water Resources Division Compliance staff will help PWD staff to ensure that the transition is smooth over the next year. This includes showing PWD staff wastewater sampling locations and industrial facility inspections. This transition and transfer has been a part of each industrial facility inspection and has been communicated several times to industrial users.

By having the PWD administer the IPP, City of Portland Water Resources Compliance Division staff can focus more on the permits and compliance requirements that the City is responsible for including the Municipal Separated Storm Sewer System (to be reissued with more resource intensive requirements in 2018), the Combined Sewer Overflow permit, and Administrative Order requirements as part of the Consent Decree levied against the City by the Environmental Protection Agency.

The City will still remain responsible for making any revisions to Chapter 24 and the Rules and Regulations for Use of the Sewer System and all aspects related to sewer revenue, including sewer billing and surcharges associated with Industrial Sewer users. The PWD will remain as the billing agent for the City of Portland but cannot make any changes to sewer fees or issue any credits without a request or approval from the City. The City may also be required to provide legal counsel for issues related to the wastewater collection system that stem from Industrial users. An Industrial Pretreatment Manual, referenced in the MOU, highlights the responsibilities and requirements of the Industrial Pretreatment Program. Coordination meetings with the PWD will continue to be held to ensure a clear channel of communication regarding any issues or
items that need to be addressed. These changes, along with the changes to the Rules and Regulations for Use of the Sewer System, will allow for a transition of responsibilities and regulatory authority of the IPP to the PWD. The City will remain responsible for the rest of the articles within Chapter 24 and the Rules and Regulations for Use of the Sewer System.

These changes are being made in tandem with revisions to the Rules and Regulations for Use of the Sewer System.

VII. RECOMMENDATION

It is recommended that City Council allow these changes to go into effect.

VIII. LIST ATTACHMENTS

Communication: Revision of Chapter 24: Sewers and the Rules and Regulations for Use of the Sewer System
Chapter 24: Sewers – Red Line Version
Memorandum of Understanding with Portland Water District
Industrial Pretreatment Owner’s Manual

Prepared by: Benjamin Pearson
Date: June 28th, 2018
Bean/agendarequestmemo/rev 11/2015
Section 1: Program Administration

1.1 Annual Report

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Annual Report to DEP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>once per year</td>
</tr>
<tr>
<td>Due date</td>
<td>July 1</td>
</tr>
<tr>
<td>Reason</td>
<td>Requirement of MePDES Permit</td>
</tr>
<tr>
<td>Attachment A</td>
<td>Example Annual Report Narrative</td>
</tr>
</tbody>
</table>

Each year the District compiles a report summarizing statistics and accomplishments of the program for the previous year. The reporting year is May 1 to April 30 and the report must be submitted to the DEP by July 1. Because the District is responsible for the day-to-day activities of the program, much of the report is a summary of District actions over the previous year. So in the period leading up to the preparation of the report, the District reviews its files to ensure that they are complete. This can include dates of sampling, dates of inspection, etc. Most of the data and information that go into the report is from LabCal, IPT CMMS, and the District’s electronic files. The report is a requirement of the federal IPT rules §403.12 (i) and is listed specifically in the MePDES permit for the East End WWTF Special Condition M (2) (e).

1.1.1 Required Elements

<table>
<thead>
<tr>
<th>NPDES PERMIT REQUIREMENT FOR IPT REPORT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. An updated list of all industrial users by category indicating compliance or non compliance</td>
</tr>
<tr>
<td>2. A summary of compliance and enforcement activities</td>
</tr>
<tr>
<td>3. Inspection dates</td>
</tr>
<tr>
<td>4. Sample dates</td>
</tr>
<tr>
<td>5. Compliance schedules issued</td>
</tr>
<tr>
<td>6. Written notices of violation (NOV) issued</td>
</tr>
<tr>
<td>7. Administrative Orders issued</td>
</tr>
</tbody>
</table>
8. Criminal or Civil suits filed

9. Penalties obtained

10. Significant non compliance instances published in the local paper

11. Narrative description of program effectiveness

12. Present and proposed changes to the program

13. A summary of analytical results for influent, effluent, sludge and toxicity and bioassay data from the POTW

14. A description of any pass through or interference that occurred or any investigations of potential interference or pass through

15. A description of actions taken to reduce violations by SIUs.

16. The date of last adoption of Local Limits

17. A description of actions being taken to reduce the incidence of violations by SIUs

1.2 Local Limits Development

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Local Limits evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>Once per MePDES Permit cycle</td>
</tr>
<tr>
<td>Due date</td>
<td>120 days after permit issuance</td>
</tr>
<tr>
<td>Reason</td>
<td>Requirement of MePDES Permit</td>
</tr>
<tr>
<td>Attachment B1</td>
<td>Local Limits SOP</td>
</tr>
<tr>
<td>Attachment B2</td>
<td>Local Limits Summary Table</td>
</tr>
</tbody>
</table>

Local Limits are technically-based site-specific discharge limits. They are established by the POTW based on flow, discharge, and industrial user information specific to the facility. Their purpose is to protect the treatment facilities, receiving water quality, worker health and safety, and to allow for beneficial use of sludge. As a condition of the MePDES permit for the East End WWTF, the District is required to evaluate, once per permit cycle, the need for revision of local limits.

The evaluation and, if needed, revision of the local limits requires flow and concentration data from the industries and for the influent
and effluent from the treatment plant, as well as biosolids quantity and concentration data. All of this is data collected and stored by the District.

1.3 Local Limits Promulgation

Once new local limits are determined and have been reviewed and confirmed by City and District staff, they have to be promulgated by approval first by DEP, and then next by the District Board of Trustees and the City Council. The DEP is required to hold a public hearing only in the event a limit is being raised. If limits are all staying the same or being lowered, no DEP hearing is required. The Trustees or Council may require a public hearing.

Finally, the new limits have to be incorporated into the District’s Wastewater Rules and the City’s ordinance. To enact revisions to the local limits found in the Rules and Regulations for Use of the Sewer System, the City of Portland requires a public process and a communication to City Council prior to the new limits being enacted. For changes to the City Code of Ordinance, two readings must be completed and passed by City Council. City staff will remain responsible for enacting and completing the process of any revisions to the Ordinance and/or Rules and Regulations.

1.4 Inter-organizational Communication

Since the District handles all of the day-to-day administration of the Portland IPT Program, there is less frequent communication between the District and the City of Portland. Typically, the City is copied on the annual report and notices of violation. The City is also involved in Industrial Waste Surveys, identifying new industries, ordinance changes, surcharge assessments, and requests for specific discharge permissions. Typically, this communication is done via informal emails to the City contact.

1.4.1 District Weekly IPT QA Report

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>IPT QA Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>Once per week</td>
</tr>
<tr>
<td>Due date</td>
<td>Monday</td>
</tr>
<tr>
<td>Reason</td>
<td>Share lab data with City</td>
</tr>
<tr>
<td>Attachment C</td>
<td>Example IPT QA report</td>
</tr>
</tbody>
</table>
Each week the District reviews the weekly IPT QA report which summarizes all data input to the lab database in the previous week. This includes results from both Portland and Westbrook-Gorham sampling events. After review, any mistakes are corrected and the data is approved.

1.4.2 Semi-Annual IPT Update Report

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>District IPT Activity Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>Twice per year</td>
</tr>
<tr>
<td>Due date</td>
<td>July and January</td>
</tr>
<tr>
<td>Reason</td>
<td>Keep City apprised of District documented industry actions</td>
</tr>
<tr>
<td>Attachment D</td>
<td>Example IPT Update Report</td>
</tr>
</tbody>
</table>

Twice per year the District provides the City with a report summarizing the key actions taken over the past 6 months involving the IPT industries. Providing this summary allows the City to review the status of each industry as documented by the District and ensure District records are complete and accurate.

1.4.3 City/PWD IPT Coordination Meeting

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>IPT Coordination Meetings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>As necessary</td>
</tr>
<tr>
<td>Due date</td>
<td>Varies</td>
</tr>
<tr>
<td>Reason</td>
<td>Coordinate activities</td>
</tr>
<tr>
<td>Attachment E</td>
<td>Example IPT Meeting Agenda</td>
</tr>
</tbody>
</table>

As needed, the relevant members of District and City staffs meet to touch base on IPT issues of common concern. This can include interactions related to monitoring or other violations, program issues, ordinance changes, surcharge assessments, etc. Agendas and minutes are produced by the District.
Section 2: Regulatory/Legal

2.1 IPT Permit Process (Portland Rules and Regulations for Use of the Sewer System §3)

<table>
<thead>
<tr>
<th>Program</th>
<th>Industry Discharge Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>District</td>
</tr>
<tr>
<td>Frequency</td>
<td>Once every three years</td>
</tr>
<tr>
<td>Due date</td>
<td>On expiration date of previous</td>
</tr>
<tr>
<td>Reason</td>
<td>Performance requirement §3.1</td>
</tr>
</tbody>
</table>

Each industry in the IPT program has a discharge permit (or control mechanism) that describes the discharge limits and monitoring requirements specific to that industry. Permits are issued for no more than three years at a time. The District may issue a discharge permit for less than three years at its discretion. The sections that follow explain the permit application and permitting process. The permit process is as follows (see Portland’s Rules and Regulations for Use of the Sewer System §3.6):

The District sends blank permit application to industry at least 90 days before startup (for new permits) or at least 90 days before permit expiration (for renewed permits) with a deadline to return in 30 days.

The District receives permit application from industry at least 60 days before anticipated start up (for new permits) or at least 60 days prior to expiration date of previous permit (for renewed permits)

The District has 45 days from receipt of permit application to evaluate the application and decide whether to issue a permit or not.

The District must publish public notice of intent to issue a new permit at least 45 days prior to issuance. The notice will include a location where the draft permit can be reviewed and an address where written comments can be submitted.

Upon receipt of the permit, the industry may appeal the terms of the permit. The District reviews petition and makes final decision.

Industry can request judicial review of final permit in Cumberland County Superior Court.

2.1.1 New Permit Application and Permit Renewal Application (see Portland’s Rules and Regulations for Use of the Sewer System §3.2, §3.10 and §3.11)

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>New Industry Permit Application and Permit Renewal Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsibility</td>
<td>District</td>
</tr>
<tr>
<td>Frequency</td>
<td>Once every three years</td>
</tr>
</tbody>
</table>
Due date | At least 60 days prior to anticipated start up or at least 60 days prior to expiration date of existing permit.
--- | ---
Reason | Ordinance requirement §3.1 a-e
Attachment G | Example permit application

Once it is determined that an industry will be permitted, the industry must complete a new permit application. The information required on the permit application is listed in Portland’s Rules and Regulations for Use of the Sewer System §3.2 and or the District’s Sewer User Rules §4.2.

Name, address and location (if different from address), including name and address of owner/operator.

Applicable SIC code(s).

Wastewater constituents and characteristics including any pollutants in the discharge that are limited by local, state or federal standards.

Time and duration of the discharge.

Daily maximum, daily average and monthly average wastewater flow.

Description of activities, facilities, and plant processes.

Site plans, floor plans, mechanical plans and details to show all sewers, floor drains, and appurtenances.

Each product produced by type, amount, process or processes and rate of production where production based National Categorical Standards apply.

Type and amount of raw materials processed.

Number and type of employees and hours of operation, and actual or proposed hours of operation of the pretreatment system.

Whether additional O+M or pretreatment is required for the Industrial User to meet all Federal, State and Local standards. If additional pretreatment is necessary indicate the shortest time schedule required to accomplish installation and adoption of each additional treatment.

A list of any other environmental control permits held by the facility.

The location of monitoring for all waste stream(s)

Any other information as deemed by the District to be necessary to evaluate the permit application.

According to the City of Portland’s Ordinance “no Significant Industrial User may discharge to the sewer without first obtaining a Wastewater Discharge Permit from the City”.

An existing permit holder will apply for permit reissuance by submitting a permit application at least 60 days prior to the expiration of the existing permit.

An expired permit will remain effective and enforceable until the permit is reissued as long as:
The permit holder has submitted an existing permit application at least 60 days prior to the existing permit expiration date and The failure to reissue the permit prior to the expiration of the previous permit is not due to any act or failure on the part of the permit holder.

### 2.1.2 Discharge Permit/Control Mechanism

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Discharge Permit (Control Mechanism)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsibility</td>
<td>District</td>
</tr>
<tr>
<td>Frequency</td>
<td>Once every three years</td>
</tr>
<tr>
<td>Due date</td>
<td>Upon expiration of existing permit or upon startup of new industry</td>
</tr>
<tr>
<td>Reason</td>
<td>Ordinance requirement §3.1 a-e</td>
</tr>
<tr>
<td>Attachment H</td>
<td>Example permit</td>
</tr>
</tbody>
</table>

The discharge permit must contain (Portland’s Rules and Regulations for Use of the Sewer System §3.5):

- A statement indicating the wastewater permit issuance date, expiration date and effective date.
- A statement that the permit is not transferrable without prior notification to the District.
- Effluent limits, including Best Management Practices, based on applicable pretreatment standards.
- Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law.
- The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present.
- A statement of applicable civil and criminal penalties for violations of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not exceed the time for compliance beyond that required by applicable Federal, State or local law.
- Requirements to control Slug Discharges, if necessary.
- Any grant of a monitoring waiver by the District must be included as a condition in the User’s permit.

Discharge permits may contain but need not be limited to:

- Limits on average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
- Requirements for installation of pretreatment technology, pollution control, or construction of appropriate containment devices, etc.
- Requirements for the development and implementation of spill control plans or other special conditions.
- Development and implementation of waste minimization plans to reduce the amount of pollutants discharged.
- The unit charge or schedule of user charges and fees for the management of the wastewater discharged.
Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measuring devices.

A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater permit.

Other conditions deemed appropriate by the District to ensure compliance with this ordinance, and State and Federal laws, rules and regulations.

Discharge permits may be modified, transferred or terminated by following the instructions in Portland's Rules and Regulations for Use of the Sewer System §3.7 - 3.9.

2.2 Enforcement (Portland’s Rules and Regulations for Use of the Sewer System §5)

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsibility</td>
<td>District</td>
</tr>
<tr>
<td>Frequency</td>
<td>As necessary in response to violations</td>
</tr>
<tr>
<td>Due date</td>
<td>Promptly following a violation</td>
</tr>
<tr>
<td>Reason</td>
<td>Ordinance requirement (Portland’s Rules and Regulations for Use of the Sewer System §5)</td>
</tr>
<tr>
<td>Attachment I1</td>
<td>Example Informal Notification</td>
</tr>
<tr>
<td>Attachment I2</td>
<td>Example NOV</td>
</tr>
<tr>
<td>Attachment I3</td>
<td>Example Letter of Significant Non-Compliance</td>
</tr>
<tr>
<td>Attachment I4</td>
<td>Enforcement Response Plan</td>
</tr>
</tbody>
</table>

Enforcement is initiated when a violation of permit or ordinance conditions occurs. Generally the enforcement response starts small (depending on the magnitude of the violation) and is ratcheted up if the industry continues to violate or is not responsive or cooperative. The sections below describe the various forms of enforcement in use, starting with the minimal response and moving up to fines and court cases.

2.2.1 Informal Notification

Informal notification is mainly achieved through a phone call or (preferably) an email* alerting the industry of a one-time, minor offense. Examples include: missed reporting deadlines, missing signatures on reports, errors on reports, missing information, etc. Sometimes a phone call with a follow-up email is advisable. The informal notification should alert the industry of the document(s)/information that is missing and the deadline for it to be
submitted. The email should also warn that if the requested information is not submitted by the informal deadline a formal notice of violation will be issued.

*Emails are preferred so that an electronic copy of the notification can be saved in IPT CMMS.

### 2.2.2 Notice of Violation (NOV)

The District may serve a Notice of Violation on a User if the User is found to have violated the City's rules and regulations, a permit condition, or an order. Within 5 days of the notice, the User must submit an explanation of the violation and a plan for satisfactory correction. A copy of all Notices of Violation issued by the District relating to the City's Sewer Ordinance will be sent to the City. If the District fails to act within a reasonable period of time to address a violation, the City may take action. In the event the City and/or the District determine that a land use enforcement action is necessary to enforce the provisions of the City's Sewer Ordinance, the City and the District will work cooperatively to prosecute violations.

The District shall serve a written Notice of Violation on a User if the User is found to have violated the discharge limitations as set forth in the User's permit. The User must submit corrective action within 5 days. A copy of all Notices of Violation of a User's permit will be sent to the City.

