



Tuck O'Brien
City Planning Director, Planning Division

September 14, 2017

Peter Bass
Random Orbit, INC
20 Danforth Street #13
Portland, ME 04101

Project Name: 50 Cove Street – New Commercial/Industrial Building
Planner: Matthew Grooms
Project ID: 2017-116
Address: 50 Cove Street
Dear Mr. Bass: CBL: 010 H004001

On September 7, 2017, the Portland Planning Authority approved the Level II Site Plan for a new commercial/industrial building and associated site improvements at 50 Cove Street in the IL-B Industrial Zone. This approval was further revised on September 14, 2017 in order to add the standard condition related to maintenance of the proposed storm water management system. The scope of this project includes two separate phases. The first phase encompasses repaving and regrading of the rear parking area with additional improvements to the property's storm water management system. The second phase consists of construction of a new 9,560 square foot light-industrial/commercial building with additional site and sidewalk improvements. The proposed building design may change as tenants are finalized. This decision is based upon the application, documents and plans as submitted by the applicant, Peter Bass of Random Orbit, INC. The proposal was reviewed for conformance with the standards of Portland's site plan ordinance and IL-B Industrial Zone.

STORM WATER MANAGEMENT

Based upon the Planning Authority's Delegated Review Authority, the Planning Authority approved the storm water management plan as submitted, subject to the following condition(s):

1. Storm Water Management Condition of Approval

The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system, and all assigns. shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as attached, or in substantially the same form, shall be submitted for review by Corporation Counsel. Once approved, the document shall be signed and recorded at the Cumberland County Registry of Deeds prior to the issuance of a building permit. Please submit final copies to both the Department of Planning and Urban Development and the Department of Public Works.

SITE PLAN REVIEW

The Planning Authority finds that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following condition(s) of approval:

1. The applicant shall provide revised building elevations and floor plans clearly showing the location of exterior and or rooftop mechanical equipment, site lighting and signage. Proposed lighting shall be full cutoff and in compliance with the city's site plan ordinance and Section 12 of the Technical Manual. Mechanical equipment shall be screened from the public view in compliance with the city's site plan ordinance. These shall be reviewed and approved by the Planning Authority prior to the issuance of any building permits for Phase II of this project.
2. Revised parking calculations shall be submitted once tenants and uses are determined. These parking figures shall be in compliance with Division 20, Off-Street Parking Standards. These calculations shall be reviewed and approved prior to the issuance of any building permits for Phase II of this project.
3. A photometric plan demonstrating light trespass shall be provided prior to the issuance of any building permits for Phase II of this project.
4. Two street trees are required for this project. The applicant has agreed to plant one tree along their frontage and pay \$400 in lieu of the other required tree. The payment in lieu and street tree shall be provided prior to issuance of the Certificate of Occupancy. The applicant has also indicated that they may prefer to plan a second tree off-site. The proposed street trees and acceptable alternatives shall be approved by the City Arborist.
5. The applicant shall provide an 'ability to serve' letter from CMP prior to the issuance of any building permits for Phase II of this project.
6. The applicant shall submit a construction management plan for each phase of their project which shall be reviewed and approved by the Department of Public Works and Planning Authority prior to the issuance of building permits for Phase I or Phase II of this project.
7. Prior to the issuance of building permits related to Phase II of this project, the applicant shall supply updated information and revised plans showing electrical service to the site. These plans shall be reviewed and approved by the Department of Public Works and Planning Authority. The selection of overhead utilities shall be accompanied by a formal waiver request to be reviewed and approved by the Department of Public Works.

The approval is based on the submitted plans and the findings related to site plan review standards as contained in the Planning Report for application 2017-116 which is attached.

STANDARD CONDITIONS OF APPROVAL

Please Note: The following standard conditions of approval and requirements apply to all approved site plans:

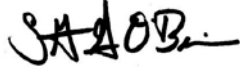
1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.

