

Order 45-16/17

Passage: 9-0 on 9/7/2016

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
EDWARD J. SUSLOVIC (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

Effective 9/17/2016

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

**ORDER GRANTING A DRAINAGE EASEMENT  
ON LAND BANK LAND AT 471 DANFORTH STREET  
TO WILLIAM AND KATHERINE MARSHALL**

**ORDERED**, that a drainage easement on City of Portland Land Bank land at 471 Danforth Street is hereby granted to William and Katherine Marshall in substantially the form attached hereto; and

**BE IT FURTHER ORDERED**, that the City Council hereby authorizes the Finance Director 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.

## **DRAINAGE EASEMENT DEED**

**KNOW ALL PERSONS BY THESE PRESENTS**, that the **CITY OF PORTLAND**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine (“Grantor”) in consideration of One Dollar (\$1.00) and other valuable consideration paid by **WILLIAM H. MARSHALL and KATHERINE M. MARSHALL**, each with a mailing address of 467 Danforth Street, Portland, Maine 04011 (“Grantee”), does hereby convey to the Grantee, the following drainage easement over the premises described in Exhibit A attached hereto (the “Easement Area”) and incorporated herein by reference:

An easement for the sole purpose of and conveying the right to maintain through, under and across said Easement Area the existing riprap, conduits or pipelines with all necessary fixtures and appurtenances for conveying storm water (collectively, the “Drainage Fixtures”) and to repair, maintain, clean, and replace such riprap, conduits or pipelines through, under, and across said Easement Area, with all necessary fixtures and appurtenances; and to enter upon said Easement Area for only the foregoing purposes; reserving to the Grantor and its lessees, heirs and assigns the right to use the Easement Area for any and all purposes, and the right to relocate the Drainage Fixtures on the servient estate and amend this Easement Deed accordingly.

By acceptance of this Easement Deed, Grantee covenants and agrees that it shall maintain the Easement Area in good order and repair and free from obstructions that would interfere with the proper drainage function performed within the Easement Area.

By acceptance of this Easement Deed, the Grantee agrees for itself and its successors and assigns to properly and professionally undertake all work permitted hereunder within the Easement Area at its sole cost and expense, and, following the completion of any work within the Easement Area and the disturbance of the Easement Area or any land adjacent thereto, to restore the Easement Area and land adjacent thereto to substantially the condition in existence prior to the undertaking of such work subject to such modifications as may be mutually agreed upon by the parties.

By acceptance of this Easement Deed Grantee further agrees to defend, indemnify and hold the Grantor harmless from any personal injury or property damage resulting from the Grantee’s use of the Easement Area. Grantee shall procure and maintain liability insurance in an amount of at least Four Hundred Thousand Dollars (\$400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage and shall either name the City of Portland as an additional insured with respect to such coverage or shall obtain a contractual liability endorsement covering the obligations

of Licensee under the terms of this Easement. Grantee shall provide Grantor with evidence of such insurance coverage and shall obtain an endorsement providing City with no less than ten (10) days' notice prior to non-renewal or cancellation thereof. Such notice shall be sent to City of Portland, Corporation Counsel, 389 Congress Street, Portland, ME 04101.

If Grantee fails to comply with any of the provisions set forth in this Easement Deed, the easement shall be extinguished and all outstanding rights and interest shall revert to Grantor, its successors or assigns.

**IN WITNESS WHEREOF**, Brendan O'Connell, Finance Director for the City of Portland has hereunto set his hand and seal on this \_\_\_\_ day of \_\_\_\_\_, 2016.

WITNESS

CITY OF PORTLAND

\_\_\_\_\_

\_\_\_\_\_  
Brendan O'Connell  
Its Finance Director

STATE OF MAINE  
CUMBERLAND, ss.

Dated: \_\_\_\_\_, 2016

Personally appeared the above-named Brendan O'Connell, Finance Director for the City of Portland, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said City of Portland.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

## Exhibit A

A certain easement situated northerly of but not adjacent to Danforth Street in the City of Portland, Cumberland County, State of Maine, bounded and described as follows and as shown on Exhibit B attached herein:

**COMMENCING** at a point where the northerly line of Danforth Street intersects with the southerly line of the Western Promenade;

**THENCE, S78°07'42"W five hundred fifty-three and eighty-two hundredths feet (553.82')** along the northerly line of Danforth Street to the southwesterly corner of land now or formerly of William H. and Katherine M. Marshall as described in a deed dated October 15, 2013 and recorded in deed book 31098, page 81 of the Cumberland County Registry of Deeds;

**THENCE, N11°52'18"W four and twenty-five hundredths feet (4.25')** along the southwesterly line of said Marshall to the southeasterly corner of land now or formerly of the City of Portland as described in a deed dated July 7, 1911 and recorded in Deed Book 878, Page 220, said corner is witnessed by a 5/8" rebar set with an aluminum cap stamped "City of Portland-DPW-Survey Mark PLS 2335";

**THENCE, N11°52'18"W thirty-two and seventy-five hundredths feet (32.75')** continuing along the southwesterly line of said Marshall to **THE POINT OF BEGINNING**;

**THENCE, S59°57'27"W twelve and no hundredths feet (12.00')** through lands now or formerly of the said City of Portland, to a point;

**THENCE, N11°52'18"W twenty and no hundredths feet (20.00')** continuing through lands now or formerly of the said City of Portland, to a point;

**THENCE, N59°57'27"E twelve and no hundredths feet (12.00')** continuing through lands now or formerly of the said City of Portland, to a point in the southwesterly line of land now or formerly of said Marshall;

**THENCE, S11°52'18"E twenty and no hundredths feet (20.00')** along the southwesterly line of land now or formerly of said Marshall to **THE POINT OF BEGINNING**.

Meaning and intending to convey a drainage easement over a portion of lands now or formerly conveyed to the City of Portland by Sarah F. Cassidy, James Cassidy and Anne L. Cassidy in a deed dated July 7, 1911 and recorded in said Registry in Deed Book 878, Page 220.