### 2.2.3 Letter of Significant Non-Compliance (SNC)

The SNC letter is sent when an industry is determined to be in significant non-compliance. Significant non-compliance is defined as follows (from Portland's Rules and Regulations for Use of the Sewer System §1.2):

<table>
<thead>
<tr>
<th>Description</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chronic violations of wastewater rules:</td>
<td>66% or more of all measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement.</td>
</tr>
<tr>
<td>Technical Review Criteria (TRC) violations:</td>
<td>33% or more of wastewater measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement multiplied by the applicable criteria (1.4 for BOD, TSS, fats oil and grease, and 1.2 for all other pollutants except pH.)</td>
</tr>
<tr>
<td>Any other violation of a pretreatment standard or requirement that the City or the District determines has caused, alone or in combination with other discharges, Interference or Pass-Through</td>
<td></td>
</tr>
</tbody>
</table>

The District shall serve a written Notice of Violation on a User if the User is found to have violated the discharge limitations as set forth in the User's permit. The User must submit corrective action within 5 days. A copy of all Notices of Violation of a User's permit will be sent to the City.
2.2.6 Penalties

<table>
<thead>
<tr>
<th>including ending the health of POTW personnel or the general public.</th>
<th>Any discharge of a pollutant that has caused imminent damage to the public or the environment, or has resulted in the City or the District's exercise of its emergency authority to halt or prevent such a discharge.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit, or enforcement order for starting construction, completing construction or attaining final compliance.</td>
<td>Failure to provide, within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.</td>
</tr>
<tr>
<td>Failure to accurately report non-compliance.</td>
<td>Any other violations which may include a violation of Best Management Practices, which the District determines will adversely affect the operation or implementation of the pretreatment program.</td>
</tr>
</tbody>
</table>

Often follow up sampling is required for significant non-compliance as a result of chronic or technical review criteria violations in order to bring the percentage of results below the acceptable levels. If repeat sampling continues to reveal violations an engineering order, administrative order and/or compliance schedule may be required for installation of pretreatment to correct the discharge problem.

2.2.4 Engineering Order/Administrative Order/Compliance Schedule

An engineering order or administrative order would be issued following no response or inadequate response from an industry following a SNC notice. City and District staff would work with legal counsel at the City and the Water District to develop the order. A compliance schedule may be included as part of the order. The compliance schedule lays out dates and compliance milestones for the industry to follow while installing pretreatment or taking other corrective action. With a compliance schedule, regular updates are required to be submitted to the City and the District documenting the process on the schedule, the reason for any delays, and updated dates for completion of the project.

2.2.5 Legal Action/Lawsuit

Legal action may be taken following no response or inadequate response to an engineering or administrative order or a compliance schedule that is not being followed. A lawsuit or other legal action could be the enforcement path for an uncooperative industry also. This would be initiated jointly by City and District's legal counsel in collaboration with pretreatment staff.

2.2.6 Penalties
Under Section 24-56 of the Portland Sewer Ordinance, Chapter 24, violations of the City's sewer ordinance are subject to a civil penalty of a minimum of $1000 per day for each violation of industrial pretreatment standards and requirements. In addition, the violator may be liable for any expense, loss or damage suffered by the City or District by reason of such violations. Appeals of Notices of Violation of the City's Sewer Ordinance shall be pursuant to Section 24-57 thereof.

2.2.7 Enforcement Response Plan

The District has an Enforcement Response Plan (ERP). This plan details how the District will respond to instances of industrial user noncompliance. The District will provide the City with a copy of the ERP and notify it of any amendments thereto.

3.0 Implementation

3.1 Inspection

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Annual onsite evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>Once per year</td>
</tr>
<tr>
<td>Due date</td>
<td>End of IPT year</td>
</tr>
<tr>
<td>Reason</td>
<td>Requirement of 40 CFR §403.8 (f)(1)(v) and Sewer Use Ordinance §4.5</td>
</tr>
<tr>
<td>Attachment J1</td>
<td>Example Inspection Report</td>
</tr>
<tr>
<td>Attachment J2</td>
<td>Example Fact Sheet</td>
</tr>
</tbody>
</table>

Every year the District conducts an onsite inspection of each industrial user as a way to independently verify compliance with applicable Pretreatment Standards. The inspection also serves as a tool to document changes in each industrial user’s operations, facility, and or staff. The District also verifies the authorized signers from each industry while on the inspection. If staff has changed, a new signature authorization form is given to the industry to complete. A standard inspection form is used for all industrial user inspections. Once an inspection is completed, the file is saved electronically in the Portland Water District’s records.
After an inspection report is completed for an industry, the information is used by the District to update the individual industry's fact sheet.

3.2 Sampling

3.2.1 District Sampling

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Sampling of industrial discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>Once per year</td>
</tr>
<tr>
<td>Due date</td>
<td>End of IPT year</td>
</tr>
<tr>
<td>Reason</td>
<td>Requirement of 40 CFR §403.8 (f)(1)(v) and Sewer Use Ordinance §4.5</td>
</tr>
<tr>
<td>Attachment K</td>
<td>Example Chain of Custody</td>
</tr>
</tbody>
</table>

The District conducts sampling at each of the permitted industries at least once per IPT year. The purpose of this sampling is to independently verify the analytical results that the industry submits. The District samples from the same location as the industry and in the same manner, typically collecting a 24-hour composite and a grab sample. A blank District chain of custody is attached. The samples are then transported to the Portland Water District laboratory and, if necessary, sent to another subcontract laboratory for analysis.

3.2.2 Self Monitoring Report (SMR) Sampling

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Sampling of industrial discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>Industrial User Wastewater Discharge Permit specific (at least twice per year)</td>
</tr>
<tr>
<td>Due date</td>
<td>Industrial User Wastewater Discharge Permit specific</td>
</tr>
<tr>
<td>Reason</td>
<td>Requirement of 40 CFR §403.12 and Sewer Use Ordinance §4</td>
</tr>
<tr>
<td>Attachment L</td>
<td>Example Lab Report</td>
</tr>
</tbody>
</table>

Each Industrial User performs routine industrial discharge sampling as required by the schedule included in their Wastewater Discharge Permit. The sampling, typically a 24-hour composite and a grab, is conducted in accordance with techniques prescribed in 40 CFR
part 136. The samples are then transported to a subcontract laboratory for analysis.

The subcontract laboratory will forward completed analytical results to the industrial user. Who reviews them and notifies the District of any violations. Finally, the industry submits the results to the District (electronically using pretreatment@pwd.org). When the results are submitted to the District they must be signed by an authorized representative of the industry and include the following certification statement as required by 40 CFR §403.6 (a) (2).

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations".

Upon receipt of the report, the District reviews the data. The data are then reviewed, entered, and filed in the electronic record keeping system. Any noted violations or other issues with the report are brought to the attention of the responsible Industrial User.

### 3.3 Analysis

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Analysis of industrial discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>Industrial User Wastewater Discharge Permit specific</td>
</tr>
<tr>
<td>Due date</td>
<td>Industrial User Wastewater Discharge Permit specific</td>
</tr>
<tr>
<td>Reason</td>
<td>Requirement of 40 CFR §403.12 and Sewer Use Ordinance §4</td>
</tr>
<tr>
<td>Attachment M1</td>
<td>Sample Order</td>
</tr>
<tr>
<td>Attachment M2</td>
<td>Example Discharge Monitoring Report</td>
</tr>
</tbody>
</table>

Samples are analyzed at the Portland Water District and a variety of subcontracted laboratories for the analytes specified in the Wastewater Discharge Permit in accordance with methods prescribed in 40 CFR part 136. The results of the analyses are reported directly to
whoever collected the samples, the District or the Industrial User. When the Industrial User receives their analytical results they must report them according to the requirements of the Sewer Use Ordinance and by the dates specified in their Industrial User Wastewater Discharge Permit.

3.4 Day-to-day Issues

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Communication between City of Portland and the Portland Water District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>As necessary</td>
</tr>
<tr>
<td>Due date</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Reason</td>
<td>Ordinance, surcharge, or high level enforcement issues</td>
</tr>
<tr>
<td>Attachment N</td>
<td>Example IPT CMMS Log Screen Shot</td>
</tr>
</tbody>
</table>

If the District notices an incident, the industry and/or City will be contacted. In all cases there will be a back-and-forth flow of communication between the City and PWD to decide the best way to address whatever issue is at hand. IPT CMMS logs are used to document all communication on the issue until its resolution. See §4.0 of this guide for more information on record keeping.

3.5 Industry Outreach

<table>
<thead>
<tr>
<th>Program Requirement</th>
<th>Additional industry contact to facilitate compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency</td>
<td>As necessary</td>
</tr>
<tr>
<td>Due date</td>
<td>Depends on Industrial User needs</td>
</tr>
<tr>
<td>Reason</td>
<td>Varies</td>
</tr>
<tr>
<td>Documentation</td>
<td>District documents the details of the outreach</td>
</tr>
</tbody>
</table>

The District makes additional site visits as dictated by an individual Industrial Users discharge or processes. These additional visits are beyond the scope of an annual inspection and are more focused on industries that conduct seasonal work, those that have activities that are linked to disruption of the wastewater treatment process, industries causing collection system interference, or industries that are having pretreatment issues. These additional site
visits are performed at the discretion of the City and or the District. The District may request City support or first contact when necessary.

4.0 Recordkeeping

The District’s recordkeeping system for IPT is designed to facilitate the efficient administration of the IPT program and the smooth and timely report of Program activities to the DEP and other entities. There are three significant ways that IPT data are organized and stored by the District. Each is listed and described in this section.

4.1 Monitoring Data Management (HACH/WIMS)

All monitoring data summarizing laboratory analysis either by the District’s laboratory or outside commercial laboratories is stored in the District’s laboratory information management system HACH/WIMS. The data are organized by industry, and further by the sampling agent (District or Industry self-monitoring), and further by type of sample (comp or grab), and further by parameter tested. A screen shot illustrating this organization of data is below.
4.2 Industry Records Management (electronic filing system)

All records maintained by the District are stored electronically. The District maintains no paper records of IPT information. The electronic files are organized by industry, and further by type of record (chemical data, letters, monitoring data, inspections, and permits). The monitoring data are further organized by year of sampling and further by type of monitoring (District or Industry self-monitoring). A screen shot illustrating the file structure is below.
4.2 IPT Asset Management (IPT-CMMS)

IPT data are stored in the District’s asset information management system IPT CMMS. The system includes both spatial data (locations of sample manholes) and tabular data stored in the Hansen enterprise data management system. In the IPT CMMS are address and other industry attributes and work orders detailing schedules and logs for sampling events, inspections, general program activities, and permitting activities. A screen shot showing the work orders for one industry is below.
MEMORANDUM OF UNDERSTANDING
BETWEEN PORTLAND WATER DISTRICT AND
THE CITY OF PORTLAND, MAINE

This Memorandum of Understanding (MOU) is entered into between the City of Portland (hereafter “the City”), a body politic and corporate with offices at 389 Congress Street, Portland ME 04101, and the Portland Water District, a quasi-municipal corporation organized and existing under the laws of the State of Maine, with a place of business at 225 Douglass Street, Portland, Maine (hereinafter, the “District”).

WHEREAS, the District is the holder of MePDES Permit Number ME0110275/Waste Discharge License Number W002671-H-R (hereinafter, “permit”), which was issued by the Department of Environmental Protection on August 17, 2011, for a five-year term; and

WHEREAS, the District is also the holder of a renewal of the permit dated March 21, 2017 (the “2017 renewal”); and

WHEREAS, the permit is routinely renewed following the five year terms; and

WHEREAS, in order to help facilitate the District’s industrial pretreatment responsibilities under the permit, the City put in place a regulatory framework in Chapter 24 of its Code of Ordinances (the “Sewer Ordinance”) and, in collaboration with the District, adopted Rules and Regulations for the Use of the Sewer System (the “Sewer System Rules”) aimed at codifying the requirements of the permit and 2017 renewal as well as in subsequent renewals; and

WHEREAS, in addition to the City’s Sewer Ordinance and its Sewer System Rules, the City and the District jointly promulgated Portland’s Industrial Pretreatment Program Owner’s Manual in February, 2018 (hereinafter “Manual”), which outlines the City’s and the District’s joint responsibility for ensuring compliance with the City’s Industrial Pretreatment Program, the permit and the 2017 renewal; and

WHEREAS, the City and the District have a desire to shift responsibility for certain components of the Industrial Pretreatment Program (hereinafter, “IPT Program”) from the City to the District as described in the Manual.

NOW THEREFORE, the City and the District hereby agree as follows:

1. The Portland Industrial Pretreatment Program will be administered as outlined in the Manual,” which is attached hereto as Exhibit A and incorporated herein by reference. The Manual may be amended from time to time by the District and the City as needed to implement the IPT Program.
2. In order to facilitate the administration of the Portland IPT Program the City will initially propose any amendments to the City's Sewer Ordinance and its Sewer System Rules required to implement this Memorandum of Understanding for consideration and approval by the Portland City Council. The District shall review and approve all such ordinance amendments prior to consideration and approval by the Portland City Council.

Following the assumption of responsibility for the IPT program by the District as described in the Manual, the District will assume responsibility for proposing amendments to the City's Sewer Ordinance and Sewer System Rules for consideration and approval of the Portland City Council.

3. Following the execution of this MOU, for a minimum period of one year but for no more than two years after the transition from the City to the District of responsibility for issuing permits and monitoring compliance with the IPT Program, City staff will work cooperatively with District staff to advise and assist the District in issuing permits and conducting sampling and inspections throughout the City so that the District can assume responsibility for those functions as seamlessly as possible.

4. The District shall assess to the City and the City shall pay to the District, through its annual assessment, as provided in the District's Charter, all undisputed costs and fees associated with the operation of the IPT Program.

5. No third persons or entities are intended to be or are third party beneficiaries of or under this MOU. Nothing in the Agreement shall be construed to create any liability on the part of the City or the District, or their respective directors, officers, shareholders, employees or agents, as the case may be, to any such third parties for any act or failure to act of any Party hereto.

6. Prior to the final approval and adoption by the Portland City Council of amendments to the City's Sewer Ordinance required to transfer administration of the IPT Program to the District, either party may terminate this MOU with or without cause and without liability to the other party by providing written notice of such termination to the other party. Such termination shall be effective upon receipt of such notice by the other party.

City of Portland

Witness: [Signature]

By: [Signature]
Jon Jennings, City Manager

Portland Water District

Witness: [Signature]

By: [Signature]

APPROVED AS TO FORM:

[Signature]
This summary is intended to provide concise information regarding the updates to Chapter 24: Sewers and revisions to the Rules and Regulations for Use of the Sewer System. The changes are being made to effectuate a recently signed Memorandum of Understanding allowing the transfer of the administration, management, and regulatory authority of the Industrial Pretreatment Program from the City of Portland to the Portland Water District (PWD). The program is being transferred to the Portland Water District to reduce the amount of redundant efforts and to allow the PWD to manage and directly collect the information required from Industrial Users in order to meet Maine Pollutant Discharge Elimination Permit (MEPDES) requirements for the East End Wastewater Treatment Facility. Additionally, discharge limits for Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) are being revised as required by the Maine Department of Environmental Protection MEPDES permit. The discharge limit for arsenic is also being redistributed.

The specific changes to Chapter 24: Sewers are as follows:
- Section 24-50 Discharge Permit: Changed requirement to obtain a discharge permit from the Department of Public Works to the Portland Water District.
- Section 24-55 Written Notice Required: Added Portland Water District for written notice under certain scenarios.
- Section 24-57 Appeals: Added a section indicating that the appeals process does not apply to notices of violations or other determinations issued by the Portland Water District under their role as the City’s designee for the Industrial Pretreatment Program.

The specific changes to the Rules and Regulations for Use of the Sewer System are as follows:
- Throughout: Added “or their designee” after references to “The City” in many sections to allow the PWD to enforce provisions within the Rules and Regulations for Use of the Sewer System related to the Industrial Pretreatment Program.
- 1.1b Purpose and Scope: Language added to reference the Memorandum of Understanding formalizing the transfer of the Industrial Pretreatment Program to the PWD and language specifying the PWD as the City’s designee.
- 1.2 Definitions: Added term ‘designee’
- Chapter 3: Added the term “issuer” in place of “the City.”
Communication to City Council
Revision of Chapter 24 and the Rules and Regulations for Use of the Sewer System
July 16, 2018

- 5.3: Added specific language with regards to the appeal process for written notice of violations issued by the PWD.

- Schedule A: Once the aeration upgrade was completed at the East End Wastewater Treatment Facility, the Department of Environmental Protection required the Portland Water District to create technical limits for Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS). This change will allow each industrial user to be permitted a set amount of BOD and TSS based on several years of results and flow data. For users with low BOD (<250 mg/L) and TSS (<300 mg/L) results, the permit may not include a requirement to sample for either parameter. Schedule A will now have the following language for BOD and TSS:

   "Industrial users permitted in the Industrial Pretreatment Program and discharging effluent which exceeds a de minimis level of Biochemical Oxygen Demand (BOD) and/or Total Suspended Solids (TSS) are individually allocated a pounds per day limit for these parameters. The de minimis levels are 250 mg/L and/or 2275 lbs/day for BOD and 300 mg/L and/or 1925 lbs/day for TSS for Portland; and 250 mg/L and/or 375 lbs/day for BOD and 300mg/L and/or 425 lbs/day for TSS for Westbrook Intermunicipal Area. The Control Authority reserves the right to permit users based on their potential to discharge high strength BOD/TSS waste. Industrial Users permitted for BOD and TSS must report a certified discharge flow number with each monitoring event."

