

Order 210-14/15

Postponed: 8-0 (Donoghue absent) on 4/27/2015

Passage: 9-0 on 5/4/2015

Effective 6/3/2015

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

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

**FOURTH AMENDMENT TO CONDITIONAL ZONE AGREEMENT
RE: PROPERTY IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND**

WHEREAS, on July 15, 1985 by Order 42-84/85, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the “Premises” in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the “CZA”); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the “Lease Agreement”); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A and previously designated as “Dedicated Open Space” which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on January 23, 2015, the City of Portland’s Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on March 24, 2015, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City’s Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and~~ the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B, there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, **BE IT FURTHER ORDAINED that:**

The area described in Attachment C, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

Exhibit A
3/4/15

7/15/85

Diamond Cove

GREAT DIAMOND ISLAND

PORTLAND, OR

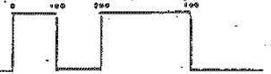
DEVELOPER: DICTAR ASSOCIATES

PORTLAND, OR



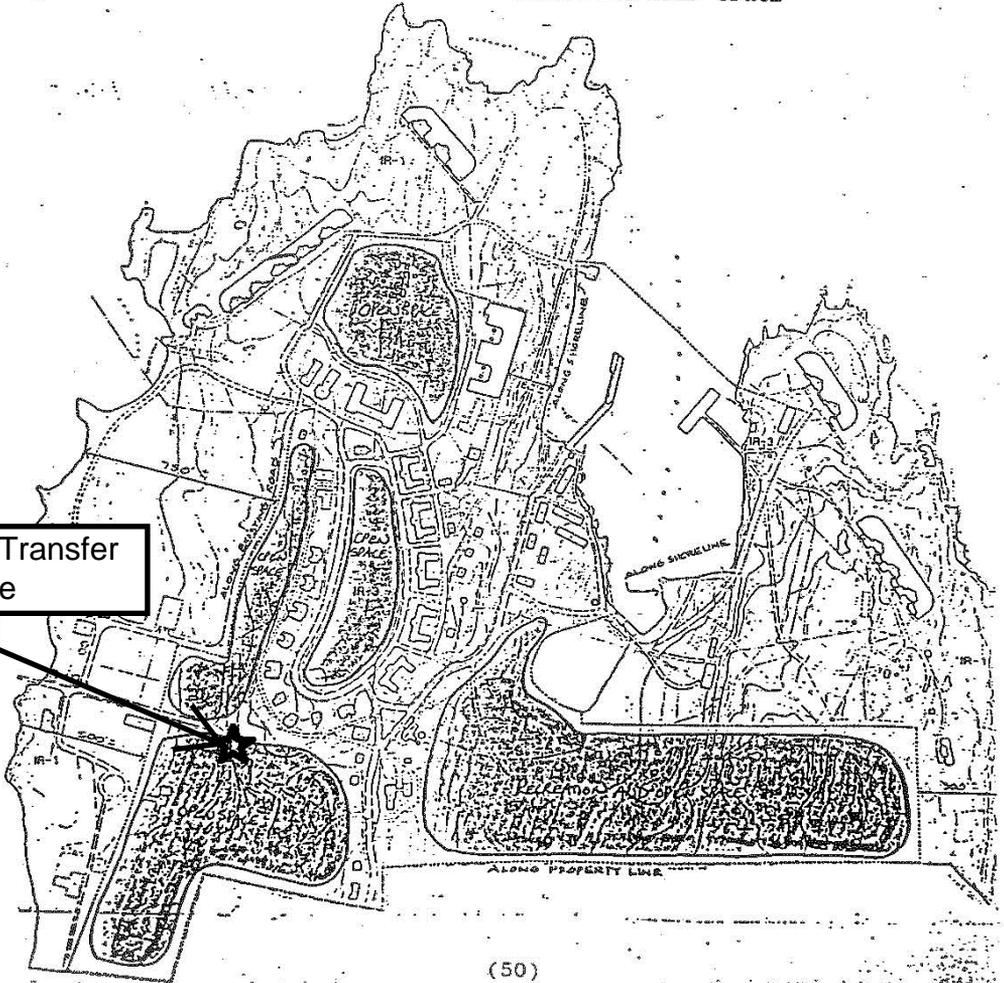
WASHINGTON CONSULTING COMPANY
CONSULTING PLANNERS, ENGINEERS AND SURVEYORS

Consulting Planners, Engineers and Surveyors



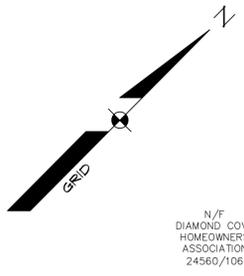
DEDICATED OPEN SPACE

Proposed Transfer
Station Site



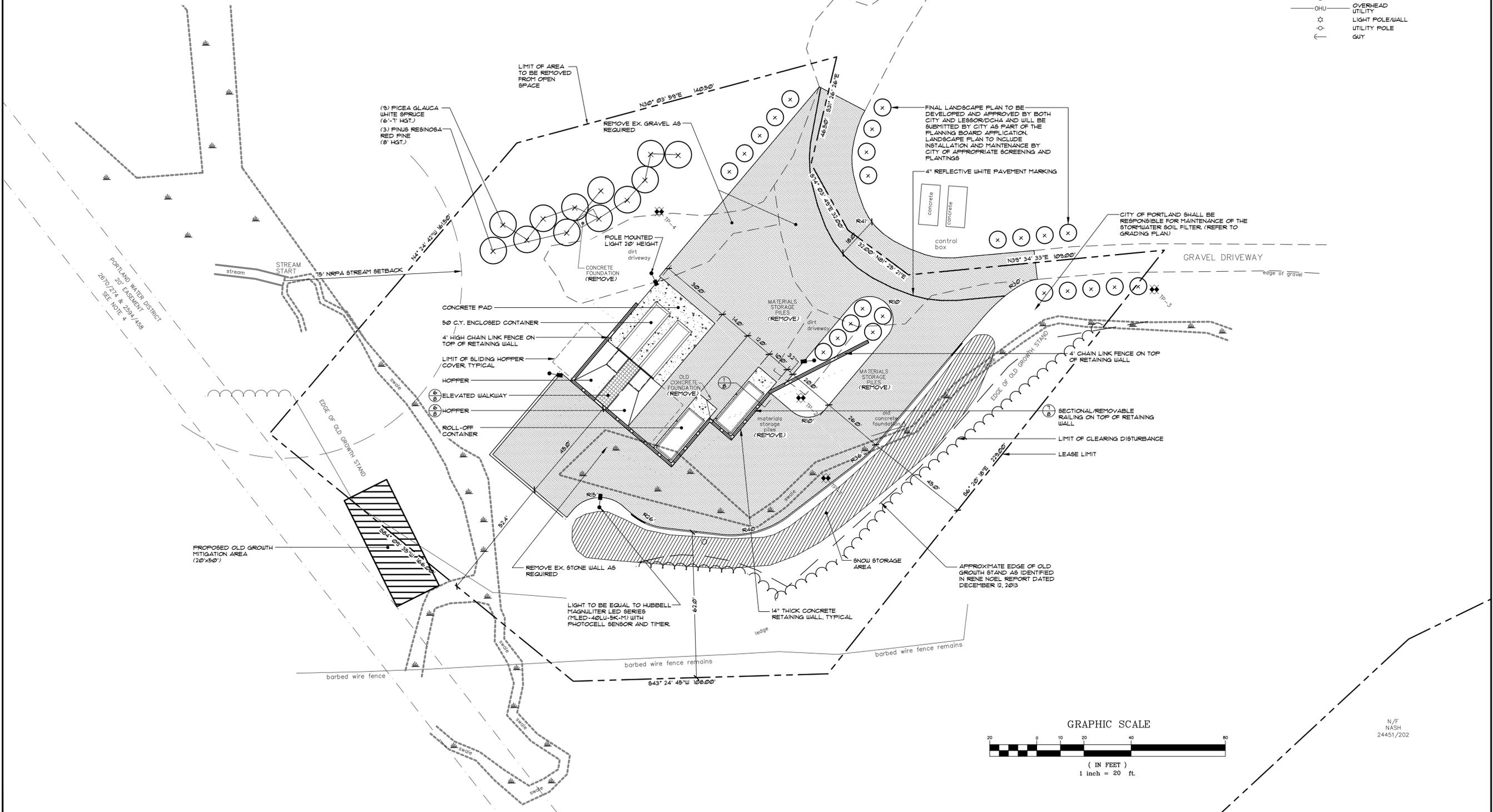
GENERAL NOTES

- THE RECORD OWNER OF THE PARCEL(S) IS THE DIAMOND COVE HOMEOWNERS ASSOCIATION BY DEED RECORDED AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS PLAN IN BOOK 24560, PG. 106.
- THE PROPERTY IS SHOWN AS CHART 0035 BLOCK M LOT 001 (0035 M001001) ON THE CITY OF PORTLAND'S TAX ACCESSOR DATABASE AND IS LOCATED IN THE IR-3 ISLAND RESIDENTIAL ZONE.