2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Permitting and Inspections Department.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
5. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
6. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
7. **Department of Public Works Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
8. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning and Urban Development Department at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Matthew Grooms, Planner at (207) 874-8725

Sincerely,



Stuart G. O'Brien
City Planning Director

Attachments:

1. Woodard and Curran Memo (6/30/17)
2. Staff Review Comments (07/10/17)
3. Traffic Comments (7/12/17)
4. Woodard and Curran Memo Revised (8/10/17)
5. Traffic Comments Revised (8/10/17)
6. DPW Memo (8/10/17)
7. Portland City Code: Chapter 32
8. Sample Stormwater Maintenance Agreement
9. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
Barbara Barhydt, Development Review Services Manager, Planning and Urban Development
Matthew Grooms, Planner, Planning and Urban Development
Philip DiPierro, DRC, Planning and Urban Development
Mike Russell, Director of Permitting and Inspections
Ann Machado, Zoning Administrator, Permitting and Inspections
Jonathan Rioux, Deputy Director, Permitting and Inspections
Jeanie Bourke, Plan Reviewer/CEO, Permitting and Inspections
Chris Branch, Director of Public Works
Katherine Earley, Engineering Services Manager, Public Works
Keith Gray, Senior Engineer, Public Works
Doug Roncarati, Stormwater Coordinator, Public Works
Greg Vining, Associate Engineer, Public Works
Michelle Sweeney, Associate Engineer, Public Works
John Low, Associate Engineer, Public Works
Jane Ward, Administration, Public Works
Rhonda Zazzara, Field Inspection Coordinator, Public Works
Jeff Tarling, City Arborist, Public Works
Jeremiah Bartlett, Public Works
Keith Gautreau, Fire
Danielle West-Chuhta, Corporation Counsel
Victoria Volent, Housing Program Manager, Housing and Community Development
Thomas Errico, P.E., TY Lin Associates
Lauren Swett, P.E., Woodard and Curran
Christopher Huff, Assessor

MEMORANDUM



TO: Matt Grooms, Planner
FROM: Lauren Swett, P.E. & Loren Joyce, E.I.T.
DATE: June 30, 2017
RE: 50 Cove Street, Level II Site Plan Application

Woodard & Curran has reviewed the Preliminary Level II Site Plan Application for the proposed redevelopment project located at 50 Cove Street in Portland, Maine. The project involves construction of an industrial/commercial building including stormwater and parking improvements on site.

Documents Reviewed by Woodard & Curran

- Type II Site Plan Application and attachments, dated May 15, 2017, prepared by Peter Bass of Random Orbit, LLC.
- Engineering Plans, Sheets 1 – 12, dated May 11, 2017, prepared by Acorn Engineering, on behalf of Random Orbit, LLC.

Comments

- 1) The City of Portland requires that all Level II site plan applications submit a stormwater management plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards (Technical Manual, Section 5. II. Applicability in Portland. C. a. and City of Portland Code of Ordinances Sec. 14-526. Site plan standards. (b). 3. b.). We offer the following comments:
 - a) Include sediment barriers downgradient of all proposed soil disturbances as required by the Basic Standards.
 - b) Basic Standards: Notes and details have been provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in accordance with Appendix A, B, & C of MaineDEP Chapter 500. Notes have been provided on proposed locations; however, we recommend that locations of erosion and sediment control measures should be shown on the plans.
 - c) General Standards: The project includes redevelopment of 10,500 square feet of impervious area. In accordance with Chapter 5, section D, stormwater quality treatment must be provided for no less than 50% of the redeveloped impervious area. The Applicant is proposing to treat 50% of the redeveloped non-roof impervious area by the use of a proprietary biofiltration treatment device to provide stormwater quality treatment for 50% of the full depth pavement area. We agree that the proposed system will provide adequate treatment in accordance with the standards.
 - d) Flooding Standards: The project will result in a de minimis increase in impervious area of approximately 110 square feet. As such, the project is not required to include any specific stormwater management features to control the rate or quantity of stormwater runoff from the site.
- 2) Per the current sidewalk material policy, driveway aprons must match the adjacent sidewalk materials.
- 3) The plans identify handicap accessible parking spaces, however, they do not appear to correspond to accessible doorways. Doorways should be shown on the site plan for reference.
- 4) The Applicant should provide a photometric plan.

Planning and Urban Development Department Planning Division



July 10, 2017

Peter Bass
Random Orbit, INC
30 Danforth Street #213
Portland, ME 04101

Stephen W. Tibbetts
15 Oak Ridge Road
Brunswick, ME 04011

RE: Staff Review Comments for 50 Cove Street (2017-116) – Planning Authority Review

Project Name:	50 Cove Street	Project ID:	(2017-073)
Project Address:	50 Cove Street	CBL:	010-H-004001
Applicant:	Peter Bass		
Planner:	Matthew Grooms		

Dear Mr. Bass and Mr. Tibbetts,

Thank you for submitting a preliminary Level II Site Plan for a the construction of a new commercial/industrial building and parking lot improvement at 50 Cove Street in the I-Lb Industrial District. This property is being reviewed as a preliminary plan subject to the following applicable Land Use Code provisions:

- Site Plan Ordinance, Article V
- Division 13, I-L and I-Lb Industrial Zones
- Division 20, Off-Street Parking Standards

Final Plan for Planning Board Review: Staff Review Comments

I. Stormwater and Civil Engineering Review

Woodard & Curran has reviewed the Preliminary Level II Site Plan Application for the proposed redevelopment project located at 50 Cove Street in Portland, Maine. The project involves construction of an industrial/commercial building including stormwater and parking improvements on site.