Additionally, the limit for arsenic is being revised changed to two tiers instead of three. Currently, the three tier arsenic limit is as follows:

- Seafood Processors: 0.228 mg/L
- Landfills and ecoMaine Incinerator = 0.055 mg/L
- All others = 0.02 mg/L

The proposed two tier limit is:

- Seafood Processors = 0.22 mg/L
- All Others = 0.092 mg/L

This change is being made to allow for all other industrial users to have more flexibility for arsenic.

A public hearing was held on June 29th, 2018 at the Department of Public Works located at 250 Canco Road.

Should you have any questions, I can be reached at extension 8843 or bnp@portlandmaine.gov.

Thank you,

Benjamin Pearson, PE
Compliance Coordinator
Water Resources, Public Works
Chapter 24  SEWERS*

*Cross reference(s) Buildings and building regulations, Ch. 6; disposal of wastes by food service establishments, § 1126; land use, Ch. 14; streets, sidewalks and other public places, Ch. 25.

State law reference(s) Sewers and drains, 30 M.R.S.A. § 4351 et seq.

Art. I. In General, §§ 2412415
Art. II. Sewer Construction, §§ 24162430
Art. III. Sewer Use Regulations, §§ 24312470
Art. IV. Sanitary Sewer User and Industrial Pre-treatment Charges, §§ 24712477
Art. V. Stormwater Service and User Charges,

ARTICLE I. IN GENERAL

Sec. 24-1. Purpose

The city is responsible for the health and safety of the public and maintaining over 300 miles of sewer line comprised of the sanitary sewer and storm sewer lines themselves, catch basins, manholes, detention ponds, underground waste water storage facilities, and sewer pump stations.

The city maintains a sewer system in order to convey domestic wastewater and stormwater runoff from private and public property for treatment at the Publicly Owned Treatment Works.

The city maintains a stormwater drainage system in order to convey stormwater runoff away from private and public property to minimize flooding, reduce pollution discharge to waters of the State of Maine, and to control erosion of streams and channels.

The city council finds that funding the comprehensive wastewater and stormwater programs to properly operate this infrastructure should be equitably paid for by properties making use of sewer and stormwater services provided by the city according to costs incurred to provide those services.
Sec. 24-2. Definitions.

For the purposes of this chapter, all words shall have their normal meanings and such meanings as may be in common use in the field of wastewater treatment. Certain words are more particularly defined. For the purposes of this Chapter, the following terms shall have the following meanings.

Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, U.S.C. § 1251 et seq., and the regulations promulgated thereunder, as amended from time to time.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, which begins eight (8) feet outside the outer face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

Combined sewer shall mean a sewer conveying both stormwater and wastewater.

Department of Public Works shall mean the public works authority.

Discharge shall mean any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants

District shall mean the Portland Water District, a quasi-municipal corporation existing pursuant to Chapter 84 of the Private and Special Laws of Maine of 1975, as amended, with a business address of 225 Douglas Street, Portland, Maine.

Domestic wastewater shall mean the liquid wastes and liquid borne wastes discharged from the sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens, and floor drains essentially free of industrial wastes or toxic materials.
Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Industrial waste shall mean any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

Interceptor sewer shall mean a large sewer used to intercept a number of main or trunk sewers and convey wastewater and stormwater runoff to treatment or other disposal facilities.

National pollutant discharge elimination system or NPDES permit shall mean a permit issued pursuant to § 402 of the act, 33 USC § 1342, and M.R.S.A. Title 38, § 414A.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

POTW (publicly owned treatment works) ("facility") shall mean the treatment works, as defined by § 212 of the act, operated by the Portland Water District. This definition includes any devices and systems used in the storage, treatment, recycling, disposal, and reclamation of wastewater consisting of domestic, commercial, municipal, and industrial wastes of a liquid nature. It also includes those sewers, pipes, pump stations and other conveyances which convey wastewater to the facility and may be owned by the city. For the purposes of this chapter, POTW shall also include any sewers that convey wastewater to the treatment works from persons who are, by permit, contract, or agreement with the city, users of the facility.

POTW treatment plant shall mean that portion of the facility designed to provide treatment (including recycling and reclamation) of wastewater, municipal wastewater, industrial waste, septage and holding water and other trucked-in wastes as allowed under the provisions of this article.

Private wastewater disposal system shall mean a treatment tank with the effluent discharging into a subsurface absorption area, or such other facilities as may be permitted under the procedures set forth in rules and regulations adopted by the
Private sewer system shall mean any sewer system within the city not owned by or constructed by a public authority.

Private wastewater treatment works shall mean all facilities other than private sewage disposal systems for treating and disposing of wastewater within the city not owned by a public authority. Private wastewater treatment works shall be distinct from private wastewater disposal systems as the effluent is discharged directly into surface water bodies. Private wastewater treatment works shall be licensed by the state department of environmental protection, in accordance with the provisions of 38 M.R.S.A. §§ 413, 414.

Public sewer shall mean a sewer directly owned, operated or controlled by the city or the Portland Water District.

Sanitary sewer shall mean a sewer, conveying either exclusively domestic wastewater and industrial waste or a sewer also conveying stormwater runoff together with ground and surface water that is not admitted intentionally.

Sewer shall mean a pipe or conduit for conveying liquid or liquid-carried waste.

Storm sewer shall mean a sewer for conveying stormwater runoff, groundwater, subsurface water, condensate, cooling water or other similar discharge but which excludes domestic wastewater and polluted industrial wastes.

Stormwater shall mean any stormwater runoff, snowmelt runoff, and surface runoff and drainage. "Storm water" shall have the same meaning as stormwater.

Stormwater drainage system shall mean any publicly owned or operated conveyance for stormwater, natural and human-made including, but not limited to, storm sewers, city and state roads including the Maine Turnpike and other physical works with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, culverts, human-made channels, swales, ditches, swamps, rivers, streams, creeks, brooks, reservoirs, ponds, drainage ways, inlets, pipes, head walls, lakes,
properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

Stormwater services shall mean the program and maintenance activities as well as the pipe, conduits, or other conveyances or facilities provided by the city including but not limited to necessary programs, improvements, or maintenance required to meet national pollutant discharge elimination system (NPDES) permits the city may hold or other regulatory or court imposed obligations on the city, or general maintenance of pipes, conduits or other facilities improvements and other unforeseen improvements necessary to provide stormwater service to the city.

Wastewater shall mean a combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with such ground, surface, and stormwater as may be present.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently on a natural basis.

Westbrook Inter-Municipal Sewer Service Area shall mean the Domestic and sanitary sewage and waste water from the Riverside Street/Warren Avenue/Forest Avenue vicinity of Portland as defined on the plan to the Rules and Regulations enacted by the Department of Public Works, and on file in the Department of Public Works, intercepted by the District and delivered to the existing Westbrook Gorham Regional Treatment Plant for treatment.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s) Definitions and rules of construction generally, § 12.

Reference - Council Order 54-02/03 § An Order Authorizing Three-Party Sewer Service Agreement with Portland Water District and City of Westbrook).

Sec. 24-3. Administration.

(a) The director of public works shall establish rules and regulations governing the availability and use of city
wastewater collection and treatment facilities and stormwater drainage system. The rules and regulations shall be consistent with federal law and ordinances. Said wastewater rules shall be enacted in conjunction with the Portland Water District prior to enactment.

(b) The rules shall be enacted in the same manner as the rules for solid waste disposal are promulgated, prescribed in section 12105(b) and (b.1) of this Code, with the exception that the rules will go into effect twenty (20) days after enactment by the director unless stayed by action of the city council. Proposed rules shall be delivered to the council as a communication prior to enactment.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-4. Enforcement Agency.

The Department of Public Works or the Portland Water District as agent for the city and at the request of the Department of Public Works, shall administer and enforce the provisions of this chapter.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-5. Reserved.
Sec. 24-6. Reserved.
Sec. 24-7. Reserved.
Sec. 24-8. Reserved.
Sec. 24-9. Reserved.
Sec. 24-10. Reserved.
Sec. 24-11. Reserved.
Sec. 24-12. Reserved.
Sec. 24-13. Reserved.
Sec. 24-14. Reserved.
Sec. 24-15. Reserved.

ARTICLE II. SEWER CONSTRUCTION

Sec. 2416. Accepted streets.

When any person owning property on an accepted street shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the
approval of the Department of Public Works:

(a) Upon authorization by the city council, a sewer shall be constructed by the city, the cost of a sewer to be recovered in part as hereinafter provided; or

(b) The petitioner may cause a sewer to be built to the specifications of the Department of Public Works and under his or her supervision, with or without regard to competitive bids. Upon completion of a sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and a sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.1; Ord. No. 10181, §§ 13, 92181; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2417. Dedicated streets.

When any person owning property on a street, which prior to July 7, 1948, has been dedicated, constructed and used for public travel but has not been accepted by the city, shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the approval of the Department of Public Works:

(a) Upon authorization by the city council, a sewer shall be constructed by the city, the cost of a sewer to be recovered in part as hereinafter provided; or

(b) The petitioner may cause a sewer to be built to the specifications of the Department of Public Works and under his or her supervision, with or without regard to competitive bids. Upon completion of a sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and at such time as the street is accepted by the city, a sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.2; Ord. No. 10181, §§ 4, 5, 92181; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2418. Initiative of city council.
The city council may, on its own initiative and without petition therefor, authorize construction by the city of a sewer in accepted and dedicated but unaccepted streets, the cost of a sewer to be recovered in part as hereinafter provided.

(Ord. No. 10181, § 6, 92181; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2419. Costs.

(a) A charge is hereby established for the connection heretofore or hereafter of any property to a sewer constructed by the city or the Portland Water District and completed on or after January 1, 1978. Such charge shall be due and payable upon application for a connection permit as provided in section 2439, and except for connections made before November 15, 1981, shall be in lieu of all other charges related thereto, including the fee for the connection permit and street and sidewalk opening charges as provided in section 25156, provided that connection is made in accordance with article III of this chapter. This section shall not apply to any property assessed for the cost of sewer construction according to law.

(b) For any such sewer completed heretofore, the charge shall be two hundred dollars ($200.00) per each sanitary sewer connection made heretofore or hereafter but before November 15, 1981, and one thousand dollars ($1,000.00) per each such connection made thereafter.

(c) For any such sewer completed hereafter, the charge shall be two thousand dollars ($2,000.00) per each such connection, provided that the city council may, from time to time, by order readjust the charge according to the then prevailing cost of sewer construction and the anticipated number of such connections.

(Ord. No. 10181, § 7, 92181; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s) Uniform procedure for collecting assessments, § 116.

Sec. 24-20. Reserved.
Sec. 24-21. Reserved.
Sec. 24-22. Reserved.
Sec. 24-23. Reserved.
Sec. 24-24. Reserved.
Sec. 24-25. Reserved.
Sec. 24-26. Reserved.
Sec. 24-27. Reserved.
Sec. 24-28. Reserved.
Sec. 24-29. Reserved.
Sec. 24-30. Reserved.

ARTICLE III. SEWER USE REGULATIONS*

*Editor's note: Ord. No. 26396, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use regulations, consisted of substantive §§ 2431-2460, and derived from §§ 309.1309.29 of the 1968 Code, as amended by the following legislation:

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Sec. 2431. Scope.

The provisions of this article shall apply to and govern all types of buildings requiring wastewater facilities; the excavation, construction, installation, usage, maintenance, extension, alteration, repair or removal of any building sewer, building storm drain, sanitary sewer system, or storm drainage
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or sewer system; the connection of building sewers and building storm sewers to sanitary sewer systems and/or storm drainage systems or combined sewers; the types of wastes or wastewaters prohibited from public sewers and storm drainage systems; permitted and prohibited concentrations and strengths of wastewater; and situations in which use of a private sewage disposal system is permissible.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2432. Intent and purpose.

(a) It shall be the intent and purpose of this article to eliminate existing pollution, and to prevent further pollution caused by inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the pollution abatement schedule for the Portland Regional Wastewater Plan established by the state and the federal government. All this is in furtherance of the health, welfare, comfort and convenience of the inhabitants of the city.

(b) Whereas the Portland Water District has been designated by state legislative action and local public referendum as the regional agency responsible for interception and wastewater treatment, and is the owner and operator of the POTW treatment plant, none of the provisions of this article shall be construed to repeal or otherwise interfere with the rights, duties or powers granted to the Portland Water District pursuant to Chapter 433 of the private and special laws of the State of Maine of 1907, as amended.

(Ord. No. 26396, 52096)

Editor's Note - Section 24-32.1 Administration was deleted by Order 129-14/15, passed on 1-21-2015 and Effective 1-1-2016.

Sec. 2433. Reserved

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2434. Definitions.

For the purposes of this article, all words not defined in section 24-2 shall have their normal meanings and such meanings as may be in common use in the field of sanitation and wastewater treatment. For the purposes of this article, the following terms have the following meanings.
B.O.D. (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

Categorical industrial user shall mean an industrial user subject to national categorical pretreatment standards.

Caustic alkalinity (hydroxide alkalinity) shall mean a measure of the capacity of wastewater, which exhibits a pH of greater than or equal to 8.3, to neutralize acids.

C.O.D. (chemical oxygen demand) shall mean the measure of the oxygen required for oxidation of the organic matter in a sample that can be oxidized by a strong chemical oxidizing agent under standard laboratory procedure.

F.O.G. shall mean the measure of fats, wax, grease and oils (other than petroleum based materials).

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and produce, and from the handling, storage and sale of food and produce.

Incompatible pollutant is defined as any pollutant other than biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria or additional pollutants identified in the POTW's NPDES permit to discharge, which the POTW was not designed to treat and does not remove to a substantial degree or may be toxic to the POTW or receiving water.

Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Interference means a discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the facility, its treatment processes or operations, or its sludge processes, use or disposal, and which is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a...
violation), or of the prevention of wastewater sludge use or disposal by the facility in accordance with applicable federal, state, or local statutes and regulations or permits issued thereunder, as set forth in 40 CFR § 403.3(i).

mg/l shall mean milligrams per liter.

National categorical pretreatment standard shall mean any regulations containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the act, which apply to a specific category of industrial users and which are found in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

pH shall mean the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions in a solution expressed as standards units.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than onehalf inch (1.27 centimeters) in any dimension.

Significant industrial user shall mean any industrial user subject to categorical pretreatment standards, and any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the facility (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the facility's operation or for violating any pretreatment standard or requirement; provided, however, that upon a finding that an industrial user meeting the foregoing criteria has no reasonable potential for violating any pretreatment standard or requirement or for adversely affecting the facility's operation, the city may, at any time, upon its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR § 403.8(f)(6), determine that such industrial user is not a significant
Slug shall mean any discharge of nonroutine, episodic nature, including, but not limited to, an accidental spill, noncustomary batch discharge, or any discharge of wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flow rate during normal operation or which may adversely affect the POTW.

Total suspended solids (TSS) shall mean the total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and which is removable by laboratory filtration.

(Ord. No. 26396, 52096; Ord. No. 97-03/04, 12-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2435. Sanitary facilities required.

Every building intended for human habitation, occupancy, employment, recreation or other purposes, situated within the city shall be provided with suitable and sufficient sanitary facilities for the use of the occupants thereof, which facilities in character, number and method of installation shall comply with all health laws of the state, ordinances of the city, and rules and regulations of the state bureau of health so far as the same are compatible and not inconsistent.

(Ord. No. 26396, 52096)

Sec. 2436. Connection to public sewer required.

The owner of any building used for human habitation, occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right of way in which there is located a public sanitary, combined or interceptor sewer, is hereby required at his expense to connect the building sewer in the most direct manner possible with the proper public sewer in accordance with the provisions of this article, provided that the public sewer is within two hundred (200) feet of the building (the two hundred (200) feet to be measured in such manner so as not to pass over any property owned privately by anyone other than the owner of the premises.
from which such measurement is being made). Any required compliance with this section shall be completed within one (1) year after the date of official notice to do so.
(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2437. Exception for private wastewater system.