- SURVEY AND PLAN REFERENCES:
 - EXISTING CONDITIONS PLAN, SHEET 1 OF 1, FOR PORTLAND TRANSFER STATION SITE, BY THE CITY OF PORTLAND, ME, LATEST REVISION 6-12-13.
- TOPOGRAPHIC, BOUNDARY AND OTHER EXISTING SITE INFORMATION SHOWN HEREON IS BASED UPON PLAN REFERENCE A.
- NATURAL RESOURCES INVENTORY: A WETLAND DELINEATION WAS PERFORMED ON THIS PROJECT SITE IN NOVEMBER 2012 BY GARY FULLERTON, CS9, LSE OF SEBAGO TECHNIQS, INC. THIS DELINEATION CONFORMS TO THE STANDARDS AND METHODS OUTLINED IN THE 1981 WETLANDS DELINEATION MANUAL AND REGIONAL SUPPLEMENT AUTHORED AND PUBLISHED BY THE U.S. ARMY CORPS OF ENGINEERS. ALL WETLAND FLAGS WERE LOCATED USING GLOBAL POSITIONING SYSTEMS (GPS) TECHNOLOGY. ALL GPS LOCATED POINTS HAVE A VARYING DEGREE OF ACCURACY AND MAY NOT REPRESENT THE ACTUAL FIELD LOCATION. WETLAND LIMITS SHALL BE CLEARLY MARKED PRIOR TO CONSTRUCTION AND/OR EXCAVATION.
- PLAN ORIENTATION IS GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE 1802-NAD83, ELEVATIONS DEPICTED HEREON ARE NAVD88, BASED ON DUAL FREQUENCY GPS OBSERVATIONS.
- UTILITY AND OTHER OFFSITE INFORMATION DEPICTED HEREON IS COMPILED USING PHYSICAL EVIDENCE LOCATED DURING FIELD WORK PERFORMED BY SEBAGO TECHNIQS, INC. IN DECEMBER 2012 AND PLAN REFERENCES A, B AND D. UTILITIES DEPICTED HEREON MAY NOT NECESSARILY REPRESENT ALL EXISTING UTILITIES. CONTRACTORS AND/OR DESIGNERS NEED TO CONTACT DIG-SAFE SYSTEMS, INC. (1-888-DIG-SAFE) AND FIELD VERIFY EXISTING UTILITIES PRIOR TO CONSTRUCTION AND/OR EXCAVATION.
- ALL SEDIMENT AND EROSION CONTROL MEASURES SHALL BE INSTALLED IN ACCORDANCE WITH "MAINE EROSION AND SEDIMENT CONTROL BMP'S" MANUAL, PUBLISHED BY BUREAU OF LAND AND WATER QUALITY MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION, MARCH 2003 OR LATEST EDITION. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO POSSESS A COPY OF THE EROSION CONTROL PLAN AT ALL TIMES.