Documents Reviewed by Woodard & Curran

- Type II Site Plan Application and attachments, dated May 15, 2017, prepared by Peter Bass of Random Orbit, LLC.
- Engineering Plans, Sheets 1 – 12, dated May 11, 2017, prepared by Acorn Engineering, on behalf of Random Orbit, LLC.

Comments

1. The City of Portland requires that all Level II site plan applications submit a stormwater management plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards (Technical Manual, Section 5. II. Applicability in Portland. C. a. and City of Portland Code of Ordinances Sec. 14-526. Site plan standards. (b). 3. b.). We offer the following comments:
 - a. Include sediment barriers downgradient of all proposed soil disturbances as required by the Basic Standards.
 - b. Basic Standards: Notes and details have been provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in accordance with Appendix A, B, & C of MaineDEP Chapter 500. Notes have been provided on proposed locations; however, we recommend that locations of erosion and sediment control measures should be shown on the plans.
 - c. General Standards: The project includes redevelopment of 10,500 square feet of impervious area. In accordance with Chapter 5, section D, stormwater quality treatment must be provided for no less than 50% of the redeveloped impervious area. The Applicant is proposing to treat 50% of the redeveloped non-roof impervious area by the use of a proprietary biofiltration treatment device to provide stormwater quality treatment for 50% of the full depth pavement area. We agree that the proposed system will provide adequate treatment in accordance with the standards.
 - d. Flooding Standards: The project will result in a de minimis increase in impervious area of approximately 110 square feet. As such, the project is not required to include any specific stormwater management features to control the rate or quantity of stormwater runoff from the site.
2. Per the current sidewalk material policy, driveway aprons must match the adjacent sidewalk materials.
3. The plans identify handicap accessible parking spaces, however, they do not appear to correspond to accessible doorways. Doorways should be shown on the site plan for reference.
4. The Applicant should provide a photometric plan.

II. Site Design Standards

5. On appropriate plans, the location of exterior and rooftop mechanical equipment should be indicated. Note, all such equipment shall be screened from the public right-of-way in accordance with site plan standards.
6. Will this development include any exterior landscaping? If so, a separate landscape plan with associated planting schedule should be included. (Note. Additional guidance from the City Arborist shall be forthcoming).
7. Street trees shall be provided in accordance with Section 4.6 of the Technical Manual at a rate of 1 tree/30-45 feet of frontage or conversely, a street tree alternative should be provided.
8. Will this development include any new exterior lighting? If so, lighting location, associated details and associated photometric plan should be provided.
9. Prior to the issuance of a building permit, a copy of the approved wastewater capacity letter from the Department of Public Works should be provided.

Additional Submittals Required:

Please upload the digital plans and documents to address staff comments. Upon receipt of the revised material, the City of Portland will review the additional plans and information for conformance with applicable ordinances. Please be aware that an application expires within 120 days of the date upon which this written request for additional information was made and only *one set of revised plans* may be submitted for review. Following submission and review of the final plans, the Planning Authority will either approve, approve with conditions, or deny the final site plan.

If you have any questions, feel free to contact me at (207) 874-8725 or by email at mgrooms@portlandmaine.gov.

Sincerely,

Matthew Grooms
Planner

Electronic Distribution:

Tuck O'Brien, Planning Division Director
Barbara Barhydt, Development Review Services
Manager
Victoria Morales, Associate Corporation
Counsel

Anne Machado, Zoning Administrator
Captain Keith Gautreau, Fire
Jeff Tarling, City Arborist
Tom Errico, P.E., TY Lin Associates
Lauren Swett, P.E., Woodard & Curran



Matthew Grooms <mgrooms@portlandmaine.gov>

50 Cove Street - Preliminary Traffic Comments

Tom Errico <thomas.errico@tylin.com>

Wed, Jul 12, 2017 at 12:47 PM

To: Matthew Grooms <mgrooms@portlandmaine.gov>

Cc: Katherine Earley <kas@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>, "Jeff Tarling (JST@portlandmaine.gov)" <JST@portlandmaine.gov>, Keith Gray <kgray@portlandmaine.gov>, Lauren Swett <lszett@woodardcurran.com>

Hi Matt – I have reviewed the application materials and offer the following preliminary traffic comments.