Where the public sewer does not extend to within two hundred (200) feet distant from the nearest point of the building (measured as described in section 2436), the public sewer shall, at such time, be classified as inaccessible with regard to such premises. Where the public sewers are inaccessible to premises, any building required to be provided with sanitary facilities under section 2435 shall comply with the following:

(a) The owner may at his own expense connect with the public sewer even though the building is over two hundred (200) feet distant from the public sewer; or

(b) Where liquidcarried wastes or wastewater result, they shall discharge into a private wastewater disposal system; or

(c) Where liquidcarried wastes or wastewater result, they shall discharge into a private wastewater treatment works.
(Ord. No. 26396, 52096)

Sec. 2438. Private wastewater systems discontinued.

(a) At such time as a public sewer becomes accessible, as defined in section 2436, to a property served by a private wastewater disposal system, direct connection shall be made to the public sewer by the owner of such property in compliance with this article within twelve (12) months of receipt of official notice to do so. At the time that direct connection to the public sewer is completed, use of the private wastewater disposal facilities shall have been discontinued. Such abandoned private wastewater disposal system shall be cleaned of sludge and waste materials and filled with clean bankrun gravel or dirt within thirty (30) days.
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(b) The closing and filling of the private wastewater disposal system and the connection to the public sewer system shall be inspected by the Department of Public Works. The fee for such inspection shall be a minimum of ten dollars ($10.00) per septic tank plus ten dollars ($10.00) per hour for all inspection time exceeding one (1) hour. The permit for the connection to the public sewer is the same as those required under sections 2439 and 2442.

(c) No such work may be approved unless notice is given to the Department of Public Works sufficient to permit the inspector to be present at the filling of the private wastewater disposal system and the connection to the public sewer. No new sewer construction or sewer repair or reconstruction may be approved if backfilled and/or covered prior to inspection. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2439. Public sewer connection; permit; fee.

No person shall uncover, make any connections with or openings into, alter or disturb either any public sewer or appurtenance thereof or any private sewer or appurtenance thereof without first obtaining a written permit from the Department of Public Works or the Portland Water District, if required. The fee for such permit shall be fifty dollars ($50.00).

(Ord. No. 26396, 52096; Ord. No. 261-01/02, 5-20-02; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2440. Costs.

All costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner.

(Ord. No. 26396, 52096)

Sec. 2441. Separate connections required.

A separate and independent building sewer shall be provided for every new building, and a separate connection shall be made for each building sewer. Old building sewers may be used in
connection with new buildings only when they are found, on examination and test by the Department of Public Works, to meet all requirements of this article.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2442. Defective building sewers to be repaired or replaced.

(a) Whenever any building drain or building sewer connected to the public sewers is found to be defective, deteriorating or substandard, the owner of the building served by such building drain or sewer shall be served by the Department of Public Works with written notice stating the nature of the defect and providing a fifteen (15) day period for the satisfactory repair or replacement of such building sewer and requiring the owner to make a new connection to the public sewer at the owner's expense.

(b) All work done pursuant to this section shall be inspected by the Department of Public Works. The fee for such inspection shall be twentyfive dollars ($25.00).

(c) Failure to comply. When a person to whom an order is directed fails to fully comply within the fifteen (15) day period, it shall be lawful for the city to repair a building drain or building sewer which is located within the public rightofway, and all costs thereof shall be charged to the owner thereof.

(d) Lien procedure. The Department of Public Works shall keep an accurate account of the expense of the work under this article, and as soon as practicable after completion of such work, the city shall assess to the person(s) upon whom notice has been served pursuant to subsection (a) of this section their just cost thereof, and all assessments so made shall constitute a lien on the property to be enforced in the manner provided for the collection of sewer assessments within the city.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s)Uniform procedure for collecting assessments, § 116.

Sec. 2443. Methods of construction.

On all work done within the scope of this article, the
size, slope, alignment and materials of construction of a building sewer, and the methods to be used in placing of the pipe, jointing, testing and backfilling the trench shall conform to the requirements of the Department of Public Works' building sewer construction specifications. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by a means subject to the approval of the Department of Public Works and discharged to the building sewer.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2444. Public sewer connection limitations.

(a) No person shall make connection of sanitary facilities such as toilets, washrooms, urinals, sinks, showers, drinking fountains, kitchens or laundry rooms, nor discharge or cause to be discharged any waste or domestic wastewater to a building's stormwater system or building storm drain which in turn is connected directly or indirectly to the storm drainage system.

(b) No person shall make connection of roof downspouts, foundation drains, sump pump, areaway drains or other sources of surface runoff or groundwater, nor discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(c) Stormwater shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Department of Public Works. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Department of Public Works, to a storm sewer, combined sewer or a natural outlet.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2445. Connections to public sewer.

The connection of the building sewer into the public sewer shall be constructed in the following manner:
(a) The Department of Public Works shall be notified in advance of the time when the connection is to be made. Such notice must be sufficient to permit the Department of Public Works to inspect the building sewer during construction and to be present when the connection is made to the public sewer.

(b) In the case of new construction, domestic wastewater systems and stormwater drainage systems shall be kept separated from their connections to the proper city sewers.

(c) The building sewer shall be connected to the public sewer at the point designated by the Department of Public Works.

(d) No building sewer connection constructed pursuant to this section can be approved if such sewer is backfilled and/or covered prior to inspection. No connection to the public sewer constructed pursuant to this section can be approved if such connection is made other than in the presence of an inspector from the Department of Public Works or the Portland Water District, as required. No such unapproved or unapprovable building sewer in the city may be used, and if the building served by such building sewer is occupied, the owner of such building will be held to be in violation of this section, with each day in which the violation continues deemed to be a separate violation.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2446. Sewer excavations.

(a) All excavations under this article within the public way shall be in accordance with article VII of chapter 25 of this Code.

(b) All excavations for sewer installation shall be made and maintained in compliance with the provisions of the construction safety rules and regulations of the state, applicable to excavation work.
Sec. 2447. Prohibited wastes.

(a) No person shall discharge or cause to be discharged any waters or wastes prohibited by Department of Public Works rule; or:

1. Any noxious or malodorous gas or substance capable of creating a public nuisance.

(b) The Department of Public Works may, if deemed necessary in its judgment, impose the following limitations on discharges of the following described waters or wastes to any public sewer or any part thereof:

1. Any aluminum exceeding a concentration of 500 milligrams per liter;
2. Any iron exceeding a concentration of 10 milligrams per liter;
3. Any tin exceeding a concentration of 2 milligrams per liter;
4. Any fluorides exceeding a concentration of 100 milligrams per liter;
5. Any phenols exceeding a concentration of 100 milligrams per liter;
6. Any chlorides exceeding a concentration of 3,000 milligrams per liter;
7. Any sulphates exceeding a concentration of 600 milligrams per liter;
8. a. Any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 500 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirtytwo (32) degrees and
one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

D. In the Westbrook Intermunicipal Sewer Service Area, any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperature between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

C. Any waters or wastes containing hydrocarbon (nonpolar) based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirtytwo (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

Sec. 2448. Prohibited wastes permitted how; cost.

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain any of the substances or possess the characteristics listed in section 2447, and which in the judgment of the Department of Public Works may have a deleterious effect upon the wastewater works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Department of Public Works may:

1. Reject the wastes;

2. Require pretreatment to an acceptable condition for discharge to the public sewer as required by rule;

3. Require control over the quantities and rates of discharge (flow equalization); and/or
4. Require payment to cover the added cost of handling and treating the wastes.

(b) If the Department of Public Works permits or requires pretreatment or waste flow equalization, the design and installation of the plants and equipment shall be subject to its review and approval subject to the provisions of the state plumbing code, and the provisions of this article.

(c) Where preliminary treatment or flow equalizing facilities are provided for any water or wastes, the owner shall bear the cost and responsibility for installing and maintaining them in continuously satisfactory and effective operating condition, as determined by the Department of Public Works.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2449. Separate systems required.

Any person discharging or causing to be discharged into any public sewer both domestic wastewater and industrial wastes from any building or premises shall install separate drainage systems for the domestic wastewater and industrial waste. The control manhole required by rule shall be installed in the industrial waste system; or where two (2) separate systems are required, the two (2) systems may be joined in the control manhole provided that samples of each system can be sampled separately.

(Ord. No. 26396, 52096)

Sec. 2450. Discharge permit.

(a) All categorical users and other dischargers of industrial wastes shall obtain a discharge permit from the Department of Public Works-Portland Water District, as required by rule. New users shall obtain permits prior to any discharge. Applications and permits shall be in a form prescribed by the Department of Public Works-Portland Water District and shall be subject to an application fee of three hundred dollars ($300.00) per permit as set by the Portland Water District. Additionally, each permit shall be subject to an issuance fee which shall equal the direct and indirect costs of any previous advertisement of noncompliance and any other outside services which in the discretion of the Department of
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Public Works are required in order to review and evaluate the application or to implement a pretreatment program for such permitted user.
(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2451. Public wastewater works not to be damaged.

No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the public sewer or stormwater drainage system.
(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2452. Right of entry.

The Department of Public Works, or the Portland Water District as its agent, bearing proper credentials and identification, shall be permitted to enter upon all properties with sewer or stormwater drainage systems connected to the public sewer and producing industrial or process wastes, at reasonable times and upon reasonable notice for the purpose of inspection, observation, measurement, sampling and testing or to otherwise enforce the rules, including copying of reports and records relating to the industrial pretreatment program in accordance with the provisions of this article.
(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2453. Exclusion of industrial waste.

(a) The Department of Public Works or the Portland Water District shall have authority to temporarily exclude any industrial waste, whether pretreated or not, from the public sewers whenever, in its or their opinion, such action is necessary for the purpose of determining the effects of such wastes upon the sewers, wastewater system or wastewater treatment facilities.

(b) The Department of Public Works or the Portland Water District shall notify the affected user prior to taking such actions and shall afford the user a reasonable time for response. The Department of Public Works or the Portland Water District shall have the authority to take actions necessary to halt the discharge of pollutants from any user to the treatment works which reasonably appears to present an imminent
Sec. 2454. Demolition of buildings.

(a) No building served by a building drain or sewer which is connected to the public sewers or to a private sewer system connected to the public sewers, may be demolished prior to the termination of the building sewer or drain at the public sewer under the inspection of the Department of Public Works. The building sewer shall be terminated at the main, at the point designated by the Department of Public Works.

(b) Notice of intent to demolish a building shall be given to the Department of Public Works, by means of a copy of the application for a demolition permit from the building authority or by direct notice to the Department of Public Works, in advance of the time when the building drain or sewer is to be terminated. No such demolition permit shall be issued until a drain termination permit has been issued by the Department of Public Works and a copy thereof has been given to the building authority.

(c) The fee to terminate the building and/or facility sewer and/or drain system will be paid to the city in advance of the termination. The fee of two hundred fifty dollars ($250.00) per termination represents inspection fees and materials to terminate sewer service. Upon payment of this fee and approval by the Department of Public Works, the applicant shall be issued a sewer termination permit.

(d) Failure to give notice of intent to demolish a building to the Department of Public Works, or to terminate the building drain prior to demolition thereof, or to obtain a permit therefor, shall be deemed a violation of this section, with each day in which the violation continues deemed to be a separate violation.

(e) All excavation for sewer service termination shall be made and maintained in compliance with all provisions of the construction safety rules and regulations of chapter 25, article
VII of this Code.

(f) Violations. The property owner who fails to obtain a sewer termination permit and terminate the sewer or drain from the building to be demolished to the public sewer shall be guilty of an offense.

(g) Failure to comply. When a person to whom an order is directed fails to terminate a building sewer or drain within a ten day period, it shall be lawful for the city to terminate the building sewer or drain. All city costs thereof shall be charged to the property owner.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

**Sec. 2455. Written notice required.**

Fortyfive (45) days' written notice shall be given to the Department of Public Works and the Portland Water District by any person proposing to:

(a) Substantially change the volume or character of pollutants over that being discharged into the treatment system at time of enactment of this article;

(b) Create a new discharge into the treatment system of pollutants from any source which would be a new source as defined in section 306 of the act if such a source were discharging pollutants elsewhere;

(c) Create a new discharge into the treatment system of pollutants from any source which would be subject to section 301 of the act if it were discharging such pollutants elsewhere.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

**Sec. 2456. Violations.**

Any person failing to comply with or violating any provision of this article shall be served by the Department of Public Works with written notice stating the nature of the failure or violation and providing a reasonable time limit for the satisfactory correction thereof. Such person shall, within the period of time stated in such notice, permanently cease or
correct all such failures or violations. Any person who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this section shall be guilty of an offense. Any person violating any of the provisions of this article shall be liable to the City and shall be assessed a civil penalty of a minimum of one thousand dollars ($1,000.00) per day for each violation of industrial pretreatment standards and requirements, and in addition, shall be liable for any expense, loss or damage occasioned by the City by reason of such violation, including reasonable attorney’s fees. The City may seek injunctive relief for the purposes of enforcing this article.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2457. Appeals.

(a) Whenever the person receiving written notice shall deem himself aggrieved by an order made by the Department of Public Works, the person may file an appeal to the city manager within ten (10) days of the date of the written notice, and the person shall be afforded a hearing on the matter before the city manager or his designee, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

(b) In cases of applicability or interpretation of this article, the city manager may revoke such order made by the Department of Public Works.

(c) In cases where compliance with such order made by the Department of Public Works would cause undue hardship, the city manager may extend the time limit of such order or they may permit exceptions to, or waive requirements of, or grant a variance from the specific provisions of this article, subject always to the rule that the city manager shall give due consideration to the purposes of this article in eliminating existing pollution, preventing further pollution and promoting the public health, safety and welfare.

(d) This Section shall not apply to notices of violation or other determinations issued by the Portland Water District. Any notices issued by the Portland Water District under this Article shall be subject to review by the superior court under Rule 80B.
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of the Maine Rules of Procedure within thirty (30) days of the decision.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-58. Reserved.
Sec. 24-59. Reserved.
Sec. 24-60. Reserved.
Sec. 24-61. Reserved.
Sec. 24-62. Reserved.
Sec. 24-63. Reserved.
Sec. 24-64. Reserved.
Sec. 24-65. Reserved.
Sec. 24-66. Reserved.
Sec. 24-67. Reserved.
Sec. 24-68. Reserved.
Sec. 24-69. Reserved.
Sec. 24-70. Reserved.

ARTICLE IV. SANITARY SEWER USER AND
INDUSTRIAL PRE-TREATMENT CHARGES*

*Editor's note: Ord. No. 26396, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use charges, consisted of substantive §§ 24712478, and derived from §§ 322.1322.3, 322.5322.8 of the 1968 Code, as amended by the following legislation:

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Sec. 2471. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article, and not defined elsewhere in this chapter, shall be as follows:

Commercial unit shall mean any structure or portion of a structure from which wastewater or industrial waste is discharged, excepting only dwelling units as defined hereinafter and shall include industrial users. Commercial units owned by different entities within the same structure and sharing the same water meter shall be treated as one (1) commercial unit.

Dwelling unit shall mean one (1) or more rooms occupied or designed to be occupied by one (1) or more natural persons as a single housekeeping unit with sanitary facilities, other than a place of public accommodation as defined hereinafter, discharging only domestic wastewater and shall include each unit of ownership in any condominium. If the occupant or occupants of rooms fit the definition of a dwelling unit except for the fact that the occupants share sanitary facilities with an occupant or occupants of other rooms located within the same structure, the number of units in the structure shall be deemed to be the total number of toilets or urinals located within such structure.

Parcel of land shall mean any area of land shown on the assessor's maps on the April first last preceding the operative date, located within the city, which is either connected in fact to a sewer within the city, or developed but unconnected to a...
sewer within the city, which sewer is nevertheless accessible to
the area within the meaning of section 2436.

Place of public accommodation shall mean any establishment
having sanitary facilities located therein which gives or offers
shelter or lodging to members of the general public, whether
transient or long term and shall include but is not limited to
hotels, motels, guest houses, hospitals, rest homes, nursing
homes, inns, fraternity houses and dormitories.

Treatment facilities shall mean all wastewater treatment
plants owned and operated by the Portland Water District or by
the city.

Total organic carbon or TOC shall mean the determination of
organic matter present by the measurement of carbon dioxide
produced by pyrolysis measured in accordance with 40 CFR Part
136.

Volume of water shall mean the amount of water, estimated
or measured, whichever is less, provided to the property by the
Portland Water District during the previous period of the
calendar year. This term shall include any amounts of water
obtained from other sources whether or not water is also
provided by the district.

(Ord. No. 26396, 52096; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s) Definitions and rules of construction generally, §
12.

Sec. 2472. Sanitary sewer user charges.

(a) Applicability. There are levied upon all parcels of
land charges for cost of treatment of wastewater and stormwater
and for the operation and maintenance of the wastewater system.

(b) Billing. Bills for all charges under this article may
be sent to the record owner, or to the person requesting water
service. Bills shall be sent to each such owner or person every
month, except that persons billed quarterly or seasonally by the
Portland Water District for water service may be billed
quarterly or seasonally for all charges under this article. All
payments shall be credited against the oldest outstanding bill
sent to such owner or person. Any payments made to the Portland
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Water District or its agents, which do not indicate to which account they are to be applied, shall be applied as provided by contract between the city and the Portland Water District.