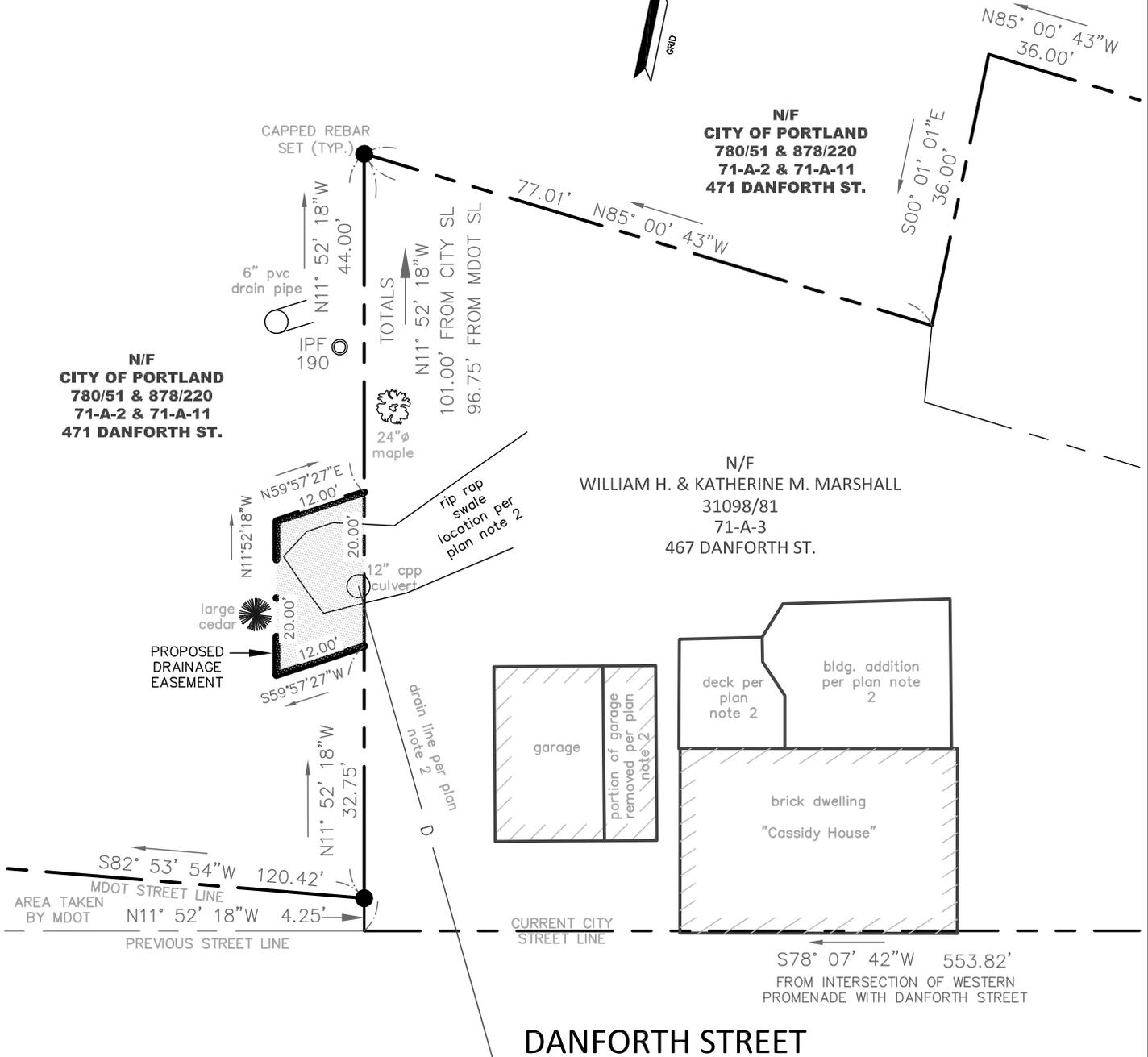
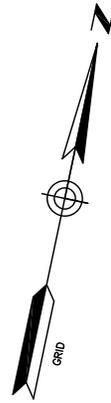
The above described drainage easement contains two hundred twenty-eight square feet more or less (228 s.f.±).

This deed description is based on a "Plan of City Property at 54 Western Promenade and 471 Danforth Street," dated January 25, 2013, by the City of Portland, Maine Public Works Department, Engineering Section to be on file at said Public Works Department.

The basis of bearing for this deed is the Maine State Plane Coordinate System (2 zone projection), West Zone, using the NAD 1983 (HARN) Datum and the U.S. Survey foot as the unit of measurement.

# EXHIBIT B

1. THE PROPERTY LINES AND BUILDINGS SHOWN HEREON WERE TAKEN FROM THE FOLLOWING PLAN: "CITY PROPERTY AT 54 WESTERN PROMENADE AND 471 DANFORTH ST." DATED JAN. 25, 2013 BY THE CITY OF PORTLAND.
2. THE LOCATION OF THE RIP RAP SWALE, DRAINAGE LINE AND CHANGES IN THE BUILDINGS WERE TAKEN FROM THE FOLLOWING PLAN: "AS-BUILT SURVEY PLAN OF MARSHALL PROPERTY" REVISED 11-23-2014 BY SEBAGO TECHNICS, INC.



**CITY OF PORTLAND  
PUBLIC WORKS  
ENGINEERING DIVISION**

**PROPOSED DRAINAGE EASEMENT  
FOR CITY PROPERTY AT 471 DANFORTH**

**CIVIL 3D PROJECT: DANFORTH-WESTERN PROMENADE DB  
DRAWING: 467 DANFORTH DRAINAGE EASEMENT 2016.dwg**

**SCALE:  
1" = 20'**

**DATE:  
08/12/2016**