- Detectible warning panels are not required at the terminus of the sidewalk at the driveways.
- It is suggested that the sidewalk be extended to connect to the new sidewalk on Anderson Street.
- The applicant has requested a waiver from the City's Technical standards for parking lot aisle width. The non-conformity is at two locations, where the proposed aisle width is 23.75 feet and 22.15 feet (the City standard is 24 feet). Give the type of use and low parking turnover, I support a waiver.
- Three parking spaces will be 8-feet wide and therefore narrower than City standards. I support a waiver given the type of use and low turnover.
- The applicant should provide information regarding the use of the proposed overhead door. I'm concerned about blockage of the sidewalk and roadway. If the slope granite curb is considered a driveway, the site may require a waiver for number of driveways (two are permitted by City standards).
- The applicant should provide information regarding the shared driveway including width, parking and truck movements for the proposed project and the abutting property. It is my assumption that there is a shared use agreement.
- The driveway apron material shall meet current City of Portland standards.
- The applicant should provide a construction management plan and I would suggest you provide the Draft Template developed by the City to the applicant.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director

12 Northbrook Drive
Falmouth, ME 04105
[+1.207.781.4721](tel:+12077814721) main
[+1.207.347.4354](tel:+12073474354) direct
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"One Vision, One Company"

MEMORANDUM



TO: Matt Grooms, Planner
FROM: Lauren Swett, P.E.
DATE: August 10, 2017
RE: 50 Cove Street, Level II Site Plan Application

Woodard & Curran has reviewed the Response to Comments for the Preliminary Level II Site Plan Application for the proposed redevelopment project located at 50 Cove Street in Portland, Maine. The project involves construction of an industrial/commercial building including stormwater and parking improvements on site.

Documents Reviewed by Woodard & Curran

- Response to Comments letter prepared by Peter Bass of Random Orbit, LLC (no date, uploaded to eplan 8/4/17)

Comments *Comments from prior memos included in italics.*

- 1) *The City of Portland requires that all Level II site plan applications submit a stormwater management plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards (Technical Manual, Section 5. II. Applicability in Portland. C. a. and City of Portland Code of Ordinances Sec. 14-526. Site plan standards. (b). 3. b.). We offer the following comments:*
 - a) *Basic Standards: Notes and details have been provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in accordance with Appendix A, B, & C of MaineDEP Chapter 500. Notes have been provided on proposed locations; however, we recommend that locations of erosion and sediment control measures should be shown on the plans. **Applicant has noted that the plans will be updated, but no updated plans have been provided at this time.***
 - b) *General Standards: The project includes redevelopment of 10,500 square feet of impervious area. In accordance with Chapter 5, section D, stormwater quality treatment must be provided for no less than 50% of the redeveloped impervious area. The Applicant is proposing to treat 50% of the redeveloped non-roof impervious area by the use of a proprietary biofiltration treatment device to provide stormwater quality treatment for 50% of the full depth pavement area. We agree that the proposed system will provide adequate treatment in accordance with the standards.*
 - c) *Flooding Standards: The project will result in a de minimis increase in impervious area of approximately 110 square feet. As such, the project is not required to include any specific stormwater management features to control the rate or quantity of stormwater runoff from the site.*
- 2) *Per the current sidewalk material policy, driveway aprons must match the adjacent sidewalk materials. **Waiver of the driveway apron material has been requested. Planning and Public Works will review and determine applicability.***
- 3) *The plans identify handicap accessible parking spaces, however, they do not appear to correspond to accessible doorways. Doorways should be shown on the site plan for reference. **Applicant has noted that handicap entrances will be identified on the plans, but no updated plans have been provided at this time.***
- 4) All other comments have been addressed at this time.



Matthew Grooms <mgrooms@portlandmaine.gov>

50 Cove Street - Status Traffic Comments

Tom Errico <thomas.errico@tylin.com>

Thu, Aug 10, 2017 at 10:45 AM

To: Matthew Grooms <mgrooms@portlandmaine.gov>

Cc: Katherine Earley <kas@portlandmaine.gov>, Keith Gray <kgray@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>, "Jeff Tarling (JST@portlandmaine.gov)" <JST@portlandmaine.gov>, "Swett, Lauren" <lswett@woodardcurran.com>

Hi Matt – I have reviewed the Applicants response to comments and offer the following updated responses.