Bills shall contain an amount for sanitary sewer user charges, and if delinquent as provided in section 116 of this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes.

(c) Computation. The user charges shall be computed in accordance with the following schedule, as from time to time amended, which shall be sufficient to meet costs of the eligible purposes for which such charges may be used. Beginning July 1, 2017, user charges under this section for both dwelling units and commercial units shall be nine dollars and sixty-five cents ($9.65) per hundred cubic feet of volume for connected parcels of land. The user charge for developed but unconnected parcels of land shall be one dollar and seventy-one cents ($1.71) per hundred cubic feet of volume. Each metered billing unit shall have a minimum charge of at least one hundred (100) cubic feet per month.

(d) Purposes for which charges may be used. Charges and assessments made under this article shall be used consistently with 33 U.S.C.A. § 1281 et seq., and applicable federal regulations for the following purposes:

(1) To defray the current expenses of operating and maintaining the wastewater system, including any assessment made by the Portland Water District;

(2) To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of sewers heretofore or hereafter constructed within the city;

(3) To reimburse the city for the cost of computation, billing and enforcement of such charges.

(e) Collection. Charges assessed pursuant to this section shall be enforceable pursuant to section 116 of this Code.

(f) Disconnection for nonpayment of charges. The Portland
Water District shall disconnect sewer users with unpaid sanitary sewer user charges according to the same terms and procedures used to disconnect water users with unpaid water user charges.

(Sec. 2473. Industrial surcharges.)

(a) Applicability. Each industrial user except those included in the Westbrook Inter-Municipal Sewer Service Agreement Area, shall be subject to surcharges in addition to any other treatment charge if the wastewater discharged by such user is determined by the Department of Public Works, in accordance with 40 CFR Part 136, to exceed any of the following concentrations:

(1) BOD of two hundred fifty (250) mg/l; or COD, where indicated for specific wastewater and a correlation between BOD and COD is established in such wastewater; or TOC, where indicated for specific wastewater and a correlation is established between TOC and BOD in such wastewater;

(2) TSS content of three hundred (300) mg/l.

(b) Computation of surcharge for BOD. The surcharge for BOD shall reflect the cost of removing the excess BOD and shall be computed in accordance with the following formula:

\[
\text{Surcharge for BOD} = \left( C_i - 250 \right) \times Q \times 8.34 \times \frac{1}{S_i}
\]

Where \( C_i \) = The concentration of BOD in mg/l

\( Q \) = The total volume of wastewater contributed during the billing period, in millions of gallons
8.34 = Conversion factor of gallons to pounds

$S_1 = $0.1633$ for each pound of BOD in dollars

(c) Computation of surcharge for TSS. The surcharge for TSS shall reflect the cost of removing the excess TSS and shall be computed in accordance with the following formula:

\[
\text{Surcharge for TSS} = \left( C_2 \times 300 \text{ mg/l} \right) \times Q \times 8.34 \times \frac{8.34}{S_2}
\]

Where $C_2 =$ The concentration of TSS in mg/l

$Q =$ Total volume of wastewater contributed during the billing period, in millions of gallons

8.34 = Conversion factor of gallons to pounds

$S_2 = $0.0817$ for each pound of TSS in dollars

(d) Westbrook Inter-Municipal Sewer Service Agreement area may be surcharged for BOD and TSS, based on the cost of treatment at the Westbrook Gorham Regional Treatment Plant.

(e) Industrial surcharge fee. An industrial surcharge fee is hereby established for all permitted discharges from all permitted users at a rate of $0.0857 per hundred cubic feet of volume, provided that the city council may, from time to time, by order, readjust the surcharge fee according to the then prevailing cost of administering the industrial pretreatment program and the anticipated number of permitted users and anticipated volume to be surcharged.

(f) Appeals. Any person aggrieved by a determination of the Department of Public Works made pursuant to this section may appeal such determination to the city manager, within thirty (30) days of notification of such determination. Such person may submit additional evidence and shall be heard orally by the manager or his deputy. The manager may modify the Department of Public Works' determination if satisfied that the determination was erroneous, inconsistent with this chapter, or with applicable rules, regulations or grant requirements made pursuant to 33 U.S.C.A. c. 26. All determinations of the manager
shall be rendered within a reasonable period of time, not to exceed ninety (90) days from the date of such hearing and shall be final.

(Ord. No. 26396, 52096; Ord. No. 97-03/04, 11-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2474. Reserved.

Sec. 2475. Volume measurements.

(a) Water volume measurements. Whenever in this article there is reference to volume of water, and the charges of such person are computed in whole or in part upon such volume of water, the use of such standard shall give the Department of Public Works the right to require any person obtaining water from sources other than the Portland Water District to install and maintain at such person's own expense water meters of a type approved by the Department of Public Works for the purpose of determining the volume of water obtained from their other sources and to report the volume of such water recorded by such meter to the Department of Public Works. Following installation, such meter shall not be removed without the written permission of the Department of Public Works.

(b) Wastewater volume. Devices for measuring the volume of wastewater discharged by a commercial or industrial user may be required by the Department of Public Works if these volumes cannot be determined from the water volume records. Any person who is a commercial or industrial user may, at his option, install devices approved by the Department of Public Works for the metering of wastewater and may have the charges based upon the volume of wastewater rather than upon water volume. All metering devices for determining the volume of wastewater shall be installed, owned and maintained by the person to be charged. Following approval and installation, such meters may not be removed without the consent of the Department of Public Works and may be read by the Department of Public Works at all reasonable times.

(c) Submetering of water volume. Any person who feels that recorded water records are not a reliable index of his discharge volume may install an additional water meter of a type approved by the Department of Public Works to measure the volume of water
which can be shown not to enter the sewerage system. The person installing such a meter shall immediately notify the Department of Public Works of such installation and shall be responsible to the Department of Public Works for reporting meter readings once every month. Such person shall be credited with the volume charges for the volume shown by such meter, which meter shall be accessible for reading by the city or its agents at all reasonable times.

(d) Review. Any person subject to charges under this article may make a written request for review of such charges by the city manager as provided in section 116 of this Code. The city manager may review and modify such charges, to the extent that justice requires, upon affirmative proof by such person that:

1. The volume of metered water consumed exceeds the volume of wastewater generated by the unit;

2. The difference between the volume of water and wastewater exceeds ten (10) percent of the metered water measurement;

3. The amount of the difference can be established to a substantial certainty by reliable tests or is documented by reliable sources prepared for purposes unconnected with wastewater disposal; and

4. Measurement by the measuring devices provided for in the preceding subsections is impossible or impractical.

(Ord. No. 26396, 52096; Ord. No. 37-09/10, 8-17-09; Ord. 108-15/16, 11-16-2015; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 2476. Assessments.

(a) Lien. All assessments upon a parcel of land made under this article shall create a lien for the benefit of the city.

(b) Reserved.
(Ord. No. 26396, 52096)

Cross reference(s)Uniform procedure for collecting assessments, § 116.
Sec. 2477. Violations.

Any person violating the provisions of this article, other than the requirement of payment of charges or assessments, shall be guilty of an offense. (Ord. No. 26396, 52096)

ARTICLE V. STORMWATER SERVICE CHARGES

Sec. 24-80. Purpose; Stormwater Service.

Stormwater services assist the city in meeting the regulatory obligations imposed by national pollutant discharge elimination system (NPDES) permits or other court orders or regulations promulgated from the act by reducing pollution and improving water quality within the city.

Stormwater services assist the city in protecting the public health, safety and welfare and the environment and providing stormwater services and regulation of the use thereof renders and/or results in both service and benefit to individual properties, property owners, business, citizens, and residents of the city and to all properties, property owners, businesses, citizens, and residents of the city concurrently and for the environment.

The area of impervious surface on each property is the most important factor influencing the cost of providing stormwater services by the city or to be provided by the city in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater service charge.

The City of Portland presently owns and operates storm sewers, combined sewers, and the stormwater drainage system, which have been developed over many years. The future usefulness of those existing services owned and operated by the city, and of additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater services in the city with the management of other water resources in the city. In order to do so, the city must have adequate and stable funding for its stormwater
service operating needs and capital program.

Stormwater services are needed throughout the city because many of those areas are developed. While specific service and facility demands may differ from area to area at any given point in time, a stormwater service area encompassing all lands and water bodies within the city is consistent with the present and future needs of the community.

The provision of stormwater services in the city promotes an essential regulatory purpose by influencing where stormwater runoff flows and how it is managed, thereby reducing flooding, erosion and water pollution caused by stormwater runoff.

By mitigating the impact of stormwater runoff from developed properties, stormwater services provided by the city help minimize damage that would subject a parcel owner to civil liability.

The city council is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment and finds that it is in the best interest of the health, safety, and welfare of the citizens of the city and the community at large and the environment to provide stormwater services accounted for in the city budget as a separate enterprise fund dedicated solely to the provision of stormwater services and to institute funding methods associated therewith.

In order to fully recover the cost of providing stormwater services a stormwater service charge is the most fair and reasonable means of apportioning the cost among developed land throughout the city.

Sec. 2481. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article shall be as follows:

Credit shall mean a conditional reduction in the amount of a stormwater service charge to developed land based on the provision and continuing presence of an effectively maintained
and operational approved on-site stormwater system or facility or other service or activity that reduces the cost of providing service.

Developed land shall mean property altered from its natural state by construction or installation of more than 400 square feet of impervious surfaces as defined in this chapter.

Exemption shall mean not applying to, or removing the application of the stormwater service charge from, a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner.

Impervious surfaces are those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces that prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Undeveloped land shall mean land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have less than or equal to 400 square feet of impervious surfaces as defined in this chapter consisting of limited pavement, asphalt, or compacted dirt or gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur naturally.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-82. Authority and Establishment of the Stormwater Fund.

(a) Under the authority of the Maine Constitution, Article VIII, and Title 30-A M.R.S. § 3001, the city hereby establishes the stormwater service charge to fund stormwater services within the city. Such stormwater charges shall be maintained and
accounted for separately in accordance with generally accepted accounting principles as determined by the city's finance director.

(b) Charges made under this article shall be used for the following purposes:

To defray the current expenses of stormwater services and a portion of the current expenses of the combined sewer system attributable to providing stormwater service;

To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of the storm drainage system and a portion of the combined sewer systems heretofore or hereafter constructed within the city similarly attributable to providing stormwater service;

To reimburse the city for the cost of computation, billing, and enforcement of such charges.

(c) The city manager will designate appropriate Department of Public Works management and other personnel, including support as needed of personnel from other city departments such as finance, to provide stormwater services and to collect and account for the stormwater service charge imposed hereunder.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-83. Exemptions.

Exemptions from stormwater charges established under this article are not allowed, except as provided in this section. Exemptions shall be allowed for:

(a) All roads owned or maintained by the State of Maine, including the Maine Turnpike; and all accepted City roads and all roads maintained by the City; all private roads and ways serving more than two dwelling or structures, but not driveways; all public pedestrian walkways. However, parking lots, buildings, or other developed land within the right-of-ways shall not be exempt from storm water service charges;
(b) Undeveloped land;

(c) Railroad rights-of-way (tracks). However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges;

(d) Airport runways, taxiways and aprons upon which public and private aircraft operate;

(e) With the exception of Peaks Island all islands are exempted from the fee due to the limited services provided to the islands.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-84. Stormwater Service Charge.

(a) There is levied upon all developed land stormwater service charges for the cost of providing stormwater services. All developed land shall be charged $6.00 per month per one thousand two hundred (1,200) square feet of impervious surface area, rounded to the nearest one thousand two hundred (1,200) square feet of impervious surface area.

(b) The basis for this charge is the measured amount of impervious surface area on the developed land as determined by the city. This measured area may be updated from time to time at the discretion of the Department of Public Works upon evidence of impervious surface area change or the availability of updated or more accurate information.

(c) Fees collected hereunder to fund stormwater services can also be supplemented by other revenues available to the city, including but not limited to state, federal, general and special city funds, and private grants and loans.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-85. Credits

(a) Owners of developed land may apply for and receive a voluntary stormwater service charge credit for approved stormwater credit systems or facilities. The director of the Department of Public Works or his/her designee shall determine
such approved stormwater systems and facilities and stormwater service charge credit amounts based on the technical requirements, design and performance standards contained in the city's stormwater credits manual, to be adopted by the director of the Department of Public Works pursuant to this ordinance, as it may be updated or amended from time to time.

(b) It is the responsibility of the record owner to initiate and apply in writing for stormwater service charge credits, and to provide all necessary information with a letter requesting the credit. The department of Public Works is not responsible for initiating a credit application, performing engineering calculations, or otherwise assisting in the preparation of a request for a credit. Credits will only be applied if the requirements outlined in the city's stormwater credit manual are met including but not limited to completion of on-going maintenance, guaranteed right-of-entry for inspection, and submittal of annual self-certification reports or other required reports as required per ordinance and rule.

(c) Credits will be applied to the stormwater service charge while stormwater facilities or management practices are functioning as approved by the city. If the approved practice or facility is not functioning as approved, or is terminated, the credit will be cancelled. Once the credit has been cancelled, the customer must reapply for the credit.

(d) The department of Public Works will only review complete credit requests. If approved, the credit will be applied to the first bill issued 30 days after the approval. Credits may be made retroactive, one calendar year from the date of the first billing period of the charge.

(e) A credit of up to one hundred percent (100%) of the stormwater service charge may be approved.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-86. Billing.

(a) All charges under this article shall be sent to the record owner of a given property. The record owner may request, subject to the approval of the director of the Department of Public Works, that the full charge be billed to the owner's designated tenant. The director may direct billing to the
tenant of the property if the tenant is currently billed for water and sanitary sewer charges. The record owner shall be liable for payment even if the stormwater service charges are billed to the tenant of the property.

(b) Condominiums shall have the full charge for the developed land equally divided among all condominium owners of developed land. The condominium owners may appeal the director in writing to adjust the fraction of the charge applied to each condominium owner. The director will require signed confirmation from each condominium owner of developed land that they approve the adjustment to the fraction of the charge applied.

(c) Bills shall contain an amount for stormwater service user charges, and if delinquent, as provided in section 1-16 of this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes and such delinquency may be collected by a civil action against the owner and/or may result in a lien being placed on the property as specified in section 24-88.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-87. Right of appeal and adjustments.

(a) A record owner may request review of the amount of the stormwater service charge imposed on such owner by written request to the director of the Department of Public Works within 30 calendar days of the date the customer receives the service charge bill.

(b) The owner must demonstrate the impervious surface area is less than the amount used in calculating the developed land’s stormwater service charge. Factors that will be considered include the impervious surface area of the property.

(c) An owner must comply with all rules and procedures adopted by the director when submitting a request for appeal or adjustment of the stormwater service charge and must provide all necessary information to make a determination.

(d) The director of the Department of Public Works or his/her designee shall review the service fee and issue a determination, in writing, within 30 calendar days.
(e) With a finding that the impervious surface area is less than the amount used to calculate the developed land's stormwater service charge, the sole remedy to the owner shall be re-calculation of the stormwater service charge based on the corrected impervious surface area. A finding that the impervious surface area is not less than the amount used to calculate the developed land's stormwater service charge shall be conclusive with respect to that property and shall remain effective unless the owner changes the impervious surface area of the property.

(f) An owner may appeal the director of the Department of Public Works decision to the city manager or his/her designee within 30 days of the date of the decision. An owner may appeal a decision of the manager to a court of competent jurisdiction pursuant to the applicable Rules of Civil Procedure. (Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-88. Right of enforcement and violations.

(a) The director of the Department of Public Works or his/her designee is the enforcement authority who shall administer, implement, and enforce the provisions of this article.

(b) It shall be unlawful for any person to violate or to fail to comply with the requirements of this article or its fees. Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452.

(c) Any person who violates this article may also be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorneys' fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this article also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this section; this responsibility shall be
in addition to any penalties, fines or injunctive relief imposed under this section.

(d) Without limiting the foregoing, failure to comply with this article may also be enforced as a nuisance and be subject to an abatement action, in addition to, or alternatively to, the enforcement actions described above.

(e) Consent agreement. The enforcement authority, with the approval of corporation counsel and the city manager, may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.

(f) Delinquent fees. Any owner that fails to pay the stormwater service charge when due shall be responsible for the amount of the unpaid service charge, interest on the unpaid amount, and attorneys' fees and other costs of collection. To the extent permitted by law, the fee, when overdue, including interest and penalties, is a lien on real property and may be collected in the same manner as a sewer user lien pursuant to state law. Delinquent amounts may also be collected by a civil action against the person.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-89. Limitation of liability.