- THE TOTAL PROPOSED IMPERVIOUS AREA IS 13,207 SF, AND THE EXISTING IMPERVIOUS AREA IS APPROXIMATELY 9,816 SF, RESULTING IN A 11.94% IMPERVIOUS SURFACE RATIO OVER THE 126 ACRE LEASE LIMIT.



LEGEND

EXISTING	DESCRIPTION	PROPOSED
---	BOUNDARY LINE/ROW	---
---	ABUTTER LINE/ROW	---
---	TIE LINE	---
---	EASEMENT	---
---	BUILDING	---
---	WETLANDS	---
---	EDGE WETLAND	---
---	EDGE PAVEMENT	---
---	EDGE CONCRETE	---
---	PAVEMENT PAINT	---
---	GRAVEL ROAD	---
---	TREELINE	---
---	CHAIN LINK FENCE	---
---	STONE WALL	---
---	RETAINING WALL	---
○	DECIDUOUS TREE	○
○	CONIFEROUS TREE	○
W	WATER	W
○	HYDRANT	○
S	SEWER	S
○	SEWER MH	○
SD	STORM DRAIN	SD
○	CATCH BASIN	○
○	DRAINAGE MH	○
○	UTILITY	○
○	OVERHEAD UTILITY	○
○	LIGHT POLE/WALL	○
○	UTILITY POLE	○
○	GUY	○



REV.	DATE	BY	STATUS
E	3-5-15	OAM	REVISED PER PLANNING STAFF REVIEW
D	10-29-14	OAM	REVISED TO SHOW LIGHTING FIXTURE LOCATIONS
C	09-5-14	OAM	SUBMITTED TO DEP
B	08-18-14	OAM	ISSUED FOR PRELIMINARY REVIEW
A	02-05-14	OAM	ISSUED FOR CLIENT REVIEW

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNIQS, INC. ANY ALTERATIONS AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNIQS, INC.

SEBAGO
TECHNIQS

WWW.SEAGOTECHNIQS.COM
75 John Roberts Rd. - Suite 1A
South Portland, ME 04106
Tel. 207-282-2100

75 Goodard Rd. - Suite B
Levittown, ME 04240
Tel. 207-782-5858

PROJECT NO. 09405

DRAWN	CHKD	JAR
DESIGN	OAM	OAM

SITE PLAN

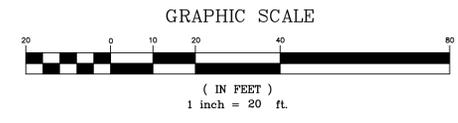
OF:
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
GREAT DIAMOND ISLAND
PORTLAND, MAINE

FOR:
CITY OF PORTLAND
55 PORTLAND STREET
PORTLAND, MAINE 04101

DATE: 01-29-14
SCALE: 1" = 20'

SHEET 2 OF 8

09405s.dwg, TAB: Layout1



N/F NASH 24451/202

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83E-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83E-B-1) to a point in a gravel driveway or roadway and the **Point of Beginning**. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

Said lot of land containing 55,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site – Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)