- Detectible warning panels are not required at the terminus of the sidewalk at the driveways.

Status: The applicant has noted that the panels will be removed. I have no further comment.

- It is suggested that the sidewalk be extended to connect to the new sidewalk on Anderson Street.

Status: An ADA compliant sidewalk system within the public right-of-way is required and accordingly this sidewalk connection shall be constructed.

- The applicant has requested a waiver from the City's Technical standards for parking lot aisle width. The non-conformity is at two locations, where the proposed aisle width is 23.75 feet and 22.15 feet (the City standard is 24 feet). Given the type of use and low parking turnover, I support a waiver.

Status: I have no further comment.

- Three parking spaces will be 8-feet wide and therefore narrower than City standards. I support a waiver given the type of use and low turnover.

Status: I have no further comment.

- The applicant should provide information regarding the use of the proposed overhead door. I'm concerned about blockage of the sidewalk and roadway. If the slope granite curb is considered a driveway, the site may require a waiver for number of driveways (two are permitted by City standards).

Status: The Applicant has noted that the door is being provided as an architecture element with limited or infrequent truck loading. I find the door to be acceptable under the premise that trucks will not block the sidewalk frequently or for extended periods of time. Given that the design includes a sloped curb, I would like to discuss this with City staff as it relates to it being defined as a driveway and City standards regarding curbing design.

- The applicant should provide information regarding the shared driveway including width, parking and truck movements for the proposed project and the abutting property. It is my assumption that there is a shared use agreement.

Status: The Applicant has noted that a license agreement has been executed and therefore I find conditions to be acceptable.

- The driveway apron material shall meet current City of Portland standards.

Status: The applicant has requested a waiver on this item. I need to coordinate this with City staff.

- The applicant should provide a construction management plan and I would suggest you provide the Draft Template developed by the City to the applicant.

Status: The applicant shall provide a construction management plan that meets city ordinance requirements.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director

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"One Vision, One Company"

Memo

To: Matthew Grooms - Planner
From: Keith Gray, PE – Senior Engineer, DPW
Date: August 10, 2017
Re: 50 Cove Street (2017-116) – Level II Site Plan Application

The following comments/concerns are in regards to the Level II Site Plan Application prepared by the applicant, Random Orbit, LLC with last plan revision submitted on May 23, 2017. Please feel free to contact me with questions.

Comments:

- The applicant shall submit a Construction Management Plan that includes items as identified in the “draft” Construction Management Plan General Template. The CMPlan shall be submitted with the Site Plan Application and revised, if required, by the contractor prior to start of construction. Any revisions shall be approved by the Department of Public Works.
- The applicant has noted that the 20 foot shared driveway would act as secondary site access and that the neighboring property uses that driveway to access an overhead door. Would the proposed overhead door located along the front of the building be better suited on the side of the building? Or provide an additional overhead door on the side of the proposed building for deliveries? Please clarify.
- The applicant is showing overhead electrical services extended to the existing and proposed buildings. Site Plan standards require that all electrical service be installed underground.
- Where will the roof drainage for the proposed building be connected/routed to?

**STORMWATER DRAINAGE SYSTEM
MAINTENANCE AGREEMENT**

For SUBDIVISIONS

IN CONSIDERATION OF the site plan and subdivision approval granted by the Planning Board of the City of Portland to the proposed _____ (name of developments and project number) shown on the Subdivision Plat (Exhibit A) recorded in Cumberland Registry of Deeds in Plan Book ____, Page ____ submitted by _____, and associated Grading, Drainage & Erosion Control Plan (*insert correct name of plan*) (Exhibit B) prepared by _____ (engineer/agent) of _____ (address) dated and pursuant to a condition thereof, _____ (name of owner), a Maine limited liability company with a principal place of business in Portland, Maine, and having a mailing address of _____, the owner of the subject premises, does hereby agree, for itself, its successors and assigns (the “Owner”), as follows:

Maintenance Agreement

That it, its successors and assigns, will, at its own cost and expense and at all times in perpetuity, maintain in good repair and in proper working order the _____ (*details of the system such as underdrained subsurface sand filter BMP system, rain gardens, storm drain pipes, underdrain pipes, catch basins*), (hereinafter collectively referred to as the “stormwater system”), as shown on the _____ Plan in Exhibit B and in strict compliance with the approved Stormwater Maintenance and Inspection Agreement (*insert correct name of document*) prepared for the Owner by _____ (copy attached in Exhibit C) and Chapter 32 of the Portland City Code.

Owner of the subject premises further agrees, at its own cost, to keep a Stormwater Maintenance Log. Such log shall be made available for inspection by the City of Portland upon reasonable notice and request.

Said agreement is for the benefit of the said City of Portland and all persons in lawful possession of said premises and abutters thereto; further, that the said City of Portland and said persons in lawful possession may enforce this Agreement by an action at law or in equity in any court of competent jurisdiction; further, that after giving the Owner written notice and a stated time to perform, the said City of Portland, by its authorized agents or representatives, may, but is not obligated to, enter upon said premises to maintain, repair, or replace said stormwater system in the event of any failure or neglect thereof, the cost and expense thereof to be reimbursed in full to the said City of Portland by the Owner upon written demand. Any funds owed to the City under this paragraph shall be secured by a lien on the property.

This Agreement shall also not be construed to allow any change or deviation from the requirements of the subdivision and/or site plan most recently and formally approved by the Planning Board of the City of Portland.

This agreement shall bind the undersigned only so long as it retains any interest in said premises, and shall run with the land and be binding upon the Owner's successors and assigns as their interests may from time to time appear.

The Owner agrees to record a copy of this Agreement in the Cumberland County Registry of Deeds within thirty (30) days of final execution of this Agreement. The Owner further agrees to provide a copy of this Agreement to any successor or assign and to forward to the City an Addendum signed by any successor or assign in which the successor or assign states that the successor or assign has read the Agreement, agrees to all its terms and conditions and the successor or assign will obtain and forward to the City's Department of Public Services and Department of Planning and Urban Development a similar Addendum from any other successor or assign.

For the purpose of this agreement and release "Owner" is any person or entity who is a successor or assign and has a legal interest in part, or all, of the real estate and any building. The real estate shown by chart, block and lot number in the records on file in the City Assessor's office shall constitute "the property" that may be entered by the City and liened if the City is not paid all of its costs and charges following the mailing of a written demand for payment to the owner pursuant to the process and with the same force and effect as that established by 36 M.R.S.A. §§ 942 and 943 for real estate tax liens.

Any written notices or demands required by the agreement shall be complete on the date the notice is attached to one or more doors providing entry to any buildings and mailed by certified mail, return receipt requested or ordinary mail or both to the owner of record as shown on the tax roles on file in the City Assessor's Office.

If the property has more than one owner on the tax rolls, service shall be complete by mailing it to only the first listed owner. The failure to receive any written notice required by this agreement shall not prevent the City from entering the property and performing maintenance or repairs on the stormwater system, or any component thereof, or liening it or create a cause of action against the City.

Dated at Portland, Maine this ____ day of _____, 2014.

(name of company)

(representative of owner, name and title)

STATE OF MAINE
CUMBERLAND, ss.

Date: _____

Personally appeared the above-named _____ (name and title), and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

Notary Public/Attorney at Law

Print name: _____

Exhibit A: Subdivision Plat as recorded

Exhibit B: Approved Grading and Drainage Plan (name of the plan showing the Stormwater System in detail)

Exhibit C: Approved Stormwater Maintenance and Inspection Agreement



Jeff Levine, AICP
Director, Planning & Urban Development Department

Performance Guarantee and Infrastructure Financial Contribution Packet

The municipal code requires that all development falling under site plan and/or subdivision review in the City of Portland be subject to a performance guarantee for various required site improvements. The code further requires developers to pay a fee for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications.

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. A detailed itemized cost estimate is required to be submitted, which upon review and approval by the City, determines the amount of the performance guarantee. The performance guarantee will usually be a letter of credit from a financial institution, although escrow accounts are acceptable. The form, terms, and conditions of the performance guarantee must be approved by the City through the Planning Division. The performance guarantee plus a check to the City of Portland in the amount of 2.0% of the performance guarantee or as assessed by the planning or public works engineer, must be submitted prior to the issuance of any building permit for affected development.

Administration of performance guarantee and defect bonds is through the Planning Division. Inspections for improvements within existing and proposed public right-of-ways are the responsibility of the Department of Public Services. Inspections for site improvements are the responsibility of the Development Review Coordinator in the Planning Division.

Performance Guarantees will not be released by the City until all required improvements are completed and approved by the City and a Defect Bond has been submitted to and approved by the City.

If an infrastructure financial contribution is required by the City as part of a development approval, please complete the contribution form and submit it along with the designated contribution to the Planning Division. Please make checks payable to the City of Portland.

Attachments

1. Cost Estimate of Improvements Form
2. Performance Guarantee Letter of Credit Form (with private financial institution)
3. Performance Guarantee Escrow Account Form (with private financial institution)
4. Performance Guarantee Form with the City of Portland
5. Infrastructure Financial Contribution Form with the City of Portland

SUBDIVISION/SITE DEVELOPMENT
Cost Estimate of Improvements to be covered by Performance Guarantee

Date: _____

Name of Project: _____

Address/Location: _____

Application ID #: _____

Developer: _____

Form of Performance Guarantee: _____

Type of Development: Subdivision _____ Site Plan (Level I, II or III) _____

TO BE FILLED OUT BY THE APPLICANT:

<u>Item</u>	PUBLIC			PRIVATE		
	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>
1. STREET/SIDEWALK						
Road/Parking Areas	_____	_____	_____	_____	_____	_____
Curbing	_____	_____	_____	_____	_____	_____
Sidewalks	_____	_____	_____	_____	_____	_____
Esplanades	_____	_____	_____	_____	_____	_____
Monuments	_____	_____	_____	_____	_____	_____
Street Lighting	_____	_____	_____	_____	_____	_____
Street Opening Repairs	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____
2. EARTH WORK						
Cut	_____	_____	_____	_____	_____	_____
Fill	_____	_____	_____	_____	_____	_____
3. SANITARY SEWER						
Manholes	_____	_____	_____	_____	_____	_____
Piping	_____	_____	_____	_____	_____	_____
Connections	_____	_____	_____	_____	_____	_____
Main Line Piping	_____	_____	_____	_____	_____	_____
House Sewer Service Piping	_____	_____	_____	_____	_____	_____
Pump Stations	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____
4. WATER MAINS	_____	_____	_____	_____	_____	_____
5. STORM DRAINAGE						
Manholes	_____	_____	_____	_____	_____	_____
Catchbasins	_____	_____	_____	_____	_____	_____
Piping	_____	_____	_____	_____	_____	_____
Detention Basin	_____	_____	_____	_____	_____	_____
Stormwater Quality Units	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____

6. SITE LIGHTING	_____	_____	_____	_____	_____	_____
7. EROSION CONTROL						
Silt Fence	_____	_____	_____	_____	_____	_____
Check Dams	_____	_____	_____	_____	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	_____
Slope Stabilization	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	_____
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	_____	_____	_____	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	_____	_____

INSPECTION FEE (to be filled out by the City)

	PUBLIC	PRIVATE	TOTAL
A: 2.0% of totals:	_____	_____	_____
<u>or</u>			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	

SAMPLE FORM

**SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
LETTER OF CREDIT
[ACCOUNT NUMBER]**

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: **[Insert: Name of Developer]**
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank] hereby issues its Irrevocable Letter of Credit for the account of **[Insert: Name of Developer]**, (hereinafter referred to as “Developer”), held for the exclusive benefit of the City of Portland, in the aggregate amount of **[Insert: amount of original performance guarantee]**. These funds represent the estimated cost of installing site improvements as depicted on the **[Insert: subdivision and/ or site plan]**, approved on **[Insert: Date]** and as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65.

This Letter of Credit is required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §46 through 65 and is intended to satisfy the Developer’s obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, up to thirty (30) days before or sixty (60) days after its expiration, stating any one of the following:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert date]**; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or

3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Services and Planning Division, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the **[Bank]**, by written certification, to reduce the available amount of the escrowed money by a specified amount.

This performance guarantee will automatically expire on **[Insert date between April 16 and October 30 of the following year]** ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development, at Bank's offices located at _____ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, this Performance Guarantee Letter of Credit shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Letter of Credit. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Letter of Credit by presentation of a sight draft and this Letter of Credit and all amendments thereto, at Bank's offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the [**Insert: subdivision and/ or site improvements**].

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

SAMPLE FORM

**SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
ESCROW ACCOUNT
[ACCOUNT NUMBER]**

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: **[Insert: Name of Developer]**
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank] hereby certifies to the City of Portland that **[Bank]** will hold the sum of **[Insert: amount of original performance guarantee]** in an interest bearing account established with the Bank. These funds shall be held for the exclusive benefit of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the **[Insert: subdivision and/or site plan]**, approved on **[Insert: date]** as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by **[Insert: Developer]**.

[Bank] will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert date]**; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Services and Planning Division, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the [Bank], by written certification, to reduce the available amount of the escrowed money by a specified amount.

This performance guarantee will automatically expire on [Insert date between April 16 and October 30 of the following year] ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this agreement that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider the Escrow Account renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw against the Escrow Account by presentation of a sight draft drawn on the Bank and a statement purportedly signed by the Director of Planning and Urban Development, at Bank's offices located at _____ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Escrow Account are satisfactorily completed, this Performance Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Guarantee shall ensure the workmanship and durability of all materials used in the construction of the [Insert: subdivision and/ or site plan] approval, dated [Insert: Date] as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee by presentation of a sight draft at Bank's offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the [**Insert: subdivision and/ or site improvements**].

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

Seen and Agreed to: [**Applicant**]

By: _____

**PERFORMANCE GUARANTEE
with the City of Portland**

Developer's Tax Identification Number: _____

Developer's Name and Mailing Address: _____

City Account Number: _____

Application ID #: _____

Application of _____ [Applicant] for _____ [Insert street/Project Name] at _____ [Address], Portland, Maine.

The City of Portland (hereinafter the "City") will hold the sum of \$ _____ [amount of performance guarantee] on behalf of _____ [Applicant] in a non-interest bearing account established with the City. This account shall represent the estimated cost of installing _____ [insert: subdivision and/ or site improvements (as applicable)] as depicted on the subdivision/site plan, approved on _____ [date] as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Applicant's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account in the event that:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the _____ [insert: subdivision and/ or site improvements (as applicable)] approval, dated _____ [insert date]; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Developer has failed to notify the City for inspections in conjunction with the installation of improvements noted in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option,

either thirty days prior to the expiration date contained herein, or s/he may draw against this escrow for a period not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its representative, will give the City written notice, by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of this escrow within sixty (60) days prior thereto.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Works and Planning, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the City to reduce the available amount of the escrowed money by a specified amount.

This Guarantee will automatically expire on **[Insert date between April 16 and October 30 of the following year]** (“Expiration Date”) or on the date when the City determines that all improvements guaranteed by this Performance Guarantee are satisfactorily completed, whichever is later. At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to **[the applicant]**. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: Subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Seen and Agreed to:

By: _____
[Applicant]

Date: _____

By: _____
****Planning Division Director

Date: _____

By: _____
Development Review Coordinator

Date: _____

Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

Distribution

1. This information will be completed by Planning Staff.
2. The account number can be obtained by calling Cathy Ricker, ext. 8665.
3. The Agreement will be executed with one original signed by the Developer.
4. The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, together with a copy of the Cash Receipts Set.
5. ****Signature required if over \$50,000.00.

Infrastructure Financial Contribution Form
Planning and Urban Development Department - Planning Division

Amount \$

City Account Number: 710-0000-236-98-00

Project Code: _____

(This number can be obtained by calling Cathy Ricker, x8665)

Project Name:

Application ID #:

Project Location:

Project Description:

Funds intended for:

Applicant's Name:

Applicant's Address:

Expiration:

If funds are not expended or encumbered for the intended purpose by _____, funds, or any balance of remaining funds, shall be returned to contributor within six months of said date.

Funds shall be permanently retained by the City.

Other (describe in detail) _____

Form of Contribution:

Escrow Account

Cash Contribution

Interest Disbursement: Interest on funds to be paid to contributor only if project is not commenced.

Terms of Draw Down of Funds: The City shall periodically draw down the funds via a payment requisition from Public Works, which form shall specify use of City Account # shown above.

Date of Form:

Planner:

-
- Attach the approval letter, condition of approval or other documentation of the required contribution.
 - One copy sent to the Applicant.

Electronic Distribution to:

Peggy Axelsen, Finance Department
Catherine Baier, Public Services Department
Barbara Barhydt, Planning Division
Jeremiah Bartlett, Public Services Department
Michael Bobinsky, Public Services Department
Diane Butts, Finance Department
Philip DiPierro, Planning Division
Katherine Earley, Public Services Department
Michael Farmer, Public Services Department
Alex Jaegerman, Planning Division
David Margolis Pineo, Public Services Department
Matt Rancourt, Public Services Department
Jeff Tarling, Public Services Department
Planner for Project