This article shall not be interpreted to mean that property subject to the charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or that stormwater drainage systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. Therefore the following limitations on liability, in addition to any other limitations or immunities existing in law, are set forth:

(1) It is the express intent of the city that this article will protect the public health, safety and welfare of properties and persons in general. However, this ordinance does not create any special duty or relationship with any individual person or specific property either within or outside the service area.
(2) The city shall not be held liable for flood damage or assessing and removing pollution sources, and reserves the right to assert all available immunities and defenses in any action seeking monetary compensation from the city, or its officers, agents or employees for alleged damages arising from alleged failure or breach of duties or relationship as may now exist or hereafter be created.

(3) The issuance of any permit, plan approval or inspection shall not constitute a warranty, express or implied, nor shall it afford the basis for any action seeking the imposition of monetary damages against the city or its officers, employees or agents.

(4) Operation of stormwater drainage systems located on private property or public property not owned by the city and for which there has been no public dedication of such systems and facilities for operation, maintenance and/or improvements of the system, shall be the legal responsibility of the property owner, except as may be affected by the laws of the State of Maine and the United States of America.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-90. Severability.

Each section of this ordinance is severable from all other sections. If any part of this ordinance is deemed invalid by a court or competent jurisdiction, remaining portions of the ordinance shall not be affected and shall continue in full force. Whenever this ordinance conflicts with any other ordinance of the city, State of Maine, or federal government, the stricter standard shall apply, except as limited by state or federal law.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-91. Reserved.
Sec. 24-92. Reserved.
Sec. 24-93. Reserved.
Sec. 24-94. Reserved.
AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6
Re: RENTAL HOUSING ADVISORY COMMITTEE

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

1. That Chapter 6, Article XI., Section 6-225 of the Portland City Code is hereby amended to read as follows:

6-225. Rental Housing Advisory Committee

(a) There is hereby created a Rental Housing Advisory Committee (the “Committee”).

(b) The Committee shall be comprised of nine seven (97) members, including three (3) members who are landlords landlord representatives, three (3) members who are tenants, Tenant representatives—one (1) member who is not a landlord or a tenant, one (1) member experienced in legal rights/interest of tenants, and one (1) member with experience in legal rights/interests of landlords, and one (1) at-large resident representative who is neither a Tenant nor a Landlord of rental property, all of whom shall be appointed by the City Council. All members of the Committee shall be residents of the City of Portland and shall be appointed by the City Council to serve staggered terms set by City Council order. The Southern Maine Landlord Association will submit one name for consideration for the landlord representative position. Pine Tree Legal Assistance will submit one name for the tenant representative position.

(c) The Committee shall be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.

(d) The Committee shall meet not less than quarterly and shall undertake the following duties:
1. Compile and provide the Housing Committee with City of Portland housing market data;
2. Report annually to the Housing Committee on the state of the housing market in the City of Portland; and
3.1. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues to the City's housing ordinances or policies.

4.2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.
DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Mona Bector

FROM: Planning and Urban Development and Housing and Community Development

DATE: June 28, 2018

SUBJECT: Amendment to Chapter 6 section 6-225, Rental Housing Advisory Committee

SPONSOR: Housing Committee, Councilor Jill Duson, Chair

The Housing Committee met on June 5, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading: July 16, 2018  Final Action: August 13, 2018

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

PRESENTATION: Staff will be available for presentation

I. ONE SENTENCE SUMMARY
The Housing Committee voted to recommend changes to the structure and duties of the Rental Housing Advisory Committee which is created under Chapter 6 Buildings and Building Regulations, Article XI, Tenant Housing Rights, Section 6-225, Rental Housing Advisory Committee.

II. AGENDA DESCRIPTION
Section 6-225 of the Tenant Housing Rights Ordinance creates a Rental Housing Advisory Committee. At the May 23 Housing Committee meeting, the Committee discussed changes to the composition of the Rental Housing Advisory Committee, and their recommended duties.

The current ordinance language:

Section 6-225. Rental Housing Advisory Committee

(a) There is hereby created a Rental Housing Advisory Committee (the "Committee")
(b) The Committee shall be comprised of seven (7) members, including three (3) Landlord representatives, three (3) Tenant representatives and one (1) at-large resident representative who is neither a Tenant nor a Landlord of rental property, all of whom shall be appointed by the City Council. All members of the Committee shall be residents of the City of Portland and shall serve staggered terms set by City Council order.

(c) The Committee shall be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.

(d) The Committee shall meet not less than quarterly and shall undertake the following duties:

1. Compile and provide the Housing Committee with City of Portland housing market data;
2. Report annually to the Housing Committee on the state of the housing market in the City of Portland; and
3. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City’s housing ordinances or policies.

The following recommended changes are from the May 23 meeting of the Housing Committee:

(b) The Committee shall be comprised of nine (9) members, including
   - three (3) members who are landlords
   - three (3) members who are tenants
   - one (1) member who is not a landlord or a tenant
   - one (1) member experienced in legal rights/interest of tenants nominated by Pine Tree Legal Assistance
   - one (1) member with experience in legal rights/interests of landlords nominated by the Southern Maine Landlord Association

- All members of the Committee shall be residents of the City of Portland and shall serve staggered terms set by City Council order.
- All members will be appointed by the City Council.
- The Southern Maine Landlord Association will submit one name for consideration for the landlord representative positions.
- Pine Tree Legal Assistance will submit one name for the tenant representative positions.
- The Committee will be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.
- The City’s Planning and Urban Development Department, through the Housing and Community Development Division, will be the staff liaison to the Rental Housing Advisory Committee, attend all meetings and keep the minutes of the Committee.

(d) The Committee shall meet not less than quarterly and shall undertake the following duties:

1. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy
2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

III. BACKGROUND
In November, 2016, the City Council adopted a Tenant Housing Rights Ordinance (Chapter 6 Article XI Tenant Housing Rights Section 6-225 Rental Housing Advisory Committee).

Section 6-225 of the ordinance creates a Rental Housing Advisory Committee. As it is currently written, the Committee is to have seven members with representation from landlords, tenants and one at-large member who is neither a landlord nor a tenant.

At the June 14, 2017 Housing Committee meeting, the committee discussed concerns with the role of the Rental Housing Advisory Committee as outlined in the ordinance. At that time, members of the Housing Committee agreed that is was the original intent of the committee to create an advisory committee that would allow landlords and tenants to work on issues of mutual concern, identify priority areas of contention that they could work on and present recommendations to the council in an advisory capacity. The members of the Housing Committee were concerned that the ordinance language may set unintended expectations of the influence of such an advisory committee. Staff was tasked with returning to the Housing Committee with suggestions to address these concerns. This process was temporarily placed on hold while awaiting the November 2017 election results on the rent stabilization referendum.

During the May 23 Housing Committee meeting, the committee discussed changes to the composition of the Rental Housing Advisory Committee, and their recommended duties. The number of members to the Rental Housing Advisory Committee increased from 7 members to 9 members. One additional member will have experience in legal rights/interests of tenants nominated by Pine Tree Legal Assistance. The other additional member will have experience in legal rights/interests of landlords nominated by the Southern Maine Landlord Association.

The duties of the Rental Housing Advisory Committee will no longer include; compile and provide the Housing Committee with City of Portland housing market data; or report annually to the Housing Committee on the state of the housing market in the City of Portland. The Rental Housing Advisory Committee will continue their duty to; provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City’s housing ordinance or policies. The Rental Housing Advisory Committee will add the duty to; identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED
The goal of this text amendment is to provide to the Housing Committee, from the Rental Housing Advisory Committee, recommendations or proposals for improvements, modifications,
or changes regarding landlord and tenant policy issues, and to identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

The recommended changes to the structure and duties of the Rental Housing Advisory Committee is in keeping with the 2018 Portland City Council Committee on Housing goal to develop and recommend a Housing Advisory Board consistent with the language approved by the Council as part of the 2016 Housing security package, including housing professionals, tenant and landlord representatives, to assist the City in developing and implementing policy options to address existing and developing issues.

V. FINANCIAL IMPACT

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

VII. RECOMMENDATION
On June 5, 2018 the Housing Committee voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

VIII. LIST ATTACHMENTS
Amendments to Ordinance 6-225 Tenant Housing Rights

Prepared by: Victoria Volent
Date: June 28, 2018
ARTICLE XI. TENANT HOUSING RIGHTS

6-219. Purpose.

The purpose of this Article is to address housing insecurity in the City of Portland; to minimize the potential adverse impacts of un-noticed or short-notice rent increases; to educate at-will Tenants of their rights; and to help bring about through fair, orderly and lawful procedures, the opportunity of each person within the City of Portland without regard to, among other things, receipt of public benefits, to rent, enjoy and retain secure housing.

(Ord. No. 76-16/17, 11-21-2016)

6-220. Applicability.

This article shall apply to any and all rental housing units in the City limits of Portland.

(Ord. No. 76-16/17, 11-21-2016)

6-221. Definitions.

Discrimination means the unjust or prejudicial treatment of different categories of people, when those categories are protected from discrimination by municipal, state and federal law, including, but not limited to, categories based on race, color, religious creed, sex, sexual preference, national origin, age, physical handicap or mental handicap, and based on receipt of public assistance, as provided in 5 M.R.S. §4581-A and as amended from time to time.

Housing unit means one (1) or more rooms forming a single unit including food preparation, living, sanitary and sleeping facilities used or intended to be used by two (2) or more persons living in common or by a person living alone.

Landlord means an owner, manager, lessee, sublessee, managing agent or other person having the right to rent or sell or manage any housing unit or rental property or any agent of these individuals or entities.

Tenant means an individual, individuals, an entity, entities, a lessee or sub-lessee, or other person having the right to rent any housing unit or rental property or any agent of
these individuals or entities. This definition includes a Tenant at will as described in 14 M.R.S. §6002, as amended from time to time.

(Ord. No. 76-16/17, 11-21-2016)

6-222. Discrimination prohibited in sale or rental of housing units.

(a) A Tenant shall have the right to secure a rental housing unit without being refused that right on the basis of discrimination because of race, color, sex, sexual orientation, physical or mental disability, ancestry, national origin, or family status, pursuant to 5 M.R.S. Section 4581-A, et. seq., as amended from time to time.

(b) A Landlord shall not refuse to rent or impose terms of tenancy on any Tenant who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual’s status as a recipient as described in 5 M.R.S. §4581-A(4), as amended from time to time.

(Ord. No. 76-16/17, 11-21-2016)

6-223. Notification of rent increases.

Notwithstanding 14 M.R.S. Section 6015, a Landlord shall give seventy-five (75) days’ written notice of any rent increase to a Tenant.

(Ord. No. 76-16/17, 11-21-2016)

6-224. Protection of Tenants.

(a) The Planning Department or its designee shall create and make available on the City’s publically accessible web site a plain language document that explains Tenancy at Will and the rights and responsibilities of Tenants and Landlords of rental housing units. That document shall also include a checklist of required notices concerning environmental lead hazards, energy efficiency or radon testing, pursuant to 14 M.R.S. Sections 6030-B, 6030-C, and 6030-D, respectively, as amended from time to time.

(b) The document referenced above shall be provided by Landlords to all Tenants in the City of Portland at the commencement of the rental of a housing unit and shall be provided again upon any update to the document made by the Planning Department.
(c) An acknowledgement of receipt of the documents described above must be signed by all Tenants, and a copy of the acknowledgement kept on file by the Landlord for at least three (3) years and made available for inspection at the request of the City of Portland.

(d) At the time of the annual registration required by Chapter 6, Article VI of the City of Portland Code of Ordinances, all Landlords must certify to the City that they have provided the above-referenced documents to each of their respective Tenants.
(Ord. No. 76-16/17, 11-21-2016)

6-225. Rental Housing Advisory Committee

(a) There is hereby created a Rental Housing Advisory Committee (the "Committee").

(b) The Committee shall be comprised of nine (nine) members, including three (3) members who are landlords, landlord representatives, three (3) members who are tenants, tenant representatives, one (1) member who is not a landlord or a tenant, one (1) member experienced in legal rights/interest of tenants, and one (1) member with experience in legal rights/interests of landlords, and one (1) at-large resident representative who is neither a Tenant nor a Landlord of rental property, all of whom shall be appointed by the City Council. All members of the Committee shall be residents of the City of Portland and shall be appointed by the City Council to serve staggered terms set by City Council order. The Southern Maine Landlord Association will submit one name for consideration for the landlord representative position. Pine Tree Legal Assistance will submit one name for the tenant representative position.

(c) The Committee shall be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.

(d) The Committee shall meet not less than quarterly and shall undertake the following duties:

1. Compile and provide the Housing Committee with City of Portland housing market data;
2. Report annually to the Housing Committee on the state of the housing market in the City of Portland; and
3. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues to the City's housing ordinances or policies.
4. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

(Ord. No. 76-16/17, 11-21-2016)

6-226. Variation by agreement.

No provision of, or right conferred by, this Article may be waived by a Tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage or induce a Tenant to waive any provision hereof or right hereby shall be a violation of this Article. Nothing herein shall be construed to void any term of a lease that offers greater rights than those conferred hereby.

(Ord. No. 76-16/17, 11-21-2016)

6-227. Limitation of liabilities.

(a) Nothing in this Article shall be interpreted to contravene the general laws of the State of Maine; and

(b) Nothing in this Article shall be construed to create additional liabilities greater than those already existing under law or to create new private causes of action.

(Ord. No. 76-16/17, 11-21-2016)

6-228. Enforcement and remedies.

(a) Any violation of sections 6-223, 6-224 and 6-225 of this Article may be considered a civil infraction and may be enforced pursuant to the Portland City Code Chapter 1, §1-15.

(b) Any violation of §6-222 of this Article shall be enforced as required by the Maine Human Rights Act, 5 M.R.S. §§4551, et seq.

(Ord. No. 76-16/17, 11-21-2016)

6-229. Severability.

The provisions of this Article are severable. If any of its provisions are held invalid by act of competent jurisdiction, all other provisions of this Article shall continue in full force and effect.

(Ord. No. 76-16/17, 11-21-2016)
ORDER OF DISCONTINUANCE OF A PUBLIC WAY
ALONG A PORTION OF PORTLAND PIER

ORDERED, that the discontinuance of all of that portion of the street that lies southeasterly of the following described line is hereby approved:

Beginning at a point on the northeasterly street line of Portland Pier as laid out by the Commissioners of Cumberland County on June 6, 1887 and recorded in the County Commissioners' Records in Volume 16 Page 86. Said point of beginning being the intersection of said northeasterly street line of Portland Pier with the boundary line between land now or formerly of Fifty Portland Pier, Inc. (Book 8144 Page 140) and land now or formerly of 60 Portland Pier, LLC (Book 31814 Page 209). Said point of beginning also being located five-hundred-forty-three and fifty-one hundredths feet (543.51'), more or less, from the intersection of said northeasterly street line of Portland Pier with the southeasterly street line of Commercial Street. Thence southwesterly across said Portland Pier and at right angles to said street line a distance of twenty-nine feet and two inches (29' 2") to the southwesterly street line of said Portland Pier; and

BE IT FURTHER ORDERED AND ADJUDGED, that the City will retain a public easement over the land herein described;

BE IT FURTHER ORDERED AND ADJUDGED, that the sole abutting owner is ____________ which is supportive of such discontinuance. ____________ has waived any entitlement to damages. Accordingly, no damages shall be paid to such abutter.
MEMORANDUM

City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Mona Bector

FROM: Greg Mitchell, Economic Development Director

DATE: August 3, 2018

SUBJECT: Portland Pier, Partial Right of Way Discontinuance

SPONSOR: Justin Costa, Chair of the Economic Development Committee, as recommended on June 19, 2018 by unanimous vote of the Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:
Public Hearing: August 13, 2018 Final Action: First Available Meeting

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

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

Economic Development staff with support from Ports and Public Buildings will provide introductory comments and be available for clarifying questions.

I. ONE SENTENCE SUMMARY

The City Council is asked to consider discontinuing a portion of public right of way on Portland Pier while retaining access for the public and commercial marine businesses, including fishing vessels.

II. AGENDA DESCRIPTION

The Economic Development Committee met on June 19, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage. Following the statutorily described process for public right of way discontinuance, the Council voted on July 16 to propose the discontinuance.

The August 13 public hearing is an opportunity for the public and impacted properties to hear and comment on the proposal. A final decision and vote by the Council will take place at a future meeting more than 10 days after the public hearing.
The abutting property owner has been noticed (there is only one at 50 Portland Pier) and the discontinuance has been posted in the City Clerk’s office.

The Department of Economic Development, the Facilities Division, and the Department of Public Works recommend that the City Council hold a public hearing to consider discontinuance of a portion of public right of way at the southerly end of Portland Pier. The portion of right of way considered for discontinuance serves only a single property, 60 Portland Pier, Portland Pier Holdings, LLC. All private properties on Portland Pier, including 60 Portland Pier, will continue to have access from a public right of way and public access rights are to remain in effect for both commercial fishing and pedestrian use of the pier.

City staff and the Economic Development Committee recommend the discontinuance to promote private investment and maintenance of currently degraded pier infrastructure. Only with immediate and continued investment will public and fishing access be retained on the subject portion of right of way.

The subject portion of right of way is occupied by a pile-supported pier structure over submerged lands owned by the State of Maine. Following the proposed discontinuance, the City-owned portion of pier described will transfer to the surrounding property owner, Portland Pier Holdings, LLC. subject to the limits and requirements of the State Submerged Lands program.

Portland Pier Holdings, LLC. At 60 Portland Pier is amenable to the discontinuance and has agreed to waive damages and has further agreed to conduct immediate necessary repairs to the pier to promote continued public and fishing access.

III. BACKGROUND

Located between Custom House Wharf and Long Wharf (Dimillo’s,) Portland Pier, is unique along Portland’s Central Waterfront in that there is a public right of way down the center of the pier flanked by private parcels. Most piers on Portland’s waterfront are private. Formerly the home of the Casco Bay Lines car ferry terminal, the southerly end of the Pier has been occupied by lobstering interests since the 1980’s.

In addition to the subject property (the former New Meadow’s Lobster pound,) the pier is home to J’s Oyster, commercial offices, 40 and 50 Portland Pier Condominiums. Lobster boats berth on the easterly and southerly pier perimeter with Dimillio’s yacht brokerage leasing berthing along much of the westerly edge.

By previous action of the City Council in 2014, the southerly most portion of the public right of way was sold to a previous owner (McAllenly’s New Meadow’s Lobster.) Public rights of access were retained in the 2014 transfer.

The portion of right of way considered for discontinuance serves only one property (60 Portland Pier, Portland Pier Holdings, LLC) and is in need of significant rehabilitation. The current owners are currently engaged in repairing adjacent private portions of the pier and are willing to take on the current rehabilitation needs and ongoing maintenance of the subject portion of the pier. Without repair, access to the pier will need to be restricted for safety. There is currently no City budget identified for repair.
Portland Pier Holdings, LLC plans to rehabilitate and restart the lobster pound operation, retain the current commercial berthing, and to establish a seafood restaurant specializing in lobster and seafood landed and processed on the pier. All of the current and proposed uses are planned to be consistent with the Waterfront Central Zone requirements. Public access and continued lobster operations are central to the redevelopment program.

The subject portion of right of way and the entirety of the 60 Portland Pier buildings and pier deck are supported by pilings over submerged lands. The property owners are currently conducting significant repair on the private portions of the pier. The City Manager has provided a license to Portland Pier Holdings, LLC to conduct work on the public portions of the pier to ensure that commercial fishing and access to berthed vessels can continue in the short term.

The sketch graphic attached to this memo shows approximate private parcel boundaries, the 2014 sale parcel, and areas of right of way to be retained and for potential discontinuance.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Functionally, users of the pier will see no change within the right of way post discontinuance. The proposed discontinuance will allow for the private maintenance of pile supported pier while continuing commercial and public access to the southerly end of the pier.

V. FINANCIAL IMPACT

Portland Pier Holdings, LLC, as part of their on-going repairs of the private portions of the pier, estimate that the immediate repairs needed on the subject public portion of Portland Pier would cost +/-$78,000. If the subject portion of ROW is to remain in public hands, these immediate costs and future maintenance and repairs will remain the responsibility of the City.

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

Since the 1980's, Portland Pier has provided access to berthing, commercial lobstering, and public views to the inner harbor for pedestrians. Maintenance of the pier is key to preserving these functions. The public right of way appears to reflect the historic use of the pier as a (private) car ferry terminal. In the transition from ferry terminal to lobster pound, the southerly end of the pier retained the public’s right to use the pier, but functionally access to the water for active use was privatized. Promoting private commercial fishing access within the Central Waterfront was consistent with City policy in 2014 and remains so today. Private ownership of the remaining portion of right of way that is surrounded by 60 Portland Pier would promote continued maintenance of the infrastructure while preserving access for current and future commercial fishing and public pedestrian use.

VII. RECOMMENDATION

The Department of Economic Development, the Facilities Division, and the Department of Public Works join the Economic Development Committee in recommending the discontinuance while retaining public and commercial fishing access to the pier.

VIII. LIST ATTACHMENTS

a. Orientation sketch map
b. Discontinuance Order

c. Copy of Notice delivered to impacted abutter

Prepared by: Bill Needelman, Waterfront Coordinator
Date: August 3, 2018
Notice of Public Hearing
on Proposed Discontinuance of a Road

TO: Jim Hanley
Portland Pier Holdings, LLC
50 Portland Pier, Suite 400
Portland, Maine 04101

FROM: The City of Portland

Dear Property Owner: Our records show that your property abuts the Portland Pier. This is to notify you that on July 16, 2018, the Portland City Council issued an Order of Discontinuance of a Road that proposes to discontinue the public right of way along a portion of the Portland Pier, which portion is described as follows:

Beginning at a point on the northeasterly street line of Portland Pier as laid out by the Commissioners of Cumberland County on June 6, 1887 and recorded in the County Commissioners' Records in Volume 16 Page 86. Said point of beginning being the intersection of said northeasterly street line of Portland Pier with the boundary line between land now or formerly of Fifty Portland Pier, Inc. (Book 8144 Page 140) and land now or formerly of 60 Portland Pier, LLC (Book 31814 Page 209). Said point of beginning also being located five-hundred-forty-three and fifty-one hundredths feet (543.51''), more or less, from the intersection of said northeasterly street line of Portland Pier with the southeasterly street line of Commercial Street. Thence southwesterly across said Portland Pier and at right angles to said street line a distance of twenty-nine feet and two inches (29' 2'') to the southwesterly street line of said Portland Pier.

The Order also states the amount of damages to be paid to abutting property owners. A copy of that Order is attached to this Notice and is incorporated herein. The Order of Discontinuance has been filed with the City Clerk. **The City Council will hold a public hearing on August 13, 2018 at 4:00 p.m. at Portland City Hall in Council Chambers to hear public comments on the Order of Discontinuance.** The Order will take effect when and if it is approved by a vote of the City Council. If the Order is approved, the City of Portland will have no obligation to maintain, repair or plow the road, and the public will have the right to continue using the road as a public easement unless the Council discontinues the public easement as well.

If you have comments you would like to make regarding the proposed discontinuance, you are invited to provide those comments to the Council at the public hearing on August 13, 2018.

Date: July 19, 2018
ORDER CHANGING POLLING PLACE FOR
DISTRICT 1 PRECINCT 3 FROM
THE ST. CHRISTOPHER’S CATHOLIC CHURCH
TO THE PEAKS ISLAND KENNEDY & CARTER FAMILY COMMUNITY CENTER

ORDERED, that the polling place for District 1 Precinct 3 is hereby changed from St. Christopher’s Catholic Church, 15 Central Avenue, Peaks Island, to the Peaks Island Kennedy & Carter Family Community Center, 129 Island Avenue, Peaks Island, for the November 6, 2018 general election and any subsequent elections.
TO: Julie Flynn, Deputy Secretary of State
FROM: Katherine Jones, City Clerk
DATE: July 18, 2018
RE: Change of Polling Place

We were temporarily using St. Christopher Church as our polling place on Peaks Island while the Peaks Island Community Center was being renovated.

The Peaks Island Community Center is finished being renovated, and I will need to move the current polling place; St. Christopher’s Catholic Church located at 15 Central Avenue, Peaks Island back to the Peaks Island Community Center, 129 Island Avenue, Peaks Island, ME.

Peaks Island Community Center meets ADA requirement and has been inspected by the City's Trade Supervisor.

I have also attached the measurements and requirements for the use of this polling place.

Thank you for your consideration.
Municipal Self-Certification for Voting Place Accessibility

Municipality: Portland  Ward/Precinct: 1-3 (Peaks Island Community Center)

Building surveyed: Peaks Island Community Center

Location (physical address) of building surveyed:

129 Island Avenue

Purpose of building:  ✔ Used as voting place on Election Day

☐ Used for absentee voting

Municipal property:  ✔ Yes  ☐ No

If not municipal property, list owner, address and contact phone number:

<table>
<thead>
<tr>
<th>Owner</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
</table>

Instructions:

Perform a self-assessment on each accessibility category listed. Answer the questions with a “Yes” or “No”. For “No” answers, please provide the actual measurement(s). Additional comments may be included for clarification. Refer to the booklet "Ensuring Accessibility" and the FAQ list provided by the Secretary of State. A responsible municipal official (town manager, code enforcement officer, selectman, etc.) must sign and date the certification form in the spaces provided at the bottom of the report.
### A. Parking Spaces

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is parking available (on-street, off-street, or both)?</td>
<td>![circle]</td>
</tr>
<tr>
<td>2. Is the surface of the parking area stable, firm and slip resistant?</td>
<td><strong>Yes</strong> all paved</td>
</tr>
<tr>
<td>3. Is any accessible parking identified?</td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>4. Is the minimum number of accessible parking spaces with proper access aisles provided? Min. of 1 van space and additional spaces as required.</td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>5. Do van-accessible space(s) provide proper vertical clearance (8'2&quot;)?</td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>6. Does each accessible parking space have proper signage?</td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>7. Are all accessible parking spaces and access aisles relatively level (1:50 or 2%) in all directions?</td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>8. If there is a curb between the access aisle and the accessible route is there a curb ramp (as described below)?</td>
<td>![interval]</td>
</tr>
<tr>
<td>a. Is the ramp surface at least 36&quot; wide, excluding flared sides?</td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>b. Is the slope no more than 1:12?</td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>9. Are the accessible parking spaces on the shortest accessible route to the accessible entrance?</td>
<td><strong>Yes</strong></td>
</tr>
</tbody>
</table>

**Other comments:**
## B. Sidewalks & Walkways

1. Is there an accessible route and accessible entrance at a primary entrance used by other voters?  
   - **YES**

2. Is there signage to indicate the route to the accessible entrance?  
   - **YES**

3. Is the accessible route at least 36" wide? List measurement.  
   - **YES 36"**

4. Is the accessible route free of steps and abrupt level changes over 1/2 inch?  
   - **YES**

5. If the accessible route crosses a curb is a curb ramp provided (as described below)?  
   a. Is the ramp surface at least 36" wide, excluding flared sides?  
      - **YES**
   b. Is the slope (up or down the curb ramp) no more than 1:12?  
      - **YES**

6. If the slope of part of the accessible route is greater than 1:20, does this part meet the following requirements for an access ramp?  
   a. Is the ramp slope no greater than 1:12?  
      - **YES**
   b. If the vertical rise is more than 6", are handrails provided?  
      - **YES**
   c. Are the tops of the handrails mounted between 34 and 38 inches above the ramp surface?  
      - **NO**
   d. Are the handrails grippable (less than 2" diameter) and stable within fittings?  
   e. Is the ramp width at least 36"? (Measure between handrails when provided.)  
   f. Are proper top and bottom landings (60" long) provided for each ramp section?  
   g. If a ramp is more than 30 feet long, is a proper level landing (60" long) provided every 30 feet?  
   h. Is a proper level landing (60" x 60") provided where a ramp changes direction?  
   i. If the ramp or landing has a vertical drop off on either side, is 2" edge protection provided?  
   j. Is the cross-slope less than 2%?
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Are all sidewalks and walkways to the voting area free of any undetectable objects?</td>
<td>YES</td>
</tr>
<tr>
<td>8. Are all objects that hang over the pedestrian routes 80&quot; or more above the route?</td>
<td>YES</td>
</tr>
<tr>
<td>9. Are the undersides of exterior stairs enclosed or protected with a cane detectable barrier?</td>
<td>YES</td>
</tr>
<tr>
<td>10. Is an accessible route provided from public sidewalks and public transportation stops on the polling site to the accessible entrance of the building?</td>
<td>YES</td>
</tr>
</tbody>
</table>

Other comments:
### C. Passenger Drop Off Areas

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Is a passenger drop-off area provided? If not, is there an area available that could meet the following requirements?</td>
</tr>
<tr>
<td>2.</td>
<td>Is the vehicle space relatively level (1:50 or 2% max slope in any direction)?</td>
</tr>
<tr>
<td>3.</td>
<td>Is a relatively level (1:50 or 2% max slope in any direction) access aisle provided?</td>
</tr>
<tr>
<td>4.</td>
<td>Is the area for the access aisle at least 60&quot; wide and 20-feet long?</td>
</tr>
<tr>
<td>5.</td>
<td>Is there proper vertical clearance (9' 6&quot;) for the vehicle route to the loading zone, the drop off area, and the exit?</td>
</tr>
<tr>
<td>6.</td>
<td>If a curb ramp is provided between vehicle pull up area and the access aisle, and/or access route to the accessible entrance does it meet the requirements described below?</td>
</tr>
<tr>
<td>a.</td>
<td>Is the slope of the curb ramp surface no more than 1:12?</td>
</tr>
<tr>
<td>b.</td>
<td>Is the width of the curb ramp surface at least 36 inches?</td>
</tr>
<tr>
<td>7.</td>
<td>Does an accessible route connect the drop off area to the accessible entrance?</td>
</tr>
</tbody>
</table>

Other comments:
### D. Building Entrance

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there signage to indicate the accessible entrance?</td>
<td>Yes</td>
</tr>
<tr>
<td>2. Does the door at the accessible entrance provide proper passage (32&quot; width)?</td>
<td>Yes 2 36 in doors</td>
</tr>
<tr>
<td>3. Does the door have an accessible handle (inside and outside)?</td>
<td>Yes</td>
</tr>
<tr>
<td>4. Is the door handle located no more than 48&quot; from the floor (measured from center of handle)?</td>
<td>Yes</td>
</tr>
<tr>
<td>5. Is proper clearance provided on the pull side of the door (18&quot;)?</td>
<td>Yes</td>
</tr>
<tr>
<td>6. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2&quot;).</td>
<td>NO THRESHOLD</td>
</tr>
<tr>
<td>7. Is the force of the door for pushing or pulling easy to operate? Specify force.</td>
<td>Yes</td>
</tr>
<tr>
<td>8. Is there proper floor space provided if the entry has a vestibule (30&quot; x 48&quot; beyond swing of door)?</td>
<td>Yes</td>
</tr>
<tr>
<td>9. If vestibule, is second door accessible? Repeat questions 2-7 (9a – 9f).</td>
<td></td>
</tr>
</tbody>
</table>

Other comments:
### E. Hallways & Corridors

<table>
<thead>
<tr>
<th>Question</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there an accessible route (36&quot; width) that connects the accessible entrance to the voting area?</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>2. Is the accessible route free of steps and abrupt, unbeveled level changes over 1/2&quot;?</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>3. Does the route from the accessible entrance to the voting area change levels using a ramp, lift or elevator?</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>4. At each location on the way to the voting area where the accessible route passes through a door or doors, does the door meet the following requirements (at least one door for double doors)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Is clear width at least 32&quot; when door is open 90 degrees?</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>b. Does the door have an accessible handle? (Shape and height)</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>c. Is proper clearance provided on the pull side of the door (18&quot;)?</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>d. Is no more than 5 pounds force needed to push or pull open the accessible door?</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>e. If the answers to any of questions (b) thru (d) are &quot;No&quot;, can the door be propped open to provide an accessible route on Election Day?</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>f. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2&quot;).</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>5. Are pedestrian routes leading to or serving the voting area free of any undetectable objects? (Bottom edge no higher than 27&quot; or protruding from wall more than 4&quot;)</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>6. Are all objects that hang over the pedestrian routes 80&quot; or more above the route?</td>
<td>YES</td>
<td></td>
</tr>
<tr>
<td>7. Are the undersides of interior stairs enclosed or protected with a cane detectable barrier?</td>
<td>YES</td>
<td></td>
</tr>
</tbody>
</table>

Other comments:
### F. Ramps

1. Where the slope of the accessible route is greater than 1:20, does this part of the route meet the following requirements for an access ramp?

   ![Ramp](image)

2. Is the slope no greater than 1:12?

3. If the vertical rise is more than 6", are handrails provided?

4. Are the handrails grippable (less than 2" diameter) and stable within fittings?

5. Are the tops of the handrails mounted between 34 and 38 inches above the ramp surface?

6. Is the ramp width at least 36"? (Measure between handrails when provided)?

7. If a ramp is more than 30 feet long, is a proper level landing (60" long) provided every 30 feet?

8. Are proper top and bottom landings (60" long) provided for each ramp section?

9. Is a proper level landing (60" x 60") provided where a ramp changes direction?

10. If the ramp or landing has a vertical drop-off on either side of the ramp, is 2" edge protection provided?

Other comments:
<table>
<thead>
<tr>
<th>G. Elevators</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. If an elevator is provided, does it meet the following requirements?</strong></td>
</tr>
<tr>
<td><strong>No Elevator</strong></td>
</tr>
<tr>
<td><strong>2. Are the elevator call buttons mounted in an accessible location (centered 42&quot; above floor)?</strong></td>
</tr>
<tr>
<td><strong>3. Are raised letters and Braille characters used to identify each floor button and each control?</strong></td>
</tr>
<tr>
<td><strong>4. Are signs mounted on both sides of the elevator hoistway door opening that designate the floor with 2&quot; minimum-height raised letters and Braille characters centered at 60&quot; above the floor?</strong></td>
</tr>
<tr>
<td><strong>5. Does the floor area of the elevator car provide space for wheelchair users to enter, reach the controls, and exit the car?</strong></td>
</tr>
</tbody>
</table>
| a. Provide side door interior floor measurements: 
| b. Provide center door interior floor measurements: |
| **6. Are the highest floor control buttons in the elevator cab mounted no more than 54" above the floor for a side reach or 48" for forward reach?** |
| **7. Is the elevator equipped with audible tones or bells or verbal annunciators that announce each floor as it is passed?** |
| **8. Do the elevator doors stay open long enough to enter safely?** |
| a. Indicate time: |

Other comments:
# H. Lifts

1. If a wheelchair lift is provided, does it meet the following requirements?

   - [ ] No

2. Is the lift operational at the time of the survey?

3. Is the change in level from the floor to the lift surface ramped or beveled or less than 1/2 inch?

4. Is there at least a 30" by 48" clear floor space on the wheelchair lift?

5. Does the lift allow a wheelchair user unassisted entry, operation, and exit?

6. Are the controls and operating mechanisms mounted no more than 54" above the floor for a side reach or 48" for a forward reach?

7. Are the controls and operating mechanisms usable with one hand without tight grasping, pinching, or twisting?

Other comments:
## I. Voting Area

1. Is there an accessible entrance to the voting area as described below?
   
   a. Is clear width at least 32" when door is open 90 degrees? **Yes**
   
   b. Does the door have an accessible handle? (Shape and height) **Yes**
   
   c. Is proper clearance provided on the pull side of the door (18")? **Yes**
   
   d. Is no more than 5 pounds force needed to push or pull open the accessible door? **Yes**
   
   e. If the answers to any of questions (b) thru (d) are no, can the door be propped open to provide an accessible route on Election Day? **No**
   
   f. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2") **No**

2. Within the voting area, is adequate space available on the accessible level for check-in tables, a voting demonstration area (if provided), and at least one accessible voting station? Describe briefly.
   
   20' x 30'

3. Is the voting area free of any undetectable objects? **Yes**

4. Are all objects that hang over the voting area 80" or more above the ground? **Yes**

5. Are interior floor surfaces relatively level and free from abrupt level changes? Please describe the floor surface of hallways and voting area.
   
   **Yes**

Other comments:
### J. Second Voting Area/Other Area (if applicable)

1. Is there an accessible entrance to the voting area as described below?
   - a. Is clear width at least 32" when door is open 90 degrees?
   - b. Does the door have an accessible handle? (Shape and height)
   - c. Is proper clearance provided on the pull side of the door (18")?
   - d. Is no more than 5 pounds force needed to push or pull open the accessible door?
   - e. If the answers to any of questions (b) thru (d) are no, can the door be propped open to provide an accessible route on Election Day?
   - f. If there is a raised threshold, is it no higher than 3/4 inch at the door and beveled on both sides? (Max threshold without beveled edge is 1/2").

2. Within the voting area, is adequate space available on the accessible level for check-in tables, a voting demonstration area (if provided), and at least one accessible voting station? Describe briefly.

3. Is the voting area free of any undetectable objects?

4. Are all objects that hang over the voting area 80" or more above the ground?

5. Are interior floor surfaces relatively level and free from abrupt level changes? Please describe the floor surface of hallways and voting area.

Other comments:
By signing this Self-Certification form, the municipality is verifying that each accessibility category has been reviewed for compliance with the guidelines under the American's with Disabilities Act (ADA) and either meets the requirements defined therein or will be addressed within a reasonable timeframe to provide accommodation to individuals with disabilities.

Prepared by: Randy Emmons/Katherine Prep
Title: Elections Supervisor / Clerk

Contact information:

359 Congress St. 874-804
Address Phone Fax

Email address: Kathy.Jean.Hendr
Signature: Kathy Jean Hendr Date: 7/21/2018

Mail the completed and signed certification to:

Bureau of Corporations, Elections, and Commissions
Division of Elections
101 State House Station
Augusta, ME 04333-0101
Polling Place Layout Peaks Island
15 Central Ave
Peaks Island, ME 04108
ORDER APPROPRIATING $2,110,000 FROM
THE SALE OF CITY- OWNED 0 HANCOCK STREET

ORDERED, that $1,000,000 from the sale of city-owned 0 Hancock Street is hereby
appropriated for use in the renovation of the North Deering Fire Station at 386
Allen Avenue and any costs related and ancillary thereto; and

BE IT FURTHER ORDERED, that $1,000,000 from the sale of city-owned 0 Hancock Street
is hereby appropriated to the Housing Trust Fund; and

BE IT FURTHER ORDERED, that $110,000 from the sale of city-owned 0 Hancock Street is
hereby appropriated to fund the joint venture with South Portland called the
Climate Action Plan; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or
her designee to execute said document and any other related documents necessary
or convenient to carry out the intent of said document.
MEMORANDUM
City Council Agenda Item

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

FROM: Brendan T. O'Connell, Finance Director

DATE: August 2, 2018

SUBJECT: Order Appropriating $2.11M of 0 Hancock Street Sale Proceeds

SPONSOR: Nick Mavodones, Finance Committee Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading 8/13 (1st) Final Action 8/13 (2nd)

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

Action should be taken at the 8/13 meetings as the Allen Avenue Fire Station is currently closed and needs immediate repairs.

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

I. ONE SENTENCE SUMMARY

The City Council sold 0 Hancock Street in August 2017 and this order appropriates $2.11M of the $3.3M in sale proceeds for repairs at Allen Avenue Fire Station, funding of the Housing Trust Fund, and funding of the joint Climate Action Plan with South Portland.

II. AGENDA DESCRIPTION (This is all that will be included of the agenda.)

This appropriation was recommended unanimously (3-0) by the Finance Committee at their 8/2/18 meeting.

On August 21, 2017, the City Council approved a $3.3 million purchase and sale agreement with 0 Hancock Street, LLC for the sale of 48,000 square feet of the City-owned Thames Street property along the Eastern Waterfront. In October 2017, groundbreaking occurred on the 100,000 square foot, 4-story mixed-use development that will serve as the world headquarters of WEX with additional retail space.

The full $3.3M of property sale proceeds were collected in fiscal year 2018. The City does not typically budget for significant amounts of property sale revenue, so this inflow of funding is
above and beyond the FY18 budgeted revenues and will result in an increase in fund balance above the recommended level. Upon initial discussion of the Finance Committee the Finance Director is formally requesting that the Finance Committee and City Council vote to appropriate $2.11M of these funds the following purposes:

- $1,000,000 to support the rehabilitation of the Allen Avenue Fire Station
- $1,000,000 to support the Housing Trust Fund
- $110,000 to support the Climate Action Plan - the joint venture with South Portland

III. BACKGROUND

Funding for Rehabilitation of the Allen Avenue Fire Station

During September 2017 a fire broke out in the kitchen area of the Allen Avenue fire station, caused moderate damage to the kitchen and smoke damage throughout the one-story building, which houses the Ladder 4 and Medcu 4 fire companies. The station is currently closed due to the damage. The Allen Avenue ladder truck was relocated to the fire station on Forest Avenue and the ambulance crew was moved to the fire station on Ocean Avenue. The current cost estimate to repair the station (attached in Appendix A) is approximately $1.3M. The cost is more extensive than simple damage repairs as the building is very old and needs to be brought up to current code in many areas. Although the insurance company will pay for a percentage of the repairs, the appropriation request is for $1M of the $1.3M to cover deductible and City share of expenses. Corporation Counsel staff is working with the insurance company to make a final determination of what is covered. Any excess insurance proceeds received will be deposited back into fund balance. Acting Fire Chief Keith Gautreau and Liability and Insurance Claims Manager Lori Smith are available to answer Committee questions about the project. 100% Construction Drawings have also been added to the August 2nd Finance Committee meeting backup materials.

Housing Trust Funds

In recent years there has been an increased focus on providing funding for the Housing Trust. The Council’s Housing Committee, led by Councilor Duson, has made it a priority to increase the funding for the Housing Trust Fund. Historically the trust has been funded through fees assessed under the Housing Replacement Ordinance. More recently, the trust has been funded via contributions from developers under inclusionary zoning requirements. However these fees are paid when a project is issued a certificate of occupancy.

The Housing Trust provides a valuable source of funding for projects that have sought the other funding sources for affordable housing development, but that still have a financing gap. It also helps projects that do not meet the criteria for other funding sources (for example, workforce housing projects not eligible for HOME funds and Housing Tax Credits.) The most recent Housing Trust annual plan includes a waivable minimum balance of $500,000 in the Trust. This minimum balance is held in reserve to cure defects in existing affordable housing developments if necessary in order to avoid losing existing units. For example, should a deed-restricted workforce condominium go into foreclosure, the minimum balance would give the City the flexibility to resolve the foreclosure and keep the unit affordable. Otherwise, the bank’s
mortgage may supersede any affordability restriction. In this case, the City could potentially then resell the unit with the deed restriction and recapture the funds for the Housing Trust. This minimum balance, while waivable, is in keeping with best practices for Housing Trusts nationally.

This year, in part due to the existence of the Housing Trust, the City has active proposals for over 200 units of affordable housing. It will not be possible to fund these projects while maintaining a minimum balance, and hopefully a reserve for future years, without the allocation of funds from the 0 Hancock Street sale into the Trust. Receiving these funds before the current round of allocations from the Trust at the first September Council meeting will be important to providing full utilization of these resources in 2018.

With the development boom in Portland, it is anticipated that the Housing Trust will grow, but as the first chart below shows, many projects have been approved, but only three are currently under construction. With this additional $1,000,000 in contribution, the fund will have nearly quadrupled in just over two years. The second chart below outlines the historical sources and uses of the Housing Trust Funds.

Inclusionary Zoning Development Projects: December 2015 - November 2017

<table>
<thead>
<tr>
<th>Address</th>
<th>Status</th>
<th># of Units</th>
<th>Type</th>
<th>Workforce Off-Site</th>
<th>Fee-In-lieu</th>
</tr>
</thead>
<tbody>
<tr>
<td>169 Newbury St (Luminato)</td>
<td>Under Construction</td>
<td>26</td>
<td>Condo</td>
<td>2 off site</td>
<td>2 $0</td>
</tr>
<tr>
<td>62 India Street</td>
<td>Under Construction</td>
<td>29</td>
<td>Condo</td>
<td>0</td>
<td>0 $290,000</td>
</tr>
<tr>
<td>443 Congress St</td>
<td>Under Construction</td>
<td>28</td>
<td>Apt</td>
<td>0</td>
<td>0 $280,000</td>
</tr>
<tr>
<td>70 Anderson St</td>
<td>Approved (2016)</td>
<td>10</td>
<td>Town House</td>
<td>1</td>
<td>0 $0</td>
</tr>
<tr>
<td>75 Chestnut St</td>
<td>Approved (2016)</td>
<td>54</td>
<td>Apt</td>
<td>5</td>
<td>0 $0</td>
</tr>
<tr>
<td>20 Thames St</td>
<td>Approved (2017)</td>
<td>28</td>
<td>Condo</td>
<td>0</td>
<td>0 $280,000</td>
</tr>
<tr>
<td>161 York St</td>
<td>Approved (2017)</td>
<td>11</td>
<td>Condo</td>
<td>0</td>
<td>0 $110,000</td>
</tr>
<tr>
<td>221 Congress St</td>
<td>Approved (2017)</td>
<td>17</td>
<td>Condo</td>
<td>0</td>
<td>0 $170,000</td>
</tr>
<tr>
<td>153-165 Sheridan St</td>
<td>Approved (2017)</td>
<td>19</td>
<td>Condo</td>
<td>1</td>
<td>0 $0</td>
</tr>
<tr>
<td>1 Joy Place</td>
<td>Approved (2017)</td>
<td>12</td>
<td>Condo</td>
<td>1</td>
<td>0 $0</td>
</tr>
<tr>
<td>218-220 Washington St</td>
<td>Approved (2017)</td>
<td>45</td>
<td>Condo</td>
<td>0</td>
<td>0 $416,250</td>
</tr>
<tr>
<td>22 Hope Ave Subdivision (Brandy Ln)</td>
<td>Under Review</td>
<td>16</td>
<td>SF Home</td>
<td>1</td>
<td>0 $0</td>
</tr>
<tr>
<td>383 Commercial St</td>
<td>Under Review</td>
<td>82</td>
<td>Condo</td>
<td>9 TBD</td>
<td>TBD</td>
</tr>
<tr>
<td>1700 Westbrook St (Stroudwater)</td>
<td>Under Review</td>
<td>123</td>
<td>SF/Townhouse</td>
<td>12</td>
<td>$0</td>
</tr>
</tbody>
</table>
### Sources and Uses of Housing Trust Fund

<table>
<thead>
<tr>
<th>Deposits</th>
<th>Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maine Medical Center HRO 2002-2003</td>
<td>$315,580.00 Avesta Oak Street Lofts 2011</td>
</tr>
<tr>
<td>Sportsman's Grill HRO 2002</td>
<td>$40,000.00 Housing First Pre-Development RFP 2014</td>
</tr>
<tr>
<td>Berlin City Auto HRO 2009</td>
<td>$116,000.00 65 Hanover &amp; 62 Alder Sts Feasibility Study 2015</td>
</tr>
<tr>
<td>Stop n Shop HRO 2010</td>
<td>$289,250.00 45 Munjoy Street 2017</td>
</tr>
<tr>
<td>Rockbridge/Eastland Park HRO 2012</td>
<td>$42,500.00</td>
</tr>
<tr>
<td>Riverwalk/Ocean Gateway HRO 2012</td>
<td>$250,000.00 Total Expenditures</td>
</tr>
<tr>
<td>118 Congress LLC HRO 2014</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>Sale of Tax Acquired Property 91 &amp; 97 Belfort Street 2017</td>
<td></td>
</tr>
<tr>
<td>Sale of Tax Acquired Property 116 Upper A Street 2017</td>
<td></td>
</tr>
<tr>
<td>443 Congress Street IZ 2017</td>
<td>$280,000.00</td>
</tr>
<tr>
<td>62 India Street IZ 2018</td>
<td>$276,500.00</td>
</tr>
<tr>
<td>Short Term Rental Fee transfer 2018</td>
<td>$33,318.00</td>
</tr>
<tr>
<td>Previous INTEREST EARNED</td>
<td>$53,556.00</td>
</tr>
<tr>
<td><strong>Total Deposits</strong></td>
<td><strong>$1,891,155.80 BALANCE</strong></td>
</tr>
</tbody>
</table>

HRO - Housing Replacement Ordinance; IZ = Inclusionary Zoning Fee-in-lieu

As of 7-13-2018

**Climate Action Plan**

The City Council has taken a number of steps recently to emphasize its commitment to climate action. In May, 2017 the Council adopted a resolution committing the City to use 100% renewable energy by 2040. In June, 2017, the Council passed a resolution to join the Mayors Climate Action Agenda (Climate Mayors) that commits the City to take actions to achieve the goals established by the 2016 Paris Climate Accords. The Sustainability and Transportation Committee, led by Councilor Thibodeau, has made developing a plan to achieve these goals a priority for 2018. City staff recently made a presentation to the committee about joining with the City of South Portland to develop complementary climate action plans for each city. This would allow the cities to share costs associated with consulting and technical analysis. The resulting plans will describe actions each city should take to mitigate the effects of climate change as well as strategies to adapt to impacts such as sea level rise. The climate action plans will cover all sectors of the community -- residential, commercial, and industrial -- as well as municipal operations. Portland’s share of the cost will be $110,000.

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

The intended goal for this action will be to bring Allen Avenue Fire station back to operational status, fund the Housing Trust to recommended levels, and to provide funding for the Climate Action Plan.

**V. FINANCIAL IMPACT**

$2.11M of immediate financial appropriation. As noted in the agenda description, the full $3.3M of property sale proceeds were collected in fiscal year 2018. These funds are above and beyond our recommended fund balance, so the $2.11M of appropriation is of surplus funds.
VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

None

VII. RECOMMENDATION

Move passage at the 8/13 second meeting with first read occurring at the first meeting of the day.

VIII. LIST ATTACHMENTS

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by:
Date: