

019-A-001-001

1-1 India St, Portland, ME

The Longfellow at Ocean Gateway

Riverwalk, LLC

WHEREAS, such Option Agreement shall have an initial term and be valid and enforceable through April 15, 2006 and may be extended on a month to month basis through October 15, 2006 for additional nonrefundable monthly payments to One India Street Associates, LLC of [REDACTED] which amounts shall not be credited against the purchase price of the Option Property; and

WHEREAS, Assignor will cause One India Street Associates, LLC or its own agents to provide to Assignee all environmental, soils, geotech, survey, structural or other reports, studies and documents related to the Option Property within ten (10) days of the execution of this Agreement; and

WHEREAS, Assignor desires to grant to Assignee, on its own behalf, and on that of its affiliates and tenants in the Turner Barker building, all reasonable and necessary rights to renovate and/or develop the Option Property and to create a Declaration of Condominium creating, *inter alia*, a commercial office condominium of the entire first floor of the existing Turner Barker building to the satisfaction of Assignor; and

WHEREAS, Assignee, after exercising the Option Agreement and upon closing on the Option Property, desires to transfer full right, title and interest to Assignor and/or its assigns, ownership in the first floor office condominium in the Turner Barker building for [REDACTED] plus other valuable consideration; and

WHEREAS, Assignor desires to enter into a lease agreement for said first floor office condominium in the Turner Barker building with Assignee and/or its assigns at closing on the Option Property for an initial term of eight (8) years commencing on the date of Assignee's transfer to Assignor, at a full net base rent of [REDACTED] per year plus Assignee will have the responsibility for and pay all capital costs, condominium fees, operating costs attributable to such condominium space; and

WHEREAS, Assignor desires to grant to Assignee within such lease agreement multiple five (5) year renewal options for such space at the then prevailing market rates for such space, but Assignor shall reserve to itself the right in its sole discretion not to grant such renewal extensions, with such non-renewal notice terms being consistent with those set forth in that certain Dimillo's lease agreement of Assignor, but such right not to renew may only be exercised by Assignor in the event Assignor intends in good faith to imminently renovate and use such space as one of its retail bank branches; and

WHEREAS, Assignee desires to grant to Assignor, on its own behalf, and on that of its affiliates, tenants and other condominium owners in the Turner Barker building and abutting development, all reasonable and necessary rights to reasonably renovate the interior of the first floor condominium of the Turner Barker building as and when Assignor notifies Assignee in writing of its intent not to renew the Dimillo's lease agreement and of its intent to renovate such condominium as a retail bank branch; and

WHEREAS, Assignor wishes to grant to Assignee its commitment to timely seek approvals and permits and then to reasonably renovate, at Assignee's sole cost, the exterior walls, roof, windows, sidewalks, landscaping, lighting, east, west and northerly entries to the building (at least

one of which shall be ADA compliant), remove the current stair and elevator core, etc. of the Turner Barker building consistent with prudent historic preservation and the balance of Assignee's development; and

WHEREAS, Assignee and Assignor acknowledge and agree that Assignee's development requires the creation of a certain luxury image imbued with appropriate vibrancy and active use throughout the daylight and evening hours of its operation as a luxury hotel, condominiums and spa, and Assignor recognizes the needs for such images and wishes to grant to Assignee its commitment to install, at Assignee's sole cost, mutually agreeable window treatments in the interior of all windows of the first floor of the Turner Barker building and to mutually agree on after hour interior and exterior lighting policies for the Turner Barker building as and when Assignor renovates and occupies the first floor condominiums as a retail bank branch; and

WHEREAS, neither Assignor nor One India Street Associates, LLC shall hereafter enter into anything other than month to month commercial leases for the Option Property, and all tenants of the Option Property shall vacate the building no later than one hundred and twenty days (120) after Assignee closes on the purchase of the Option Property; and

WHEREAS, Assignee shall pay Assignor or its assigns a [REDACTED] tenant relocation fee at the closing on the Option Property; and

WHEREAS, Assignee and/or its assigns may commence construction, excavation and other development activities on the land surrounding the Turner Barker building prior to the tenants thereof vacating the premises, and if so and upon Assignor's request, Assignee will find and pay for reasonable replacement parking for such tenants within a 2 block radius of the Option Property and will use its reasonable and good faith efforts to minimize the business disruption caused by any such work; and

WHEREAS, Assignee will provide, at then market rates, a lease agreement for up to 12 vehicle parking spaces in the structured parking facility to be developed by Assignee on the westerly portion of the Shipyard Brewing Company site, for use by Assignor if and when it renovates and occupies the first floor condominium as a retail bank branch, and such spaces shall be identified and placed in a manner to be conducive to the use thereof by Assignor's retail bank branch employees and/or customers; and

WHEREAS, Assignee and Assignor agree to work diligently and in good faith to include within the Declaration of Condominium rules and regulations regarding appropriate signage for Assignor if and when it occupies the first floor condominium space as a retail bank branch, window treatments, after hours lighting and other items that each acknowledges is important to the branding, success and operation of their respective businesses, but all expenses involved in completion of the condominium shall be the sole and complete obligation of Assignee; and

WHEREAS, Assignee and Assignor will enter into a covenant which provides that Assignee will not lease, sell or otherwise allow another retail bank branch or ATM to occupy any space on the block of its development bounded by Fore, Hancock, India and Commercial Streets and it will allow Assignor to place an ATM as the sole ATM within the hotel lobby subject to design review and placement review by Assignee in keeping with the luxury nature of its development, such review and consent not to be unreasonably withheld, delayed or conditioned; and

NOW, THEREFORE, in consideration of the above agreements and payments (the "Option Fees") to be paid or performed by Assignee and for other good and valuable considerations, the receipt and sufficiency of which is hereby absolutely and unconditionally acknowledged by the parties, the parties hereby agree as follows:

ARTICLE I

1.1 Assignment Granted. Subject to the terms of this Agreement, the Assignee shall have and is hereby granted an assignment of the Option Agreement which shall grant Assignee the exclusive option to purchase the entire interest of the Assignor in and to the Option Property, (the "Option"), free and clear of any and all liens and encumbrances, for a purchase price (the "Purchase Price") equal to [REDACTED]

1.2 Assignment Term. The Assignment shall remain in full force and effect until the close of business on October 13, 2005. To effectuate the assignment, Assignee shall pay to Assignor the [REDACTED] option assignment fee, at which time the Option Assignment shall be fully effective. If the option assignment fee is not paid by the close of business on October 13, 2005, this Option Assignment Agreement shall be deemed to have lapsed and shall be null and void *ab initio* and an Affidavit of such expiration signed by Assignor and recorded in the Cumberland County Registry of Deeds shall constitute conclusive evidence for title purposes that this Option Assignment Agreement is no longer in effect.

1.3 Conditions Precedent to Exercise of Option Assigned Pursuant to this Agreement. This Option Assignment Agreement shall be rendered void *ab initio* if at any time prior to closing on the Option Property, Assignee fails to execute the several agreements described herein or to otherwise perform or commit in good faith to the covenants contained herein.

1.4 Mutually Acceptable Agreements Between the Parties Subsequent to the Execution of This Agreement. The parties hereto shall negotiate in good faith and enter into mutually acceptable written agreements to each of the items noted hereinabove.

1.5 Closing. If the Option assigned herein is exercised in accordance with this Agreement, the closing for the purchase of the Option Property from the Assignor or One India Street Associates to the Assignee shall be held as expeditiously as possible, and not later than the extended option expiration date as set forth in such Option. The closing shall be held at the law office of Bernstein, Shur, Sawyer & Nelson at 100 Middle Street, Portland, Maine 04101.

1.6 Payment of Costs. Each party hereto shall pay all of their own costs and expenses related to this Agreement and the transfers contemplated hereby as such fees are incurred.

1.7 Brokerage. Assignor and Assignee each represent and warrant to the other that no brokers or agents have been employed with respect to this transaction by either of them, and each agrees to indemnify and hold the other harmless from any claim by any other broker or agent claiming compensation in respect of this transaction, alleging an agreement with either of them, as the case may be.

ARTICLE II

2.1 Entire Agreement. This Agreement contains the entire agreement between the Assignor and the Assignee and no representations or agreements, either oral or written, between them other than those contained in this Agreement shall survive the execution of this Agreement, and the parties acknowledge that no representations made to the other and not contained in this Agreement as covenants or warranties have been relied upon by any party hereto in the execution of this Agreement.

2.2 Construction. Words of any gender used in this Agreement shall be construed to include all genders and words in the singular shall be construed to include the plural, where the context so requires. The words "herein", "hereof", and "hereunder" when used in this Agreement shall be construed to refer to this Agreement in its entirety and not to any particular section or provision thereof. In addition, the parties acknowledge that they were represented by counsel in connection with the drafting of this Agreement, and that the parties participated in the drafting of this Agreement and no provision of this Agreement shall be construed more strongly against one party or another.

2.3 Partial Invalidity. In any term, covenant, or condition of this Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant, and condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

2.4 Notices. All notices, demands, requests or other communications required or permitted under the term of this Agreement shall be in writing and, unless and until otherwise specified in a written notice by the party to whom notice is intended to be given, shall be sent to the parties at the respective addresses set forth in the preamble to this Agreement.

Notices may be given on behalf of any party by its legal counsel.

Each such notice, demand, request, or other communication shall be deemed to have been properly given for all purposes if (i) delivered against a written receipt of delivery, (ii) mailed by certified mail of the United States Postal Service, return receipt requested, postage prepaid, or (iii) delivered to a nationally recognized overnight courier service for next business day delivery, to its addressee at such party's address as set forth above.

Each such notice, demand or request, shall be deemed to have been given upon actual receipt or first refusal of the addressee to accept delivery.

2.5 Governance. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine without reference to the conflicts of law principles of the State.

2.6 Successors and Assigns. Subject to the conditions and terms specifically set forth in this Agreement, all the terms and conditions of this Agreement shall be binding on any successors and assigns of the parties hereto.

2.7 Non-Waiver. The parties acknowledge and agree that their waiver of any default under the terms of this Agreement at any time on certain circumstances shall not be construed or deemed to be a waiver of any subsequent or other default occurring either before or after the waived default, and that such parties shall be entitled to enforce their rights in the event of default regardless of any prior waivers thereof.

2.8 Modification and Amendment. This Agreement may only be amended, altered, or modified by a written instrument signed by each of the parties.

2.9 Attorneys' Fees. In the event that any party is required to engage the services of legal counsel to enforce rights under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees from non-prevailing parties. In the event of litigation, said attorney's fees shall include fees and costs, both at trial and on appeal.

2.10 Execution of Additional Instruments. Each party hereby agrees to execute such other or further instruments of whatsoever kind or nature necessary to comply with any applicable laws, rules or regulations or to comply with the stipulations, agreements, conditions, and covenants contained and set forth in this Agreement.

2.11 Third Parties. None of the provisions of this Agreement shall be for the benefit of or enforceable by any third party.

2.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which constitute one and the same instrument. Counterparts of this Agreement with facsimile signatures shall be deemed original counterparts for all purposes; however, each party shall promptly furnish counterparts with original signatures upon request.

ARTICLE III

3.1 Termination of Prior Agreement. One India Street Associates, LLC is a party to that certain Purchase and Sale Agreement by and between One India Street Associates, LLC and Assignee, dated April 19, 2005 (the "Purchase and Sale Agreement"), pursuant to which One India Street Associates, LLC has contracted to sell the Option Property to Atlantic Insurance Agencies (a related entity to the Bank), as successor buyer pursuant to the exercise of a right of first refusal. The parties agree that upon receipt by One India Street Associates, LLC, of the [redacted] payment required under a certain Option Agreement of even date herewith, the Purchase and Sale Agreement shall be automatically terminated without the need of further notice or writing, and the [redacted] deposit paid thereunder to One India Street Associates, LLC shall be immediately returned to the Bank.

10.9

IN WITNESS WHEREOF, the Assignor has executed this Assignment Agreement as of the 12th day of September 2005.

ASSIGNOR - GORHAM SAVINGS BANK

By: Christopher W. Emond
Its Pres - CEO

ASSIGNEE - RIVERWALK, LLC

[Signature]
By: DREW E. SWENSON
Its MANAGER

STATE OF MAINE
COUNTY OF CUMBERLAND

September 13, 2005

Personally appeared the above named CHRISTOPHER W. EMOND'S, PRESIDENT of Gorham Savings Bank and gave oath that the foregoing is his free act and deed in his said capacity and the free act and deed of the said company.

[Signature]
Notary Public/Attorney at Law
My Commission Expires: N/A

STATE OF MAINE
COUNTY OF CUMBERLAND

September 13, 2005

Personally appeared the above named DREW E. SWENSON, Manager of Riverwalk, LLC and gave oath that the foregoing is his free act and deed in his said capacity and the free act and deed of the said company.

[Signature]
Notary Public/Attorney at Law
My Commission Expires: N/A

10.10

DRUMMOND & DRUMMOND, LLP
COUNSELORS AT LAW
ONE MONUMENT WAY
PORTLAND, MAINE 04101

Telephone: 207-774-0317 (x107)
Facsimile: 207-761-4690
www.ddlaw.com

Horace W. Horton
HHorton@ddlaw.com

September 15, 2005

VIA US CERTIFIED MAIL - RETURN RECEIPT

Douglas Allen/Brad Kirkpatrick
One India Street
Portland, ME 04101

Drew Anderson, Esq.
Murray Plumb and Murray
75 Pearl Street
Portland, ME 04104-3085

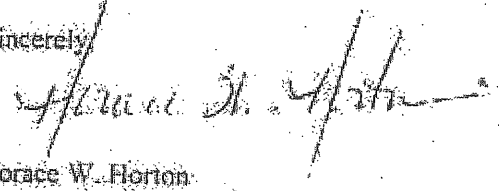
COPY

RE: One India Street

Gentlemen:

Please be advised that under the terms of the Option Agreement, Paragraph 8, Assignment, Gorham Savings Bank has assigned this Option Agreement to Riverwalk, LLC. Your contact person at Riverwalk, LLC is Drew E. Swenson, whose address is Swenson & Co., 2 Market Street, Suite 300, Portland ME 04101, and his telephone numbers are 775-2464 and fax 775-2465.

Sincerely,



Horace W. Horton

HWH/ls

cc: Christopher W. Emmons, President & CEO,
Gorham Savings Bank

10.11

COPY

OPTION AGREEMENT

This Option Agreement is entered into this 13th day of September 2005 by and between One India Street Associates, LLC, a Maine limited liability company with a mailing address of One India Street, Portland, Maine 04101 ("Optionor") and Gorham Savings Bank, with an address of 10 Wentworth Drive, Gorham, Maine 04038 ("Optionee").

1. Option Granted

The Optionor, in consideration of the non-refundable amount of [REDACTED] to be received from Optionee prior to October 15, 2005, gives Optionee the exclusive option to purchase, upon the following terms and conditions, that certain parcel of land, together with any and all structures and improvements thereon at 1-19 India Street, Portland, Maine, and otherwise known as the Turner Barker or Grand Trunk Office Building as more particularly described in Schedule A attached hereto and made a part hereof (collectively the "Premises").

2. Option

This option shall commence on October 15, 2005 and continue through April 15, 2006 (the "Option Period"), providing the non-refundable [REDACTED] is paid to the Optionor prior to October 15, 2005.

3. Exercise of Option

Optionee may exercise this option at anytime during the Option Period by delivering in hand to an officer of Optionor or mailing notice to Optionor by Certified Mail, Return Receipt Requested.

4. Option Price

The purchase price for this property is [REDACTED] payable by Optionee as follows:

- (a) [REDACTED] the Option Price, shall be non-reimbursable, but credited against the purchase price.
- (b) the balance of the purchase price shall be paid at the closing at the offices of Drummond & Drummond, LLP, One Monument Way, Portland, Maine, or at such other place as may be mutually agreed upon.

5. Extension of Option.

Optionee shall have the right to extend the Option Period for an additional six (6) periods of one (1) month each from April 15, 2006 through and including October 15, 2006 by paying [redacted] per month commencing on April 16, 2006 and continuing on the same day each and every month thereafter. Each of said extension payments of [redacted] per month shall be non-refundable and not be applied to the Option Price hereunder.

6. Failure to Exercise Option.

If Optionee does not exercise this option, Optionor shall retain the consideration paid hereunder in addition to the monthly extension amounts, if any, and neither party shall have any further rights or claims against the other by reason of this Option Agreement.

7. Closing Date.

The parties shall close this contemplated purchase transaction within thirty (30) days after Optionor shall have received written notice of the exercise of this option as set forth in Paragraph 3 herein above.

8. Assignment.

Optionee may assign this Option Agreement without prior consent of any nature from Optionor, provided that Optionee shall notify Optionor of any such assignment, together with the name and address of the assignee.

9. Recording.

Optionee shall not record this Option Agreement, but a memorandum hereof may be recorded and Optionor agrees to cooperate in signing said memorandum upon request of the Optionee, provided Optionor has received the [redacted] payment.

10. Termination of Prior Agreement.

Optionor is a party to that certain Purchase and Sale Agreement by and between Optionor and Riverwalk, LLC, dated April 19, 2005 (the "Purchase and Sale Agreement"), pursuant to which Optionor has contracted to sell the Premises to Atlantic Insurance Agencies, d/b/a Turner Barker Insurance (a related entity to Optionee), as successor buyer pursuant to the exercise of a right of first refusal. Optionor and Optionee agree that upon receipt by Optionor of the [redacted] payment hereunder, the Purchase and Sale Agreement shall be automatically terminated without the need of further notice or writing, and the [redacted] deposit paid thereunder to Optionor shall be immediately returned to Optionee.

11. Binding Effect

This Option Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

12. Governing Law

This Option Agreement shall be governed by and construed in accordance with the Laws and of the State of Maine.

13. Counterparts

This Option Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14. Notices

Any and all notices or copies thereof required under this Option Agreement shall be hand delivered or sent by Certified Mail, Postage Prepaid, Return Receipt Requested, and be effective upon receipt, addressed as follows:

If to Optionor, to: Douglas Allen or Brad Kirkpatrick
One India Street
Portland, ME 04101

With a copy to: Drew Anderson, Esq.,
Murray Plumb and Murray
75 Pearl Street
Portland, ME 04104-5085

If to Optionee, to: Christopher W. Emmons, President
Gorham Savings Bank
10 Wentworth Drive
Gorham, ME 04038

With a copy to: Horace W. Horton, Esq.,
Drummond & Drummond, LLP
One Monument Way
Portland, ME 04101

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the date first written above.

WITNESS:

[Handwritten signature]

ONE INDIA STREET ASSOCIATES, LLC

By: *[Handwritten signature]*
Member

WITNESS:

[Handwritten signature]

GORHAM SAVINGS BANK

By: *[Handwritten signature]*
Christopher W. Emmons
Its President

STATE OF MAINE

Cumberland, ss

September 13, 2005

Then personally appeared the above-named *[Handwritten signature]* as Member of One India Street Associates, LLC, and acknowledged the foregoing to be his free act and deed.

Before me,

[Handwritten signature]

Notary Public/Attorney at Law

[Handwritten signature]
Printed Name:

STATE OF MAINE

Cumberland, ss

September 13, 2005

Then personally appeared the above-named Christopher W. Emmons, as President of Gorham Savings Bank, and acknowledged the foregoing to be his free act and deed.

Before me,

[Handwritten signature]

Notary Public/Attorney at Law

[Handwritten signature]
Printed Name:

1015

OPTION TO PURCHASE

THIS AGREEMENT ("Agreement"), effective as of the 5th day of April, 2004 (the "Original Option Date") by and between, Shipyard Brewing Company LLC, whose address is 86 Newbury Street, Portland, Maine 04101 (collectively, the "Optionor"), and Riverwalk, LLC, or its designee or assignee, whose address is 2 Market Street, Suite 500, Portland, Maine 04101 (the "Optionee");

WITNESSETH:

WHEREAS, the Optionor is the owner of that certain parcel of real property situate, lying and being part of and bounded by Hancock Street (to be created) Middle Street and Fore Street in Portland, Maine, together with any and all improvements constructed thereon (collectively, the "Real Property"), which Real Property is more particularly described in EXHIBIT A attached hereto and made a part hereof; and

WHEREAS, the Optionee desires to obtain an option to purchase all of the Real Property (the "Property"); and

WHEREAS, the Optionor is willing to grant to the Optionee the option to purchase all of the Property pursuant to the stipulations, agreements, conditions, and covenants contained and set forth herein.

NOW, THEREFORE, in consideration of the premises, the payment by the Optionee to the Optionor of a non-refundable option fee in the amount of [REDACTED] (the "Option Fee") and for other good and valuable considerations, the receipt and sufficiency of which considerations is hereby absolutely and unconditionally acknowledged by the parties, the parties hereby agree as follows:

ARTICLE I OPTION TO PURCHASE

The Optionee shall have and is hereby granted the option to purchase the entire fee simple interest of the Optionor in and to the Property (the "Option"), free and clear of any and all liens and encumbrances whatsoever, except for those encumbrances which would not unreasonably interfere with Optionee's intended use of the Property, for a purchase price (the "Purchase Price") equal to [REDACTED] which Option shall remain in full force and effect until that date (the "Original Option Expiry Date") which is the first to occur of (1) thirty (30) days from and after the date (the "Effective Date") on which the City of Portland awards to Optionee title to the City land, which land is also the subject of the so-called "Eastern Waterfront Garage Proposal" or (2) June 30, 2007.

The Optionee shall have and is hereby granted the right to extend the Original Option Expiry Date for three (3) consecutive periods of thirty (30) days each by furnishing written notice (each such notice is herein an "Option Extension Notice") to the Optionor on or before the Original Option Expiry Date, or

If previously validly extended, before the then current extended Option Expiry Date. Each such Option Extension Notice, if furnished, shall establish the then applicable date (the "Option Expiry Date") for expiration of the Option and each Option Extension Notice shall be accompanied by an extension fee ("Extension Fee") in the amount of [REDACTED] for each 30 day extension. The Option shall be rendered void *ab initio* if at any time the City of Portland shall not award Optionee the right to develop a garage on the eastern waterfront and awards such right to a third party, provided, however, that any payments previously made by Optionee to Optionor shall be retained by Optionor as its sole property.

The Option shall be deemed to have been absolutely and unconditionally exercised by the Optionee only if the Optionee furnishes written notice (the "Exercise Notice") of the exercise of the Option to the Optionor to the address for the Optionor set forth in the preamble to this Agreement (or to such other address as the Optionor shall designate by written notice to the Optionee given to the Optionee in accordance with the terms and provisions governing the giving of notice set forth in this Agreement) at any time prior to the Original Option Expiry Date or the then applicable Option Expiry Date, as applicable. In the event that Optionee fails to timely furnish an Exercise Notice to the Optionor, then the Option shall terminate. In the event Optionee timely furnishes an Exercise Notice to the Optionor, the Option shall be automatically deemed extended for an additional period of sixty (60) days (the "60-Day Period") from the Original Option Expiry Date or the then applicable Option Expiry Date, as applicable. Prior to that date which is ten (10) days from and after the first day of the 60-Day Period, Optionor shall furnish to the Optionee the following items: (a) a proposed form of deed by virtue of which the Optionor shall convey the fee simple title to the Real Property to the Optionee or its assignee or designee, subject only to encumbrances of record and (b) the proposed form of such other closing documents as may be necessary or desirable to consummate the sale and purchase of the Property pursuant to the customs and practices then prevailing within Cumberland County, Maine, with respect to the sale and purchase of parcels of real property similar to the Real Property. The closing of the sale of the Property from the Optionor to the Optionee shall be held on or before that date (the "Closing Date") which is the last day of the 60-Day Period, which closing shall be held at the law office of Bernstein, Shur, Sawyer & Nelson at 100 Middle Street, Portland, Maine 04101, or such other location to which the parties agree and the Purchase Price shall be paid by Optionee by federal funds wire transfer or by cashier's check drawn on a bank which maintains an office in Cumberland County, Maine. The Option Fee and each Extension Fee paid by the Optionee shall not be applied to reduce the Purchase Price.

**ARTICLE II
MISCELLANEOUS**

2.1 **Entire Agreement.** This Agreement contains the entire agreement between the Optionor and the Optionee and no representations or agreements, either oral or written, between them other than those contained in this Agreement shall survive the execution of this Agreement, and the parties acknowledge that no representations made to the other and not contained in this Agreement as covenants or warranties have been relied upon by any party hereto in the execution of this Agreement.

2.2 **Construction.** Words of any gender used in this Agreement shall be construed to include all genders and words in the singular shall be construed to include the plural, where the context so requires. The words "herein", "hereof", and "hereunder" when used in this Agreement shall be construed to refer to this Agreement in its entirety and not to any particular section or provision.

thereof. In addition, the parties acknowledge that they were represented by counsel in connection with the drafting of this Agreement, and that the parties participated in the drafting of this Agreement, and no provision of this Agreement shall be construed more strongly against one party or another.

2.3 **Partial Invalidity.** In any term, covenant, or condition of this Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant, and condition of this Agreement shall be valid and enforced to the fullest extent permitted by law; provided, however, that the parties affected by the Offending Provision shall endeavor in good faith, within sixty (60) days after the date such determination is made, to agree upon alternative provisions which shall have the same practical effect as the Offending Provision and upon any agreement being reached, the new provision shall be incorporated into and form a part of this Agreement.

2.4 **Notices.** All notices, demands, requests or other communications required or permitted under the term of this Agreement shall be in writing and, unless and until otherwise specified in a written notice by the party to whom notice is intended to be given, shall be sent to the parties at the respective addresses set forth in the preamble to this Agreement.

Notices may be given on behalf of any party by its legal counsel.

Each such notice, demand, request, or other communication shall be deemed to have been properly given for all purposes if (i) delivered against a written receipt of delivery, (ii) mailed by certified mail of the United States Postal Service, return receipt requested, postage prepaid, or (iii) delivered to a nationally recognized overnight courier service for next business day delivery, to its addressee at such party's address as set forth above.

Each such notice, demand or request, shall be deemed to have been given upon actual receipt or first refusal of the addressee to accept delivery.

Delivery of funds shall not be deemed to have occurred until physical delivery or transfer of check, certified check, wire transfer or money order occurs.

2.5 **Governance.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine without reference to the conflicts of law principles of the State.

2.6 **Successors and Assigns.** Subject to the conditions and terms specifically set forth in this Agreement, all the terms and conditions of this Agreement shall be binding on any successors and assigns of the parties hereto.

2.7 **Non-Waiver.** The parties acknowledge and agree that their waiver of any default under the terms of this Agreement at any time on certain circumstances shall not be construed or deemed to be a waiver of any subsequent or other default occurring either before or after the waived default, and that such parties shall be entitled to enforce their rights in the event of default regardless of any prior waivers thereof.

2.8 **Modification and Amendment.** This Agreement may only be amended, altered, or modified by a written instrument signed by each of the parties.

2.9 **Execution of Additional Instruments.** Each party hereby agrees to execute such other or further instruments of whatsoever kind or nature necessary to comply with any applicable laws, rules or regulations or to comply with the stipulations, agreements, conditions, and covenants contained and set forth in this Agreement.

2.10 **Third Parties.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any third party.

2.11 **Recordation.** The Optionee shall have and is hereby granted the absolute and unconditional right to record this Agreement or memorandum of this Agreement in all applicable public records in order to place third parties on notice of the rights, interests, and options of the Optionee contained and set forth herein and the Optionor agrees to fully cooperate with the Optionee in connection therewith including, without limitation, the agreement of the Optionor to execute a memorandum of this Agreement in recordable form (without payment to the Optionor of additional consideration therefore) which memorandum shall provide, without limitation, that the Optionor may record an affidavit executed by the Optionor which states, if true: (a) that the Optionor fully complied with the stipulations, agreements, conditions, and covenants contained and set forth in this Agreement, and (b) notwithstanding such performance by the Optionor, the Optionee failed to purchase the Property on or before the Closing Date. It is specifically understood and agreed that the recordation of such affidavit by the Optionor shall, as to third parties, render this Agreement null and void and of no further force and effect.

2.12 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which constitute one and the same instrument. Counterparts of this Agreement with facsimile signatures shall be deemed original counterparts for all purposes; however, each party shall promptly furnish counterparts with original signatures upon request

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10.19

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

OPTIONOR:

[Handwritten Signature]

OPTIONEE:

[Handwritten Signature]

STATE OF MAINE
COUNTY OF CUMBERLAND

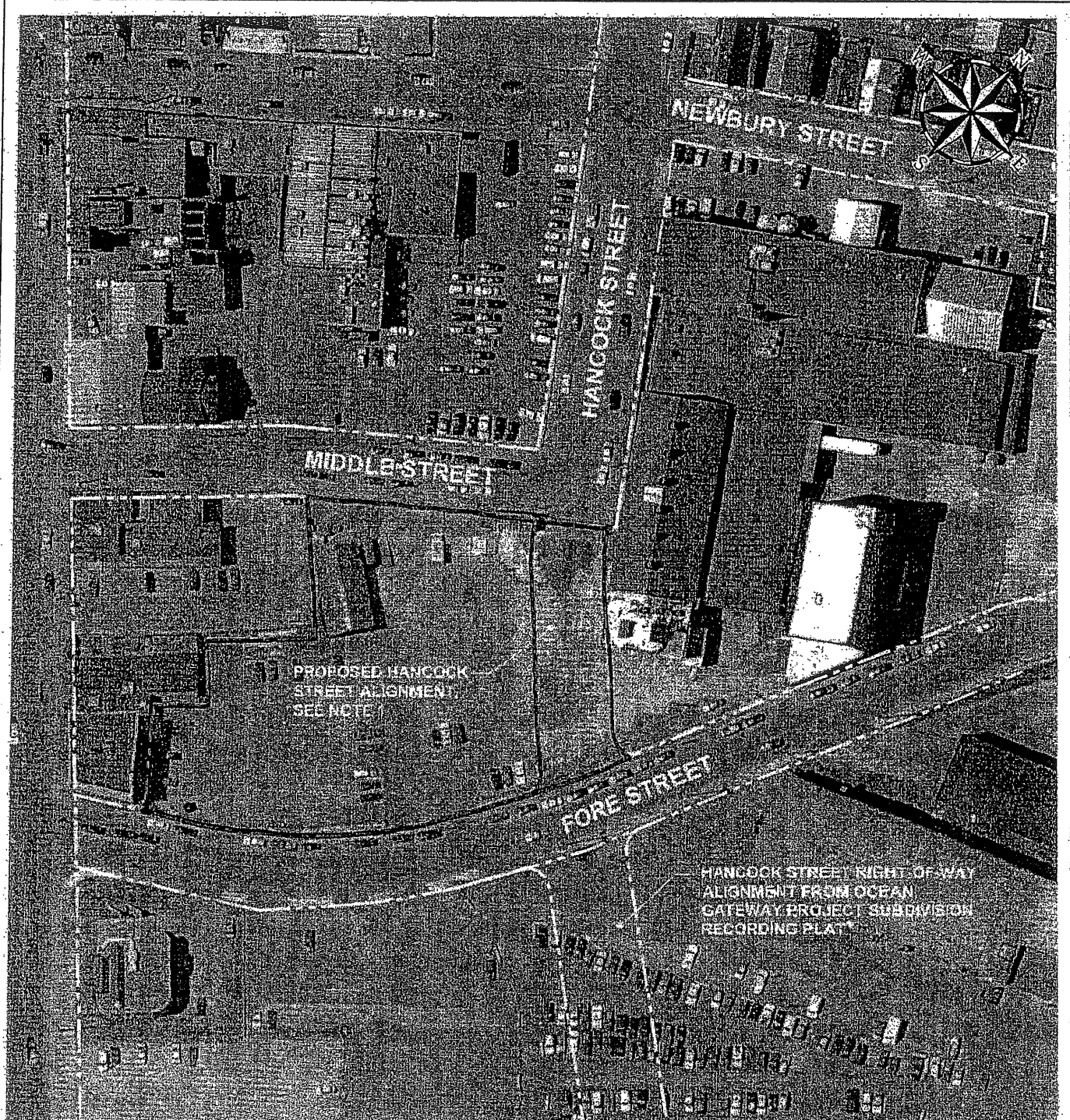
The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by _____ who is personally known to me or has produced _____ as identification and who took an oath.

Notary Public
My Commission Expires:

STATE OF MAINE
COUNTY OF CUMBERLAND

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by _____ who is personally known to me or has produced _____ as identification and who took an oath.

Notary Public
My Commission Expires:



- NOTE:**
1. PROPOSED HANCOCK STREET RIGHT-OF-WAY ALIGNMENT. RIGHT-OF-WAY WIDTH AND MEETS AND BOUNDS TO BE ESTABLISHED AND RECORDED UPON REVIEW AND APPROVAL BY THE CITY OF PORTLAND.
 2. AERIAL PHOTO FROM MAINE OFFICE OF GIS. PROPERTY LINES AND RIGHT-OF-WAY FROM: OCEAN GATEWAY SUBDIVISION RECORDING PLAT, BY OWEN HASKELL, DATED AUGUST 2004, DRAFT SURVEY FOR EASTERN WATERFRONT DEVELOPMENT, BY OWEN HASKELL, DATED JULY 2005, AND CITY SURVEY OF FORE STREET AND MIDDLE STREET IN 2003.



BAR SCALE
1" = 100'
CHECK GRAPHIC SCALE BEFORE USING

WOODARD & CURRAN
Engineering • Science • Operations
PORTLAND, MAINE 200-425-4292

HANCOCK STREET ALIGNMENT

DESIGNED BY: JBC	CHECKED BY: DAS
DRAWN BY: JBC/GAS	203555-EXHIBIT A.dwg

RIVERWALK, LLC

EASTERN WATERFRONT REDEVELOPMENT

JOB NO: 203555
DATE: AUGUST 2005
SCALE: AS NOTED

EXHIBIT A

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EXHIBIT B

No exceptions

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PURCHASE AND SALE AGREEMENT

THIS AGREEMENT for the purchase and sale of real estate made as of the 2nd day of September, 2005 by and between the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, Maine (hereinafter referred to as "CITY"), and **RIVERWALK LLC**, a Maine limited liability company with a place of business at 2 Market Street, Portland in Cumberland County, Maine (hereinafter referred to as "BUYER"). The Effective Date of this Agreement shall be deemed to be the date first set forth above in this Agreement, provided that if no date is filled in or if either of the signatures of the parties are dated later than the above, the Effective Date shall be the last date of the signature of the last to sign of **BUYER** or **CITY**. The parties agree to upon request confirm to the other party the Effective Date of this Agreement.

WITNESSETH:

WHEREAS, **CITY** is the owner of certain land located on the Eastern Waterfront, Portland, Maine, which property is also described on City of Portland Tax Assessors Maps effective April 1, 2005 as a portion of Map 19, Block A, Lot 14 and which is more particularly described in Exhibit A attached hereto and incorporated herein by reference, together with all improvements situated thereon and appurtenances thereto (hereinafter referred to as "the Property"); and

WHEREAS, the **CITY** sought proposals for development of the Property pursuant to a Request for Proposals entitled Eastern Waterfront Garage Proposal # 4504, and **BUYER** submitted a responsive proposal dated February 26, 2004, subsequently amended on September 8, 2004; and

WHEREAS, **BUYER** desires to acquire the Property from **CITY**, and **CITY** desires to sell same to **BUYER** on such terms as are set out herein;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties intend to be legally bound as follows:

1. SALE.

CITY agrees to sell the Property as shown in Exhibit A attached hereto and incorporated herein, to BUYER, and BUYER agrees to purchase the Property in accordance with the provisions hereof. The description of the Property in Attachment A is understood to be subject to minor revisions based on BUYER's title review and/or survey.

2. CONSIDERATION.

The purchase price for the Property shall be Eight Hundred Fifty Thousand Dollars, (\$850,000.00), which amount shall be paid at the closing described in Paragraph 7 hereof.

3. CONVEYANCE; TITLE.

(a) CITY shall convey its interest in the Property to BUYER by a good and sufficient quitclaim deed without covenant (the "Deed"). The Deed shall convey insurable title to the Property and free of encumbrances except (i) zoning, environmental and subdivision laws, rules, regulations and restrictions; and (ii) any "Defects of Title" (as defined below) accepted or waived by BUYER pursuant to Section 3(b); and (iii) the deed of conveyance shall contain a restriction that in perpetuity a yearly payment shall be made in lieu of taxes equivalent to the property taxes that would otherwise be paid on the real and personal property situated on Property, which restriction shall also confirm that BUYER and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates and the like as are accorded owners of real and personal property in Maine.

(b) On or before the date that is thirty (30) days after the Effective Date, BUYER shall notify CITY of any defects in title that would make CITY unable to give title to the Property as herein stipulated (any of which is called herein a "Defect of Title"). BUYER shall be deemed to have waived any objection to any Defect of Title that existed as of the Effective Date if BUYER fails to notify CITY of such Defect of Title on or before the end of such 30-day period. With respect to the existence of any Defect of Title that does not exist on the Effective Date, but which arises prior to the Closing Date, BUYER shall notify CITY of any such Defect of Title on or prior to the Closing Date. CITY shall have, at its option, a period of not more than ninety (90) days after receipt of notice(s) of such defect within which to remedy or cure any such Defect of Title. If CITY elects to remedy or cure such Defect of Title, then if the Closing Date shall fall within the said 90-day period, it shall be extended to the date that is ten (10) business days after the expiration of such 90-day period or after the date such Defect of Title is cured to BUYER's reasonable satisfaction (but in no event shall the Closing Date be earlier than is otherwise provided herein). BUYER shall have ten (10) business days after receipt of notification by CITY that the Defect of Title has been cured to advise CITY whether it is satisfied with the title defect cure. If such Defects of Title are not corrected or remedied within such 90-day period, then BUYER shall elect by written notice to the CITY on or before the Closing Date, as the same may be extended, either (i) to accept title to the Property subject to the uncured Defects of Title without reduction of the purchase price and without any right to damages and without any other liability on the part of CITY, or (ii) to terminate this Agreement, whereupon the Deposit shall be returned to BUYER and all obligations of the parties hereunder shall cease and neither party shall have any claim against the other by reason of this Agreement, except with respect to any provision hereof that expressly survives the termination of this

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Agreement. For purposes of this subsection (b), CITY may elect to cure or remedy any Defect of Title by providing BUYER with a binding commitment from a title insurance company licensed to do business in Maine committing to issue an endorsement to BUYER's owner's title insurance policy providing affirmative coverage for such Defect of Title at no additional premium to BUYER beyond any premium required for such title policy without such endorsement and BUYER agrees to accept such affirmative coverage as a cure or remedy for such Defect of Title provided that the form and content of such affirmative coverage is satisfactory to BUYER and its advisors in their sole discretion.

4. POSSESSION.

Full possession of the Property will be given at the transfer of title. It is a condition on BUYER's obligation to close that the Property shall be on the Closing Date in the same condition as it is in as of the Effective Date of this Agreement, with the exception of any damage caused by BUYER as a result of inspection of the Premises and not repaired, normal wear and tear excepted, and subject to the Risk of Loss provision set out immediately below.

5. RISK OF LOSS.

(a) All risk of loss to the Property prior to the closing shall be borne by CITY. If prior to the Closing Date the Property is destroyed or damaged by any cause (with the exception of any damage caused by BUYER as a result of inspection of the Premises), BUYER shall have the option and right to terminate this Agreement and receive back its Deposit. Provided, however that in such event, CITY shall have, at its option, the right to notify BUYER of its desire to repair or restore, and it shall provide such notice in writing within ten (10) business days after notice to the CITY of such destruction or damage. Upon such election by the CITY, this Agreement may not be terminated by BUYER for a period of not more than 120 days after such occurrence within which time the CITY shall repair any such destruction or damage. If CITY elects to repair any such damage or destruction, the Closing Date shall be extended to the date that is the later of the Closing Date described below and ten (10) business days after the expiration of such 120-day period, or earlier if the parties mutually agree. If such destruction or damage is not corrected or remedied within such one hundred twenty (120) day period, or if CITY does not provide such notice of its election to repair or restore such destruction or damage, then BUYER may elect, by written notice to CITY on or before the Closing Date, as the same may be extended hereunder, to terminate this Agreement, in which case the Deposit shall be promptly returned to BUYER and neither party shall have any further obligations to the other hereunder, except with respect to any provision hereof that expressly survives the termination of this Agreement. If BUYER does not timely elect to terminate this Agreement as provided above, BUYER shall be deemed to have waived any right to terminate this Agreement as a result of such destruction or damage.

(b) If BUYER has elected to close notwithstanding such damage or destruction or is deemed to have waived its right to terminate as provided above, BUYER shall be obligated to complete this transaction without a reduction in the purchase price and receive all insurance proceeds recovered or recoverable by reason of such destruction or damage, less any amounts reasonably expended by CITY in collecting such amounts and less any amounts paid by CITY for any restoration, but without reduction of the purchase price and without any right to damages and without any other liability on the part of CITY.

6. INSPECTION OF PREMISES; RIGHT TO TERMINATE.

(a) BUYER and its agents, employees and independent contractors may, at their option and at their sole risk and expense, during the period of time from the Effective Date through the date that is sixty (60) days after the Effective Date upon at least two (2) business days prior written notice to CITY as to each inspection or survey, examine the Property and prepare surveys, mechanical, structural, environmental or physical reports of the Property. BUYER may make information obtained from such inspections or surveys available to its consultants, attorneys and lenders for purposes of completing and/or furthering its development plans for the Property. BUYER shall not otherwise make such surveys and reports public or otherwise disclose to third parties unless otherwise required by law. Copies of such surveys and reports shall be promptly given to the CITY if this Agreement is terminated for any reason. BUYER's access to the Property shall be only during normal business hours, unless otherwise expressly agreed to in writing by CITY. BUYER shall not cause any unrepaired damage to the Property and shall not unreasonably interfere with CITY's business. Any damage caused by inspection which impairs the use of the Property shall be repaired within two (2) business days. Testing shall be done in locations as agreed by CITY. Access to any space that is under lease shall only be permitted to the extent that CITY has a right of access pursuant to the terms of any of the leases. All such inspections shall be done by qualified inspectors chosen and paid for by BUYER. BUYER agrees to hold CITY harmless and indemnify CITY from any loss or liability resulting from the entrance by BUYER or its agents upon the Property for the purposes set forth herein or for any other purpose and this agreement to so indemnify and hold CITY harmless shall survive the Closing hereunder, or if the Closing does not occur, the termination of this Agreement.

(b) At any time on or prior to the date that is seventy five (75) days after the Effective Date, BUYER shall have the right to terminate this Agreement if BUYER determines, in its sole discretion, that it is not satisfied with any of its inspections, by giving written notice to CITY on or before the end of such 75-day period, together with a copy of the written results of all such inspections, if any. Subject to the qualification set forth in the last sentence of this subsection, if BUYER timely gives notice of such dissatisfaction, then this Agreement shall terminate, the Deposit shall be returned to BUYER and all obligations of the parties hereunder shall cease and neither party shall have any claim against the other by reason of this Agreement, except with respect to any provision hereof that expressly survives the termination of this Agreement. If BUYER fails to give such written notice on or before the end of such 75-day period, BUYER shall be deemed to have waived its right to terminate this Agreement pursuant to this Section.

(c) The parties agree to be co-applicants on any voluntary response action plan (VRAP) necessary for the site, if the site is remediated.

7. CLOSING.

The closing shall be held at Portland City Hall at a time and date mutually agreeable to the parties within thirty (30) days of the satisfaction or waiver of all conditions to closing described in Section 8 of this Agreement ("Closing Date"), unless extended as provided herein; but in no event shall the Closing Date be any later than the date that is twelve (12) months from the Effective Date hereof (i.e., the first anniversary of the Effective Date), unless the delay or

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extension is due to CITY's right to extend the closing date set forth elsewhere in this Agreement or due to the failure of the conditions set forth in Section 8, below. If such conditions are not satisfied prior to Closing, BUYER shall have the right to terminate this Agreement by written notice to CITY, and this Agreement shall then terminate, the Deposit shall be returned to BUYER and all obligations of the parties hereunder shall cease and neither party shall have any claim against the other by reason of this Agreement, except with respect to any provision hereof that expressly survives the termination of this Agreement. All conditions to Buyer's obligation to close hereunder, including without limitation those contained in Section 8, shall be considered conditions of BUYER only and may be waived by BUYER in BUYER's sole discretion such that BUYER may close notwithstanding the satisfaction or failure of such condition.

At the closing, CITY and BUYER shall execute and deliver all customary documentation necessary to close this transaction and other documents specifically set forth below, the form and content of which shall be mutually satisfactory to each party, including without limit, CITY's execution and delivery to BUYER, against payment of the purchase price of the Deed, a quitclaim bill of sale for the Personal Property, all keys, access cards, security codes and similar items in Seller's possession, a "Seller's Affidavit" regarding mechanics liens and persons in possession in the customary form and reasonable evidence of Seller's authority to convey the Property and Personal Property.

8. CONDITIONS TO CLOSING.

BUYER's obligations to close hereunder are contingent upon the satisfaction of the following:

(a) Receipt by BUYER of all necessary permits and approvals, in final unappealable form, for its intended development of the Property and related parking garage and hotel (hereinafter "Project").

(b) Receipt by BUYER of a financial commitment for its intended development of the Property and related parking garage and hotel.

(c) Release of rights apparently held by Phineas Sprague, Sr., and/or his successors and assigns by virtue of instruments recorded in the Cumberland County Registry of Deeds in Book 336, Pages 338 and 341, respectively within sixty (60) days of the date of this Agreement.

(d) Receipt by BUYER of the full tax increment financing and credit enhancement as set forth in a certain Credit Enhancement Agreement to be executed by and between BUYER and SELLER.

Notwithstanding the foregoing, BUYER shall have the right to waive any or all of the above conditions, and close notwithstanding the fact that any or all of them has not been satisfied.

9. CONDITIONS SURVIVING CLOSING.

Conditions relating to the GARAGE shall be secured by a Declaration of Covenants, Conditions and Restrictions that shall be recorded in the Cumberland County Registry of Deeds.

(a) **BUYER** shall construct a seven hundred twenty (720) space parking garage hereinafter "**GARAGE**"), and a mixed use, multistory development as generally shown on Exhibit B, attached hereto and incorporated herein by reference. The **GARAGE** shall remain in operation as a public parking garage for a minimum of thirty years.

(b) **BUYER** shall submit for review and concept approval to the Community Development Committee of the City Council (hereinafter "**CDC**") the design and specifications of **GARAGE**, including but not limited to the type of materials to be used, the type and programmatic lay-out (including the location of stair and elevator towers) of structure as well as fenestration and external building materials. Review by the **CDC** shall in no way substitute for any land use, site plan, historic preservation or other review otherwise required by **CITY** ordinance.

(c) **BUYER** shall locate and construct a retail structure along the Fore Street side of the **GARAGE** as shown in Exhibit B either during or shortly after the construction of the **GARAGE** and no later than full leasing of all retail spaces on the Property. Both parties hereto agree that if the retail space is not constructed simultaneously with the **GARAGE**, that the **GARAGE** shall be built such that the retail structure may be accommodated without unreasonable delays or the addition of unreasonable costs, which shall include the stubbing in of utilities to facilitate near term retail development.

(d) **BUYER** shall operate the **GARAGE** such that its hours of operation are similar to the hours of operation in other public garages in the area. The **GARAGE** shall be available for snow ban parking at a maximum of 50% of the daily parking rate. The **GARAGE** shall also participate in the park and shop or similar program.

(d) **BUYER** shall substantially begin construction of **GARAGE** by April 1, 2006. **CITY** may grant an extension of this time period for delays that are not within the control of **BUYER**. In the event that **BUYER** fails to substantially begin construction as provided herein, **CITY** shall have the right but not the obligation to repurchase the Property by giving a ninety (90) day written notice of its intent to repurchase. The repurchase price shall be equal to the price paid by **BUYER** to **CITY** for the **CITY** Property.

(e) **BUYER** shall provide evidence of written preliminary approval by the Portland Water District ("**PWD**") of the redevelopment of **PWD** pump station property as described in **PROJECT** within ninety (90) days of the execution of this Agreement and shall provide final written approval upon the completion of all permitting, plans and approvals.

(f) **CITY** will enter into a parking lease in substantial form as that attached hereto as Exhibit C for spaces in **GARAGE**.

(g) **CITY** shall extend and construct Commercial Street and Hancock Street as shown on Exhibit D. The construction of Commercial Street and Hancock Street shall be completed by May 30, 2007, unless otherwise agreed to by parties, or unless the opening of the **GARAGE** is extended past May 30, 2007. In the event that the **GARAGE** opening is extended past May 30, 2007, **CITY** shall receive a corresponding extension of time for the completion of the streets.

(h) CITY shall contribute [REDACTED] from its sewer user fund for the installation of an odor control system related to operation of the Portland Water District pump station and beautification modifications to the pump station which is reasonably required by the Portland Water District in connection with the PROJECT and which odor remediation project BUYER is relying on to make its decision to enter into this Agreement. CITY shall work with Portland Water District in order to complete construction of such odor remediation project by April 1, 2007. Payment of said sum shall be made to the Portland Water District.

Notwithstanding anything in this section, BUYER shall construct and assume the remaining obligation for all costs of constructing an aesthetic and architecturally pleasing facade and other exterior improvements to the Portland Water District pump station consistent with PROJECT.

In the event BUYER builds the GARAGE and has not substantially completed the remainder of the PROJECT by April 1, 2008, CITY's obligation pursuant to this paragraph shall be limited to the installation of an odor control system related to the Portland Water District pump station.

(i) CITY shall relocate its recreational trail and the Maine Narrow Gauge Rail Line in order to accommodate the extension of Commercial Street and the development contemplated by this Agreement. The relocations shall be accomplished at no cost to BUYER.

(j) Upon issuance of a Certificate of Occupancy for GARAGE, CITY agrees to close its most easterly, 97± space Ocean Gateway surface parking lot to monthly parking customers, in accordance with the Planning Board condition of approval of the Ocean Gateway site plan.

10. DEFAULT.

(a) If BUYER fails to perform its obligation to close as set forth in this Agreement, and such failure is not due to CITY's default hereunder, CITY shall as its sole and exclusive remedy, in lieu of all other legal and equitable remedies, be entitled to retain the Deposit as liquidated damages as a result of such failure to perform and this Agreement shall be deemed terminated. BUYER and CITY acknowledge that CITY's damages because of BUYER's failure to perform are difficult to ascertain and agree that the amount of the Deposit represents a reasonable estimate of the amount of CITY's damages as a result thereof.

(b) If CITY fails to perform its obligations as set forth in this Agreement, and such failure is not due to BUYER's default hereunder, BUYER may elect as its sole remedies (i) to receive the Deposit. In such instance the reports shall become the property of CITY as provided in section 6 (a) of this Agreement, and this Agreement shall be deemed terminated and all obligations of the parties hereunder shall cease and neither party shall have any claim against the other by reason of this Agreement, except with respect to any provision hereof that expressly survives the termination of this Agreement, or (ii) to enforce this Agreement through legal action, including without limitation, an action seeking as its remedy specific performance of this Agreement.

11. BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns. BUYER's rights under the Agreement are not assignable (except to a wholly owned or commonly controlled subsidiary or affiliate) without the prior written consent of CITY, which consent shall not be unreasonably withheld. Any purported assignment in violation of this provision shall, at CITY's option, be null and void and shall confer no rights on the purported assignee and may, at CITY's option, be treated as a default by BUYER hereunder.

12. ENTIRE AGREEMENT.

This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior Agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property.

13. HEADINGS AND CAPTIONS.

The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

14. GOVERNING LAW.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine.

15. NOTICE.

Any notice required or permitted under this Agreement shall be deemed sufficient if in writing and if sent: (i) by first class mail, postage prepaid, registered or certified, return receipt requested; (ii) by hand delivery; or (iii) by FedEx, or similar reputable overnight express mail service to:

FOR THE CITY:	City of Portland ATTN: CITY MANAGER 389 Congress Street Portland, ME 04101
With a copy to:	Director of Planning and Development AND Corporate Counsel
FOR THE BUYER:	Riverwalk, LLC 2 Market Street, Suite 500 c/o Swenson & Co. Portland, Maine 04101

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With a copy to:

Jaimie P. Schwartz, Esq.
Bernstein, Shur, Sawyer & Nelson
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029

16. DEPOSIT.

BUYER has paid to CITY the sum of [REDACTED] as an earnest money deposit ("Deposit") on the Property. This amount shall be credited toward the final purchase price.

17. ACCEPTANCE OF DEED.

The acceptance of the Deed by BUYER at the Closing shall be deemed to be the full performance and discharge of every agreement, obligation and representation made on the part of CITY, except as expressly set forth herein or in such Deed. No provisions, agreements or representations herein shall survive the Closing except as specifically stated herein. The Property is being sold and will be conveyed "as is" without any representation or warranties as to habitability, merchantability, fitness, condition or otherwise. Neither party is relying upon any statements or representations not embodied in this Agreement. BUYER has retained or shall retain the necessary professionals to determine the presence of hazardous substances, hazardous waste, asbestos, oil and petroleum waste, lead paint, urea formaldehyde foam insulation or other liability causing substances on the Property. If CITY has given or shall give to BUYER any environmental survey or assessment or any other report concerning the Property, BUYER agrees that it accepts and shall accept the same at BUYER's sole risk and that CITY has not made and shall not have made any representation or warranty to BUYER that any such survey, assessment or report is true and correct; and BUYER agrees that CITY shall have no liability or responsibility whatsoever to BUYER with respect thereto. BUYER represents and agrees that it has been given the opportunity under this Agreement to conduct a full inspection of the Property. The acceptance of the Deed by BUYER shall constitute a reaffirmation of BUYER at the time of such acceptance of the foregoing acknowledgments and agreements of BUYER, which acknowledgments and agreements by BUYER shall survive the Closing hereunder or if the Closing does not occur, the termination of this Agreement.

18. MISCELLANEOUS.

BUYER acknowledges that the CITY desires that development on the Property shall be conducted in such a way that it is at all times consistent with the Comprehensive Plan of the CITY, all applicable ordinances, laws and regulations and that it's intended improvements and uses on the Property will to the extent required by such covenants, ordinances, laws and regulations preserve and enhance the Property's historic character and provide public access opportunities as required by said request for proposals #4504 and by the final approved site plan for the Property.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF PORTLAND

Sonia Bevan
WITNESS

By: *Joseph E. Gray, Jr.*
Joseph E. Gray, Jr.
Its City Manager

Date: 8-25-05

RIVERWALK, LLC

[Signature]
WITNESS

By: *[Signature]*

Printed name: DREW E SWENSON

Its: MANAGER

Date: 8/25/05

Proposed Deed Description Parcel A-2 Ocean Gateway

Parcel A-2

A lot or parcel of land located on the southerly side of Fore Street in the City of Portland, Cumberland County, State of Maine, bounded and described as follows;

Commencing at a point at the intersection of the northeasterly line of India Street with the southeasterly line of Fore Street;

Thence $N57^{\circ}57'41''$ E one hundred twenty-three and sixty-nine hundredths feet ($123.70'$) along the southeasterly line of said Fore Street to the Point of Beginning at the northeasterly corner of land now or formerly of the Portland Water District as described in a deed recorded at the Cumberland County Registry in Book 3870 Page 101, and the northwesterly corner of land now or formerly of the City of Portland as described in a deed recorded at said Registry in Book 10924 Page 84;

Thence from the Point of Beginning $N57^{\circ}57'41''$ E eleven and seventy-eight hundredths feet ($11.78'$) along said southeasterly line of Fore Street and northerly line of said City of Portland to an angle point;

Thence $N41^{\circ}40'33''$ E sixty-six and sixty hundredths feet ($66.60'$) along said southeasterly line of Fore Street and northerly line of said City of Portland to a point;

Thence northeasterly along a non-tangent curve to the left with a central angle of $10^{\circ}01'16''$, a radius of four hundred thirty-four and fifty-three hundredths feet ($434.53'$), an arc length of seventy-six and zero hundredths feet ($76.00'$) and a chord bearing and distance of $N35^{\circ}16'03''$ E seventy-five and ninety hundredths feet ($75.90'$) along said southeasterly line of Fore Street and northerly line of said City of Portland to a point;

Thence $N28^{\circ}51'33''$ E forty-five and sixty-three hundredths feet ($45.64'$) along said southeasterly line of Fore Street and northerly line of said City of Portland to a point of curvature for a curve on the southwesterly line of a proposed street known as Hancock Street;

Thence southeasterly along a curve to the right with a central angle of $97^{\circ}21'08''$, a radius of fifteen and zero hundredths feet ($15.00'$), an arc length of twenty-five and forty-nine hundredths feet ($25.49'$), and a chord bearing and distance of $N77^{\circ}32'05''$ E twenty-two and fifty-three hundredths feet ($22.53'$) along the northeasterly line of said City of Portland and southwesterly line of said extension of Hancock Street to a point of tangency;

Thence $S53^{\circ}47'21''$ E two hundred twenty-five and sixty-eight hundredths feet ($225.68'$) along the northeasterly line of said City of Portland and southwesterly line of said extension of Hancock Street to a point of curvature;

Thence southerly along a tangent curve to the right with a central angle of $94^{\circ} 22' 55''$, a radius of twelve and zero hundredths feet (12.00'), an arc length of nineteen and seventy-seven hundredths feet (19.77'), and a chord bearing and distance of $S06^{\circ} 35' 54'' E$ seventeen and sixty-one hundredths feet (17.61'), along the easterly line of said City of Portland and westerly line of said extension of Hancock Street to a point of compound curvature on the northwesterly line of the proposed extension of Commercial Street, yet to be named.

Thence southwesterly along a tangent curve to the right with a central angle of $05^{\circ} 49' 25''$, a radius of nine hundred seventy-one and zero hundredths feet (971.00') an arc length of ninety-eight and seventy hundredths feet (98.70'), and a chord bearing and distance of $S43^{\circ} 30' 16'' W$ ninety-eight and sixty-five hundredths feet (98.65') along the southeasterly line of said City of Portland and northwesterly line of said proposed extension of Commercial Street to a point of tangency;

Thence $S46^{\circ} 24' 59'' W$ seventy-nine and fifteen hundredths feet (79.15') along the southeasterly line of said City of Portland and northwesterly line of said proposed extension of Commercial Street to land now or formerly of One India Street Associates as described in a deed recorded at said Registry in Book 11294 Page 350;

Thence $N42^{\circ} 57' 09'' W$ fifty-six and ninety-four hundredths feet (56.94') along the southwesterly line of said City of Portland and northeasterly line of land now or formerly of said One India Street Associates to a point;

Thence $N49^{\circ} 57' 09'' W$ seventy-three and one hundredths feet (73.01') along the southwesterly line of said City of Portland and northeasterly line of land now or formerly of said One India Street Associates to a point;

Thence $S43^{\circ} 41' 10'' W$ fifty-five and zero hundredths feet (55.00') along the southeasterly line of said City of Portland and northwesterly line of land now or formerly of said One India Street Associates to a point at the easterly corner of land now or formerly of said Portland Water District;

Thence $N46^{\circ} 18' 50'' W$ ninety-four and forty-seven hundredths feet (94.47') along the southwesterly line of land of said City of Portland and northeasterly line of land of said Portland Water District to said southeasterly street line of Fore Street, and the Point of Beginning;

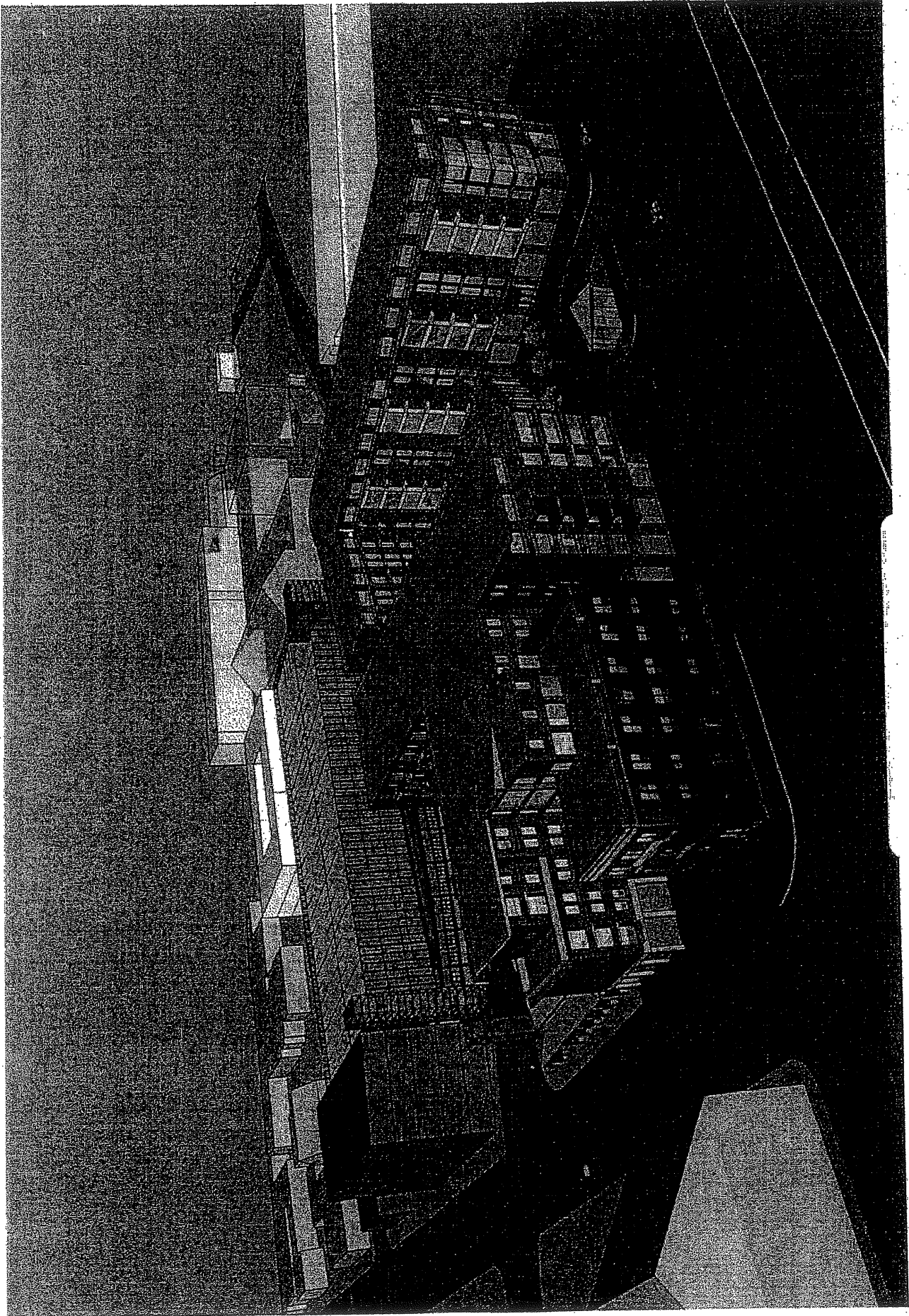
Meaning and intending to describe a lot or parcel of land containing 46364 square feet, more or less, and being a portion of the land described in a deed from the Canadian National Railway Company to said City of Portland and recorded at the Cumberland County Registry of Deed Book 10924 Page 84.

The basis of bearing is Grid North as shown on a survey plan titled "Recording Plat Sheet 1 of 3 - Ocean Gateway - Commercial Street & Fore Street, Portland, Maine - made for City of Portland 389 Congress Street, Portland, Maine 04101 AND State of Maine 16 State House Station, Augusta, Maine 04333" dated August 4, 2004 prepared by Owen Haskell, Inc. 16 Casco Street, Portland, Maine 04101, and recorded at the Cumberland

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County Registry in Plan Book 204 Page 622, and on file at the City of Portland, Public Works Department, Engineering Archives Vault as plan 938/8.

(Description by William B. Clark, Jr., PLS 2100 and William G. Scott, PLS 2239)



Riverwalk Development

**PARKING LEASE AGREEMENT
BETWEEN CITY OF PORTLAND
AND
RIVERWALK, LLC**

This Parking Lease Agreement (the "Lease") is made this _____ day of _____, 2005 by and between the City of Portland, a body politic and corporate with a place of business at 339 Congress Street, Portland, Maine (hereinafter "CITY"), and RIVERWALK, LLC, a Maine Limited Liability Company with a place of business at 2 Market Street, Suite 500, Portland, Maine (hereinafter "RIVERWALK").

WITNESSETH

That RIVERWALK, for and in consideration of the rent hereinafter paid by the CITY, and other consideration, and the covenants hereinafter contained, to be kept and performed by the CITY, does hereby demise, lease and let unto the CITY the lesser of three hundred ten (310) parking spaces or fifty percent (50%) of the constructed and available for use spaces (hereinafter the "City Parking Spaces") as of the first day of each month of this Lease to be located in a garage to be constructed at the intersection of Fore and Hancock Streets in Portland, Maine, to be known as in the Longfellow Parking Garage (hereinafter the "GARAGE" or the "Longfellow Garage") upon the following terms and conditions:

1. Term

This parking agreement shall be contingent upon, effective as of and the Initial Lease Term shall commence as of the date the Longfellow Garage opens for business, approximately eighteen (18) months from the beginning of construction, and shall continue for a period of five (5) years (the "Initial Lease Term"), and may be renewed as provided herein.

2. Rent

Subject to the credit for spaces leased set forth in Paragraph 4A below, the CITY agrees to pay RIVERWALK as rent for such use and occupancy for the CITY Parking Spaces that are constructed and available for use as of the first day of each month of the Initial Lease Term of this Lease the following amounts:

- [REDACTED] per space per month for the first twenty-four (24) months of the Initial Lease Term of this Lease.
- [REDACTED] per space per month for the final thirty-six (36) months of the Initial Lease Term of this Lease.

The expression "available for use" as applied to a parking space shall mean a parking space constructed and suitable for occupancy by an automobile.

3. Renewal

The CITY shall have the option to renew this Lease for one five (5) year term (the "Renewal Term"). The CITY shall notify RIVERWALK in writing six (6) months prior to the expiration of the Initial Lease Term of its intent to renew. At the time of the renewal, CITY may, at its sole discretion, reduce the number of spaces that it leases by stating the lesser number in the renewal notice. If the CITY does not specify a lesser number in the renewal notice, then the Renewal Term shall be for the same number of spaces as the Initial Lease Term.

The Rent during the Renewal Term shall be adjusted at the beginning of the Renewal Term and at certain times thereafter, and shall be based upon the then market rates for similar monthly spaces except that in no event shall the rent for the parking spaces during the Renewal Term be less than the following:

- [REDACTED] per space for the first and second year of the Renewal Term.
- [REDACTED] per space for the third and fourth year of the Renewal Term.
- [REDACTED] per space for the fifth year of the Renewal Term.

4. Management

A. Spaces shall be leased by RIVERWALK as the Manager of the GARAGE. Spaces shall be allocated between RIVERWALK and the CITY as follows:

On the first day of each month after the first month or partial month of the Initial Lease Term, and any renewal thereof, RIVERWALK shall take a census of all monthly cards issued on a monthly basis, plus any spaces owned or reserved by condominium residents, RIVERWALK, or any of its affiliated entities, or by any other entity that causes a parking space to be utilized on a monthly or longer term basis, collectively referred to as "Parkers". Monthly, RIVERWALK shall allocate 50% of the Parkers as determined by said census to the CITY, to be credited toward the CITY's lease commitment. RIVERWALK shall allocate the remaining 50% of the Parkers as determined by the monthly census to its account. In the event that such allocation leads to a credit to the CITY that exceeds the CITY's lease commitment (i.e., the lesser of 310 spaces or 50% of the spaces constructed and available for use), the number of Parkers in excess of the CITY's lease commitment shall be allocated to RIVERWALK and no payment shall be due to RIVERWALK from the CITY. In the event that the credit to the CITY in any given month does not meet the CITY's lease commitment, the CITY shall be responsible for payment to RIVERWALK the difference between the credit and its lease commitment at the rates indicated above.

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- B. Parking rates in the GARAGE shall be as established by RIVERWALK. Hourly and monthly rates shall not be more than 110% of average rates being charged by City and/or private structured parking garages in the eastern waterfront.
- C. RIVERWALK shall retain all daily and hourly revenue generated in the operation of GARAGE.
- D. At the termination and expiration of this Lease, island residents who apply for parking spaces at the Garage shall be placed at the beginning of any individual monthly parking space waiting list, until such time as 150 parking spaces are occupied by island residents. The expression "island residents" shall mean residents of any island within the Portland city limits. If any of the 150 parking spaces occupied by island residents become vacant, they will be filled by the next islander on the waiting list, if any. In no event shall RIVERWALK be obligated to leave spaces vacant, nor displace another leaseholder, in the GARAGE to meet this requirement. In addition, islanders shall have the right (subject to the foregoing limitation of 150 spaces) to take priority on any list for parking that is longer term than monthly parking. However, priority shall be given to islanders under this provision only when the islander seeking priority is prepared to commit to the same or greater lease duration as the person ahead of whom he or she seeks priority.
- E. RIVERWALK agrees to make any and all routine repairs at RIVERWALK's sole cost and expense, and agrees to keep said GARAGE safe and in good order and condition at all times during the term hereof, and upon expiration of this Lease or any sooner termination thereof, the CITY will quit and surrender the possession of the GARAGE quietly and peaceably and in as good order and condition as they were at the commencement hereof, reasonable wear, tear, and damage by the elements excepted; CITY further agrees to leave the GARAGE free from all nuisance and dangerous and defective conditions not in existence at the commencement hereof. RIVERWALK shall be responsible for all snow plowing, snow removal, sanding, lighting, signage, grading and other improvements it may need to operate the GARAGE.
- F. RIVERWALK shall maintain a reserve account to be utilized for the maintenance and repair of the GARAGE. [REDACTED] per space per month, or such other amount as the parties hereto may agree to in writing, shall be placed by RIVERWALK into said reserve account.
- G. RIVERWALK shall bill during the first week of each month for sums due, if any, from the CITY under this Lease for the prior month or a pro-rated portion thereof if the Garage has not operated for a full month. Invoices shall reflect the net amount due from the CITY. The CITY shall pay RIVERWALK by the end of the third week of the month.
- H. RIVERWALK shall perform all accounting, billing and collection functions related to the operation of the GARAGE, including but not limited to monthly parking customers.

- I. All spaces in the GARAGE shall be taken on a first come, first served basis, with the exception of those spaces reserved for residential condominiums and hotel valet customers of RIVERWALK or its affiliates on land bordered by India, Free, Hancock and Commercial Streets, island residents to the extent set forth above, and spaces leased on a group basis.
- J. The City's representative for day-to-day operations of the GARAGE shall be City's Parking Manager.
- K. RIVERWALK shall not lease space on any surface lot it may own in the vicinity of the GARAGE as long as CITY's lease commitment is not fulfilled. As long as the CITY's lease commitment is not fulfilled and for the Initial Lease Term only, the CITY shall not lease any parking spaces on any surface lot it may own in the vicinity of the Garage except any city owned lot in the vicinity of GARAGE or Portland Ocean Terminal may be used for cruise ship, international ferry related parking and tenants of Portland Ocean Terminal, and except for CITY employee parking and except for parking spaces in the area currently licensed to Marino adjacent to the "279 Car Lot".
- L. The GARAGE shall remain open at hours similar to the public parking garages in the area, and monthly parkers shall have access twenty-four hours a day.
- M. The GARAGE shall participate in a Park and Shop parking program or similar program.
- N. The GARAGE shall be available for snow ban parking, and rates shall not exceed 50% of the then current daily maximum rate charged for parking at the GARAGE.

5. Liability

Prior to the execution of this Agreement, RIVERWALK will procure and maintain Public Liability Insurance coverage in amounts of not less than [REDACTED] combined single limit for bodily injury, death, and property damage, naming the CITY as an additional insured thereon. RIVERWALK shall furnish upon written request of the CITY and thereafter maintain certificates evidencing such coverage, which certificates shall provide thirty (30) days notice (or such other advance notice as commercially available) to the CITY of termination of insurance from insurance company or agent.

To the fullest extent permitted by law, RIVERWALK shall defend, indemnify and hold harmless the CITY, its officers, agents and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorneys' fees, arising out of or resulting from the performance of this Agreement, provided that this indemnification shall not apply to any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use therefrom, and to the extent caused in whole or in part by any negligent act or omission of the CITY, anyone directly or indirectly employed by it, or anyone for whose act it may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

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6. Default

In the event that the CITY shall be in default of any payment of rent or in the performance of any of the terms or conditions of this Lease herein agreed to be kept and performed by the CITY, RIVERWALK shall give the CITY a written notice of such default and a thirty (30) day opportunity to cure which shall be 30 (thirty) days unless the nature of the default is such that it is not reasonably curable within 30 (thirty) days, then within a reasonable period of time so long as the CITY is diligently proceeding with the cure. The CITY shall be liable for costs incurred by RIVERWALK as a result of its default, and the CITY shall pay all costs of collection and cure, including reasonable attorney's fees.

In the event RIVERWALK shall be in default in the performance of any terms or conditions of this Lease herein agreed to be kept and performed by RIVERWALK, the CITY shall give a written notice of such default and a thirty (30) day opportunity to cure unless the nature of the default is such that it is not reasonably curable within 30 (thirty) days, then within a reasonable period of time so long as RIVERWALK is diligently proceeding with the cure. In the event the default is not timely cured by RIVERWALK, the CITY shall have the right to terminate this Lease, with no further obligation of the CITY to RIVERWALK. RIVERWALK shall be liable to the CITY for all costs incurred by it as a result of RIVERWALK's default, including the CITY's reasonable attorney's fees.

The CITY agrees to look solely to RIVERWALK's interest in the Premises for recovery of any judgment from RIVERWALK; it being specifically agreed that neither RIVERWALK, nor any of its officers, shareholders, employees, members or partners (as the case may be) nor anyone claiming under RIVERWALK shall ever be personally liable for any such judgment. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that the CITY might otherwise have to obtain injunctive relief against RIVERWALK or RIVERWALK's successors in interest, or any other action not involving the personal liability of RIVERWALK or anyone claiming under RIVERWALK.

7. Assignment

RIVERWALK may not assign this Lease without the consent of the CITY which the CITY will not unreasonably withhold. In granting or withholding consent the CITY may take into account the business reputation (including any past dealings with the CITY, if applicable) of the proposed assignee, as well as its financial capacity and technical ability to run the Garage.

Notwithstanding the foregoing, RIVERWALK may transfer its interest in this Lease to any entity in which RIVERWALK or its principals owns a controlling interest (meaning 51% or more) and may assign this Lease for collateral purposes to a lender. And in the event of an involuntary "sale" of RIVERWALK's interest in the Lease (e.g. via foreclosure or secured party sale, etc.) the CITY's consent shall not be required. Any such assignment (other than an assignment for collateral purposes) in order to be effective shall require the assumption by the assignee of RIVERWALK's obligations under the Lease.

The CITY may not assign its interest in this Lease without the prior written consent of RIVERWALK, which consent shall not be unreasonably withheld or delayed.

8. Termination

This Lease may be terminated by CITY upon the default by RIVERWALK of any of the material obligations under this Lease and the failure of RIVERWALK after written notice from the CITY to cure the default within the time periods provided herein or if RIVERWALK files a voluntary petition in bankruptcy, makes a general assignment for the benefit of creditors, or if any act occurs which operates to deprive RIVERWALK permanently of the rights, powers and privileges necessary for the proper conduct and operation of the GARAGE.

9. Estoppel and Subordination

At any time, and from time to time, upon the written request of RIVERWALK, the CITY within fifteen (15) days of the date of such written request agrees to execute and deliver to RIVERWALK and/or its lenders and mortgagees, without charge and in a form reasonably satisfactory to RIVERWALK, the CITY, and/or such lender and mortgagee, a written estoppel certificate: (i) ratifying this Lease; (ii) confirming the commencement and expiration dates of the term of this Lease; (iii) certifying that the Lease is in full force and effect and has not been modified, assigned, supplemented or amended except by such writings as shall be stated; (iv) certifying that all conditions and agreements under this Lease to be satisfied or performed by RIVERWALK have been satisfied and performed except as shall be stated; (v) certifying that RIVERWALK is not in default under the Lease and there are no defenses or offsets against the enforcement of this Lease by RIVERWALK, or stating the defaults and/or defenses claimed by the CITY; (vi) reciting the amount of advance rent, if any, paid by the CITY and the date to which such rent has been paid and agrees not to prepay rent more than 10 days in advance; (vii) reciting the amount of security deposit deposited with RIVERWALK, if any; and (viii) any other information which RIVERWALK's mortgagee shall reasonably require. RIVERWALK shall be responsible for all legal and administrative fees incurred by CITY related to the execution of such written estoppel certificate. The CITY agrees that, except as hereinafter provided, this Lease is, and all of the CITY's rights hereunder are and shall always be, subject and subordinate to any mortgage of the GARAGE ("Mortgage") that now exists, or may hereafter be placed upon the GARAGE or any part thereof; provided that so long as the CITY is in full compliance with the terms and provisions of this Lease (with all defaults, if any, fully and timely cured within applicable grace periods), any such mortgagee, or purchaser at a foreclosure sale shall recognize the CITY in accordance with the terms hereof and shall so long as the CITY is not in terminable default agree not to disturb the rights of the CITY hereunder. RIVERWALK agrees to request from any holder of a Mortgage a recognition and non-disturbance agreement evidencing the foregoing agreement of such party upon the request of the CITY. Should RIVERWALK or any lender, mortgagee or purchaser desire confirmation of such subordination, the CITY upon written request, and from time to time, will execute and deliver without charge and in form satisfactory to RIVERWALK's Mortgagee a document in reasonably satisfactory form to acknowledge such subordination and recognition in recordable form.

10. Notices

Any notices which are required hereunder, or which either RIVERWALK or the CITY may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt

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requested, addressed to RIVERWALK, LLC, 2 Market Street, Suite 500, Portland, ME 04101; or to the CITY addressed to: Joseph E. Gray, Jr., City Manager, 389 Congress Street, Portland, ME 04101, with a copy to City's Parking Manager.

11. Waiver

Waiver by either party of any default in performance by the other of any of the terms, covenants, or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

12. Compliance with Laws

Each party agrees to comply with all laws, ordinances, rules and regulations which may pertain or apply to the GARAGE and the use thereof.

13. Arbitration

In the event of a dispute under the terms of this Lease, the parties agree to submit the matter to arbitration in Portland, Maine. The arbitrator shall be selected by the parties. Each party shall bear one-half of the cost of the arbitrator, and shall be responsible for their own costs and fees associated with the arbitration. The arbitrator shall use rules promulgated by the American Arbitration Association for commercial disputes in conducting the arbitration and shall apply Maine Law.

14. Audit

The CITY shall have the right, from reasonable time to time, to review and audit the financial accounts related to the operation of the GARAGE upon a ten (10) day written notice. Records shall be provided for inspection at no cost to the CITY and shall be at RIVERWALK's offices.

15. Rules and Regulations

Rules and regulations related to the operation of the GARAGE shall be reviewed and approved by the CITY before implementation and such approval shall not be unreasonably conditioned, withheld or delayed.

16. Successors and Interest

All of the terms, covenants and conditions contained herein shall continue, and bind all successors in interest of RIVERWALK and the CITY respectively, herein.

17. Entire Agreement

This Lease Agreement represents the entire and complete Agreement and understanding between the parties and supercedes any prior Agreements or understandings, written or oral, between the parties with respect to the Lease of spaces within the Garage with respect to the parking arrangements in the GARAGE.

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18. Headings and Captions

The headings and captions appearing herein are for convenience or reference only and shall not in any way affect substantive provisions hereof.

19. Governing Law

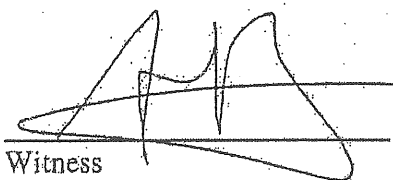
This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

WITNESS:

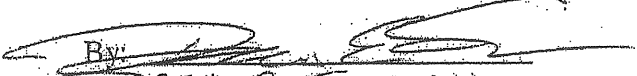
CITY OF PORTLAND

Witness


Witness

By: _____
Joseph E. Gray, Jr.
Its City Manager

RIVERWALK, LLC

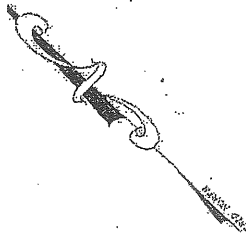
By: _____

DREW E. SWENSON
(Print or type name)
Its: MANAGER

Approved as to form:

Approved as to funds:

Corporation Counsel's Office

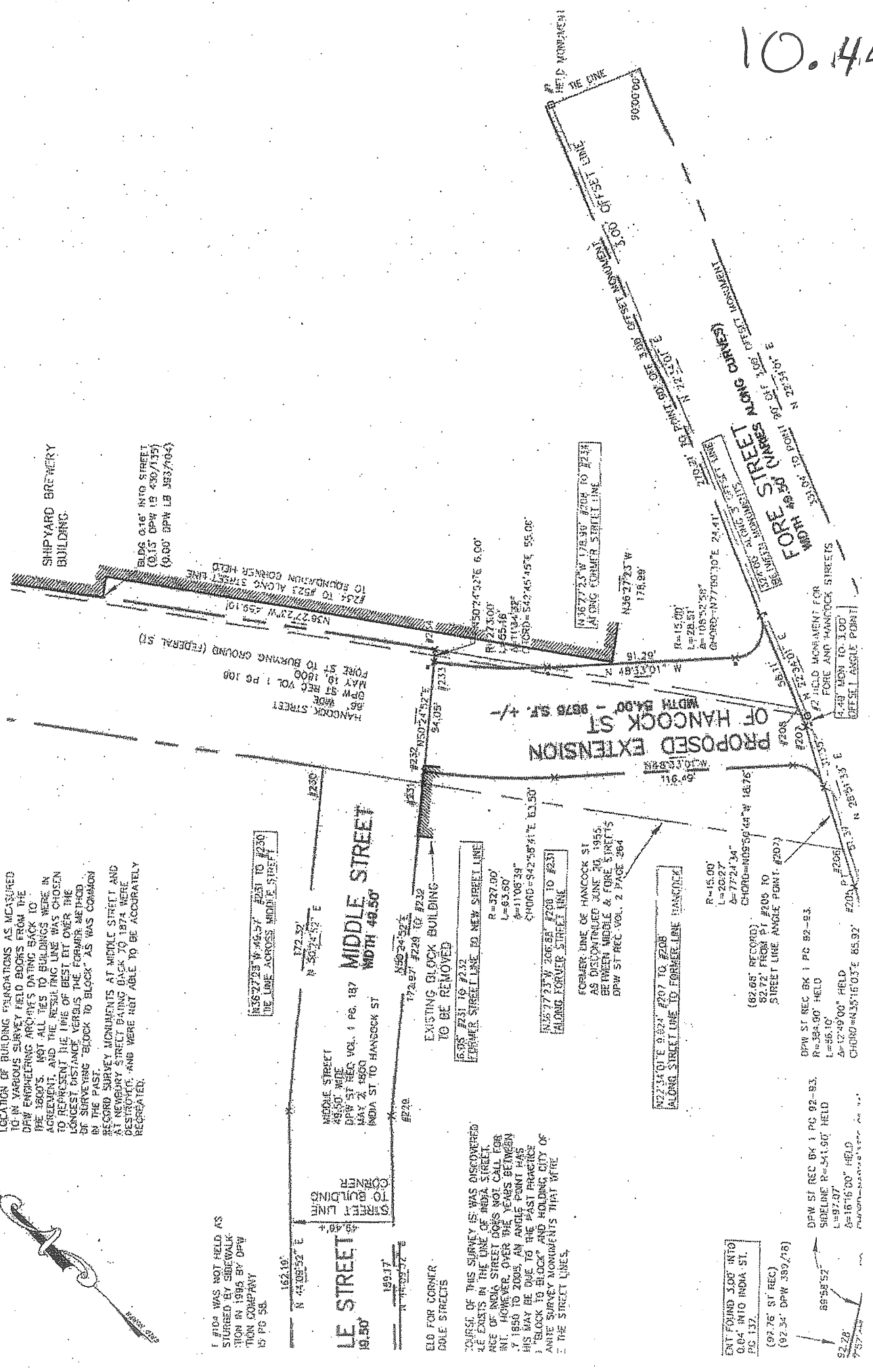
Finance Department



LOCATION OF BUILDING FOUNDATIONS AS MEASURED TO IN VARIOUS SURVEY FIELD BOOKS FROM THE DPW ENGINEERING ARCHIVE'S DATING BACK TO THE 1800'S. NOT ALL TIES TO BUILDINGS WERE IN AGREEMENT AND THE RESULTING LINE WAS CHOSEN TO REPRESENT THE LINE OF BEST FIT OVER THE LONGEST DISTANCE. VERSUS THE FORMER METHOD OF SURVEYING "BLOCK TO BLOCK" AS WAS COMMON IN THE PAST.

RECORD SURVEY MONUMENTS AT MIDDLE STREET AND AT NEARBY STREET DATING BACK TO 1874 WERE DESTROYED AND WERE NOT ABLE TO BE ACCURATELY RECREATED.

FIELD WAS NOT HELD AS STIPULATED BY SUBSEQUENT TO 1984 BY DPW TRON COMPANY 15 PG 58.



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R=15.00' L=28.51' A=105°32' 58"

CHORD=177.66' 10° E 24.41'

150.74' 32° E 6.00'

R=15.00' L=28.51' A=105°32' 58"

CHORD=177.66' 10° E 24.41'

150.74' 32° E 6.00'

R=15.00' L=28.51' A=105°32' 58"

CHORD=177.66' 10° E 24.41'

150.74' 32° E 6.00'

R=15.00' L=28.51' A=105°32' 58"

CHORD=177.66' 10° E 24.41'

152.10' N 44°08'52" E

159.37' N 44°08'52" E

172.30' N 50°24'32" E

174.87' #220 TO #232

150.74' 32° E 6.00'

R=327.00' L=63.80' A=110°33'

CHORD=542.45' 45° E 55.06'

150.74' 32° E 6.00'

R=15.00' L=28.51' A=105°32' 58"

CHORD=177.66' 10° E 24.41'

150.74' 32° E 6.00'

R=15.00' L=28.51' A=105°32' 58"

CHORD=177.66' 10° E 24.41'

150.74' 32° E 6.00'

R=15.00' L=28.51' A=105°32' 58"

CHORD=177.66' 10° E 24.41'

10.45

OPTION TO PURCHASE

THIS AGREEMENT ("Agreement"), made and entered this ¹⁶ day of February, 2005 by and between, Gilbert Enterprises, LLC, d/b/a The Breakaway whose address is 35 India Street, Portland, Maine 04101 (the "Optionor"), and Riverwalk, LLC, or its designee or assignee, whose address is 2 Market Street, Suite 500, Portland, Maine 04101 (the "Optionee").

WITNESSETH:

WHEREAS, the Optionor is the owner of that certain parcel of real property situated, lying and being at 25-35 India Street in Portland, Maine more particularly described in a deed from Albert L. Noyes, Trustee of the Back Cove Liquidating Trust dated October 19, 1998 and recorded in the Cumberland County Registry of Deeds in Book 14239, Page 190, together with any and all improvements constructed thereon (the "Option Property"); and

WHEREAS, the Optionee desires to obtain an exclusive option to purchase the Option Property; and

WHEREAS, the Optionee agrees to use its commercially reasonable efforts to assist Optionor in causing the Property transfer to qualify as a like kind exchange under the Internal Revenue Code, provided that the time of closing and the terms hereof shall not be affected by such arrangements of Optionor ; and

WHEREAS, the Optionor is willing to grant to the Optionee the option to purchase the Option Property pursuant to the stipulations, agreements, conditions, and covenants contained and set forth herein.

NOW, THEREFORE, in consideration of [REDACTED] (the "Option Fee") paid by Optionee and for other good and valuable considerations, the receipt and sufficiency of which is hereby absolutely and unconditionally acknowledged by the parties, the parties hereby agree as follows:

ARTICLE I OPTION TO PURCHASE

1.1 Option Granted. Subject to the terms of this Agreement, the Optionee shall have and is hereby granted the exclusive option to purchase the entire fee simple interest of the Optionor in and to the Option Property (the "Option"), free and clear of any and all liens and encumbrances whatsoever, for a purchase price (the "Purchase Price") equal to [REDACTED]

1.2 **Option Term.** The Option shall remain in full force and effect until January 31, 2006 (the "Option Expiry Date"). If the Option is not exercised by the Option Expiry Date, the Option granted herein shall be deemed to have lapsed and shall be null and void and an Affidavit of such expiration signed by Optionor and recorded in the Cumberland County Registry of Deeds shall constitute conclusive evidence for title purposes that this Option is no longer in effect.

1.3 **Closing.** If the Option granted herein is exercised in accordance with this Agreement, the closing of the sale of the Option Property from the Optionor to the Optionee shall be held on or before that date (the "Closing Date") which is 45 days after the exercise of the Option. The closing shall be held at the law office of Bernstein, Shur, Sawyer & Nelson at 100 Middle Street, Portland, Maine 04101. On the Closing Date, the Purchase Price shall be paid by federal funds wire transfer or by cashier's check drawn on a bank which maintains an office in Cumberland County, Maine. If the transfer contemplated by this Option Agreement has not been completed within such 60 day period through no fault of Optionor, the Option granted herein shall be deemed to have lapsed and shall be null and void and an Affidavit of such lapse and expiration signed by Optionor and recorded in the Cumberland County Registry of Deeds shall constitute conclusive evidence for title purposes that this Option is no longer in effect. At Closing, Optionee shall join in any documents reasonably necessary for Optionor to conduct the transfer of the Option Property as a Like Kind Exchange transaction.

1.5 **Reimbursement of Costs.** Whether or not Optionee exercises the Option, Optionee shall reimburse Optionor for all reasonable costs and expenses related to this Agreement and the transfer's contemplated hereby as such fees are incurred, including but not limited to all closing costs and all reasonable legal fees incurred by Optionor in connection with the drafting and execution of this Agreement and the Closing.

ARTICLE II MISCELLANEOUS

2.1 **Entire Agreement.** This Agreement contains the entire agreement between the Optionor and the Optionee and no representations or agreements, either oral or written, between them other than those contained in this Agreement shall survive the execution of this Agreement, and the parties acknowledge that no representations made to the other and not contained in this Agreement as covenants or warranties have been relied upon by any party hereto in the execution of this Agreement.

2.2 **Construction.** Words of any gender used in this Agreement shall be construed to include all genders and words in the singular shall be construed to include the plural, where the context so requires. The words "herein", "hereof", and "hereunder" when used in this Agreement shall be construed to refer to this Agreement in its entirety and not to any particular section or provision thereof. In addition, the parties acknowledge that they were represented by counsel in connection with the drafting of this Agreement, and that the parties participated in the drafting of this Agreement and no provision of this Agreement shall be construed more strongly against one party or another.

2.3 **Partial Invalidity.** In any term, covenant, or condition of this Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant, and condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

2.4 **Notices.** All notices, demands, requests or other communications required or permitted under the term of this Agreement shall be in writing and, unless and until otherwise specified in a written notice by the party to whom notice is intended to be given, shall be sent to the parties at the respective addresses set forth in the preamble to this Agreement.

Notices may be given on behalf of any party by its legal counsel.

Each such notice, demand, request, or other communication shall be deemed to have been properly given for all purposes if (i) delivered against a written receipt of delivery, (ii) mailed by certified mail of the United States Postal Service, return receipt requested, postage prepaid, or (iii) delivered to a nationally recognized overnight courier service for next business day delivery, to its addressee at such party's address as set forth above.

Each such notice, demand or request, shall be deemed to have been given upon actual receipt or first refusal of the addressee to accept delivery.

2.5 **Governance.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine without reference to the conflicts of law principles of the State.

2.6 **Successors and Assigns.** Subject to the conditions and terms specifically set forth in this Agreement, all the terms and conditions of this Agreement shall be binding on any successors and assigns of the parties hereto.

2.7 **Non-Waiver.** The parties acknowledge and agree that their waiver of any default under the terms of this Agreement at any time on certain circumstances shall not be construed or deemed to be a waiver of any subsequent or other default occurring either before or after the waived default, and that such parties shall be entitled to enforce their rights in the event of default regardless of any prior waivers thereof.

2.8 **Modification and Amendment.** This Agreement may only be amended, altered, or modified by a written instrument signed by each of the parties.

2.9 **Attorneys' Fees.** In the event that any party is required to engage the services of legal counsel to enforce rights under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees from non-prevailing parties. In the event of litigation, said attorney's fees shall include fees and costs, both at trial and on appeal.

2.10 **Execution of Additional Instruments.** Each party hereby agrees to execute such other or further instruments of whatsoever kind or nature necessary to comply with any applicable laws, rules or regulations or to comply with the stipulations, agreements, conditions, and covenants contained and set forth in this Agreement.

2.11 **Third Parties.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any third party.

2.12 **Recordation.** The Optionee shall have and is hereby granted the absolute and unconditional right to record a memorandum of this Agreement in all applicable public records in order to place third parties on notice of the rights, interests, and options of the Optionee contained and set forth herein and the Optionor agrees to fully cooperate with the Optionee in connection therewith including, without limitation, the agreement of the Optionor to execute a memorandum of this Agreement in recordable form (without payment to the Optionor of additional consideration therefore) which memorandum shall contain such summary of terms as the Optionee desires (but excluding price and consideration terms) and shall provide, without limitation, that the Optionor may record an affidavit executed by the Optionor which states, if true: (a) that the Optionor fully complied with the stipulations, agreements, conditions, and covenants contained and set forth in this Agreement, and (b) notwithstanding such performance by the Optionor, the Optionee failed to exercise the Option on or before the Option Expiry Date or failed to purchase the Property on or before the Closing Date. It is specifically understood and agreed that the recordation of such affidavit by the Optionor shall, as to third parties, render this Agreement null and void and of no further force and effect.

2.13 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which constitute one and the same instrument. Counterparts of this Agreement with facsimile signatures shall be deemed original counterparts for all purposes; however, each party shall promptly furnish counterparts with original signatures upon request.

2.14 **Termination of Prior Option.** The Parties agree and confirm that the Option Agreement entered into between them dated September 15, 2004 is hereby terminated and neither party shall have any further obligations thereunder except as to any obligations arising under that agreement prior to the date hereof.

2.15 **Parking Spaces.** As part of the consideration for this Option, Shipyard Brewing Company, LLC grants Optionor the continuing right during the term of this Option Agreement, the exclusive use of the parking area at the rear of the Option Property (currently separated with Jersey Barriers), without charge, in a manner consistent with Optionor's current use of such parking area.

(The remainder of this page is intentionally left blank)

10.49

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

GILBERT ENTERPRISES, LLC

By: James Gilbert
James Gilbert
Sole Member

RIVERWALK, LLC

By: [Signature]
ITS MANAGER

SHIPYARD BREWING COMPANY, LLC
(as to paragraph 2.15 only)

By: [Signature]
ITS TREASURER

STATE OF MAINE
COUNTY OF CUMBERLAND

February 16, 2005

Personally appeared the above named James Gilbert, sole member of Gilbert Enterprises, LLC and gave oath that the foregoing is his free act and deed in his said capacity and the free act and deed of the said company.

Timothy H. Norton
Notary Public/Attorney at Law
My Commission Expires:
Timothy H. Norton

STATE OF MAINE
COUNTY OF CUMBERLAND

February 16, 2005

Personally appeared the above named Drew Swenson, Manager of Riverwalk, LLC and gave oath that the foregoing is his free act and deed in his said capacity and the free act and deed of the said company.

Timothy H. Norton

Notary Public/Attorney at Law
My Commission Expires:

Timothy H. Norton

STATE OF MAINE
COUNTY OF CUMBERLAND

February 16, 2005

Personally appeared the above named Drew Swenson, Manager of Shipyard Brewing Company, LLC and gave oath that the foregoing is his free act and deed in his said capacity and the free act and deed of the said company.

Timothy H. Norton

Notary Public/Attorney at Law
My Commission Expires:

Timothy H. Norton

AH 10a.1

207 774-1200 main
207 774-1127 facsimile
bernsteinshur.com

BERNSTEIN SHUR

COUNSELORS AT LAW

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

Nathan H. Smith
207 228-7235 direct
nsmith@bernsteinshur.com

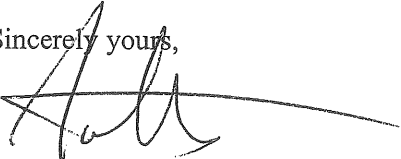
April 18, 2006

William Needleman, Senior Planner
Planning Department
City of Portland
389 Congress Street
Portland ME 04101

Re: Riverwalk, LLC Project

Dear Bill

In connection with the above-referenced matter, I enclose herewith a series of Option Agreements running from Riverwalk, LLC, to co-applicants in connection with this Project, i.e., 25 India Street, LLC, Ocean Gateway Garage, LLC, Hancock & Middle, LLC, and LRAR, LLC. Each of these entities is a Maine limited liability company, whose sole member and manager is Riverwalk, LLC. Riverwalk and its co-applicants understand and acknowledge the Planning Board will likely expect as a condition of its approvals that all public improvements for all of the structures contemplated by the Riverwalk proposal as well as certain private site improvements will need to be secured by a comprehensive letter of credit to assure the City that once construction is started on any portion of the project that all public improvements and the required private site improvements for all portions of the project will be timely completed. With regard to financial and technical abilities of each of the co-applicants, I point out that each LLC is solely owned and managed by Riverwalk, LLC, the original applicant. The reason for having co-applicants is because it may become necessary for purposes of financing the project to have each of the structures discreetly financed. In addition the Longfellow Residences and Retail portion of the project is to have a separate declarant for purposes of the Declaration of Condominium and the eventual sale of condominium units. Please call if you have any questions or need any additional information.

Sincerely yours,

Nathan H. Smith

cc Barry Sheff
Drew Swenson
Gregory Cunningham, Esq.
Penny Littell, Esq.

OPTION TO PURCHASE

THIS AGREEMENT (“Agreement”), effective as of the 14th day of April, 2006 (the “Original Option Date”) by and between, Riverwalk, LLC, whose address is 2 Market Street, Suite 500, Portland, Maine 04101 (the “Optionor”), and LRAR LLC, or its designee or assignee, whose address is 2 Market Street, Suite 500, Portland, Maine 04101 (the “Optionee”).

WITNESSETH:

WHEREAS, the Optionor is the owner of certain Option and/or contract rights by virtue of the agreement or agreements listed on **EXHIBIT A** affecting Real Property described on **EXHIBIT B** attached hereto; and

WHEREAS, the Optionee is a wholly owned subsidiary of Optionor formed for the purpose of creating a single purpose entity to own the land and development rights for the Longfellow Residences and Retail portion of the so-called Riverwalk, LLC development project; and

WHEREAS, the Optionee desires to obtain an option to purchase all of the Real Property (the “Property”); and

WHEREAS, this Option is subject to and contingent upon the acquisition of the Real Property by Optionor pursuant to the agreements described in **EXHIBIT A**; and

WHEREAS, Optionee and Optionor agree that the Real Property that is the subject of this option shall be conveyed subject to any and all permits and approvals, terms, conditions and covenants issued or set forth by any municipal or governmental authority, including the City of Portland and that Optionee shall assume and be obligated to comply in full with all terms, conditions of approval and other provisions and all requirements of such governmental authority to show technical and financial ability as a precondition for such transfer; and

WHEREAS, the Optionor is willing to grant to the Optionee the option to purchase all of the Property pursuant to the stipulations, agreements, conditions, and covenants contained and set forth herein.

NOW, THEREFORE, in consideration of the premises, the payment by the Optionee to the Optionor of a non-refundable option fee in the amount of One Dollar and Zero Cents (US\$ 1.00) Dollar (the “Option Fee”) and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I
OPTION TO PURCHASE**

1.1 **Grant of Option.** The Optionee shall have and is hereby granted the option to purchase the entire fee simple interest of the Optionor in and to the Property (the "Option"), free and clear of any and all liens and encumbrances whatsoever, except for those encumbrances which would not unreasonably interfere with Optionee's intended use of the Property, for the purchase price listed on **EXHIBIT C** attached hereto (the "Purchase Price") equal to any and all costs incurred by Optionor to acquire such Real Property plus other valuable consideration, which Option shall remain in full force and effect until that date (the "Original Option Expiry Date") which is thirty (30) days from and after the date (the "Effective Date") on which the Optionor obtains title to the entire Real Property.

1.2 **Extension of Option.** The Optionee shall have and is hereby granted the right to extend the Original Option Expiry Date for three (3) consecutive periods of thirty (30) days each by furnishing written notice (each such notice is herein an "Option Extension Notice") to the Optionor on or before the Original Option Expiry Date, or if previously validly extended, before the then current extended Option Expiry Date. Each such Option Extension Notice, if furnished, shall establish the then applicable date (the "Option Expiry Date") for expiration of the Option and each Option Extension Notice shall be accompanied by an extension fee ("Extension Fee") in the amount of \$1.00 for each 30 day extension. The Option shall be rendered void *ab initio* if the Real Property that is the subject of this Option Agreement is not acquired by Optionor, provided, however, that any payments previously made by Optionee to Optionor shall be retained by Optionor as its sole property.

1.3 **Option Exercise and Closing.** The Option shall be deemed to have been absolutely and unconditionally exercised by the Optionee only if the Optionee furnishes written notice (the "Exercise Notice") of the exercise of the Option to the Optionor to the address for the Optionor set forth in the preamble to this Agreement (or to such other address as the Optionor shall designate by written notice to the Optionee given to the Optionee in accordance with the terms and provisions governing the giving of notice set forth in this Agreement) at any time prior to the Original Option Expiry Date or the then-applicable Option Expiry Date, as applicable. In the event that Optionee fails to timely furnish an Exercise Notice to the Optionor, then the Option shall terminate. In the event Optionee timely furnishes an Exercise Notice to the Optionor, the Option shall be automatically deemed extended for an additional period of sixty (60) days (the "60-Day Period") from the Original Option Expiry Date or the then applicable Option Expiry Date, as applicable. Prior to that date which is ten (10) days from and after the first day of the 60-Day Period, Optionor shall furnish to the Optionee the following items: (a) a proposed form of deed by virtue of which the Optionor shall convey the fee simple title to the Real Property to the Optionee or its assignee or designee, subject only to encumbrances of record and (b) the proposed form of such other closing documents as may be necessary or desirable to consummate the sale and purchase of the Property pursuant to the customs and practices then prevailing within Cumberland County, Maine, with respect to the sale and purchase of parcels of real property similar to the Real Property. The closing of the sale of the Property from the Optionor to the Optionee shall be held on or before that date (the "Closing Date") which is the last day of the 60-Day Period, which closing shall be held at the law offices of Bernstein, Shur, Sawyer & Nelson at 100 Middle Street, Portland, Maine 04101, or such other location to which the parties agree and the Purchase Price shall be paid by Optionee in the manner described on **EXHIBIT C** attached hereto.

ARTICLE II MISCELLANEOUS

2.1 **Entire Agreement.** This Agreement contains the entire agreement between the Optionor and the Optionee and no representations or agreements, either oral or written, between them other than those contained in this Agreement shall survive the execution of this Agreement, and the parties acknowledge that no representations made to the other and not contained in this Agreement as covenants or warranties have been relied upon by any party hereto in the execution of this Agreement.

2.2 **Construction.** Words of any gender used in this Agreement shall be construed to include all genders and words in the singular shall be construed to include the plural, where the context so requires. The words "herein", "hereof", and "hereunder" when used in this Agreement shall be construed to refer to this Agreement in its entirety and not to any particular section or provision thereof. In addition, the parties acknowledge that they were represented by counsel in connection with the drafting of this Agreement, and that the parties participated in the drafting of this Agreement, and no provision of this Agreement shall be construed more strongly against one party or another.

2.3 **Partial Invalidity.** In any term, covenant, or condition of this Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant, and condition of this Agreement shall be valid and enforced to the fullest extent permitted by law; provided, however, that the parties affected by the Offending Provision shall endeavor in good faith, within sixty (60) days after the date such determination is made, to agree upon alternative provisions which shall have the same practical effect as the Offending Provision and upon any agreement being reached, the new provision shall be incorporated into and form a part of this Agreement.

2.4 **Notices.** All notices, demands, requests or other communications required or permitted under the term of this Agreement shall be in writing and, unless and until otherwise specified in a written notice by the party to whom notice is intended to be given, shall be sent to the parties at the respective addresses set forth in the preamble to this Agreement.

Notices may be given on behalf of any party by its legal counsel.

Each such notice, demand, request, or other communication shall be deemed to have been properly given for all purposes if (i) delivered against a written receipt of delivery, (ii) mailed by certified mail of the United States Postal Service, return receipt requested, postage prepaid, or (iii) delivered to a nationally recognized overnight courier service for next business day delivery, to its addressee at such party's address as set forth above.

Each such notice, demand or request, shall be deemed to have been given upon actual receipt or first refusal of the addressee to accept delivery.

Delivery of funds shall not be deemed to have occurred until physical delivery or transfer of check, certified check, wire transfer or money order occurs.

2.5 **Governance.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine without reference to the conflicts of law principles of the State.

2.6 **Successors and Assigns.** Subject to the conditions and terms specifically set forth in this Agreement, all the terms and conditions of this Agreement shall be binding on any successors and assigns of the parties hereto.

2.7 **Non-Waiver.** The parties acknowledge and agree that their waiver of any default under the terms of this Agreement at any time on certain circumstances shall not be construed or deemed to be a waiver of any subsequent or other default occurring either before or after the waived default, and that such parties shall be entitled to enforce their rights in the event of default regardless of any prior waivers thereof.

2.8 **Modification and Amendment.** This Agreement may only be amended, altered, or modified by a written instrument signed by each of the parties.

2.9 **Execution of Additional Instruments.** Each party hereby agrees to execute such other or further instruments of whatsoever kind or nature necessary to comply with any applicable laws, rules or regulations or to comply with the stipulations, agreements, conditions, and covenants contained and set forth in this Agreement.

2.10 **Third Parties.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any third party.

2.11 **Recordation.** The Optionee shall have and is hereby granted the absolute and unconditional right to record this Agreement or memorandum of this Agreement in all applicable public records in order to place third parties on notice of the rights, interests, and options of the Optionee contained and set forth herein and the Optionor agrees to fully cooperate with the Optionee in connection therewith including, without limitation, the agreement of the Optionor to execute a memorandum of this Agreement in recordable form (without payment to the Optionor of additional consideration therefore) which memorandum shall provide, without limitation, that the Optionor may record an affidavit executed by the Optionor which states, if true: (a) that the Optionor fully complied with the stipulations, agreements, conditions, and covenants contained and set forth in this Agreement, and (b) notwithstanding such performance by the Optionor, the Optionee failed to purchase the Property on or before the Closing Date. It is specifically understood and agreed that the recordation of such affidavit by the Optionor shall, as to third parties, render this Agreement null and void and of no further force and effect.

2.12 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which constitute one and the same instrument. Counterparts of this Agreement with facsimile signatures shall be deemed original counterparts for all purposes; however, each party shall promptly furnish counterparts with original signatures upon request.

2.13 **Contingency.** This Option is subject to and contingent upon the acquisition of the Real Property by Optionor pursuant to the agreements described in **EXHIBIT A.**

109.5


2.14 Permits, etc. Optionee and Optionor agree that the Real Property that is the subject of this option shall be conveyed subject to any and all permits and approvals, terms, conditions and covenants issued or set forth by any municipal or governmental authority, including the City of Portland and that Optionee shall assume and be obligated to comply in full with all terms, conditions of approval and other provisions and any and all permits and approvals and any requirements of such governmental authority to show technical and financial ability as a precondition for such transfer.

The rest of this page has been intentionally left blank

10a.6

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

OPTIONOR:
RIVERWALK, LLC

By: 
Drew Swenson, Its Manager

OPTIONEE:
LRAR, LLC
By: RIVERWALK, LLC, Its Manager

By: 
Drew Swenson, Its Manager

10a.7

EXHIBIT A

Purchase and Sale Agreement dated September 2, 2005, by and between the City of Portland, Maine, and Riverwalk, LLC, a Maine limited liability company, relating to a portion of that land shown on the City of Portland's Tax Assessor's Map effective as of April 1, 2005, as Map 19, Block A, Lot 14, as affected by a First Amendment to Purchase and Sale Agreement dated February 24, 2006 and Option Agreement dated September 13, 2005, by and between One India Street Associates, LLC, and Gorham Savings Bank relating to real property located at One India Street, Portland, Maine, as affected by Assignment of Option Agreement by Gorham Savings Bank to Riverwalk, LLC, and further affected by Assignment and Assumption Agreement by and among One India Street Associates, LLC, India Street Station, LLC and Grand Trunk Ventures, LLC, dated March 23, 2006.

109.8

EXHIBIT B

Such real property (the "Real Property") located at One India Street, Portland, Cumberland County, Maine, and adjacent property of the City of Portland, together with any improvement thereon as described in the Agreements referenced on **EXHIBIT A** to this Agreement. The property is generally bounded by India Street, Fore Street, Hancock Street (to be built) and Commercial Street (to be extended) and property of the Portland Water District.

109.9

Hancock & Middle LLC

OPTION TO PURCHASE

THIS AGREEMENT ("Agreement"), effective as of the 14th day of April, 2006 (the "Original Option Date") by and between, Riverwalk, LLC, whose address is 2 Market Street, Suite 500, Portland, Maine 04101 (the "Optionor"), and Hancock & Middle LLC, or its designee or assignee, whose address is 2 Market Street, Suite 500, Portland, Maine 04101 (the "Optionee").

WITNESSETH:

WHEREAS, the Optionor is the owner of certain Option and/or contract rights by virtue of the agreement or agreements listed on **EXHIBIT A** affecting Real Property described on **EXHIBIT B** attached hereto; and

WHEREAS, the Optionee is a wholly owned subsidiary of Optionor formed for the purpose of creating a single purpose entity to own the land and development rights for the Hancock and Middle Street portion of the so-called Riverwalk, LLC development project; and

WHEREAS, the Optionee desires to obtain an option to purchase all of the Real Property (the "Property"); and

WHEREAS, this Option is subject to and contingent upon the acquisition of the Real Property by Optionor pursuant to the agreements described in **EXHIBIT A**; and

WHEREAS, Optionee and Optionor agree that the Real Property that is the subject of this option shall be conveyed subject to any and all permits and approvals, terms, conditions and covenants issued or set forth by any municipal or governmental authority, including the City of Portland and that Optionee shall assume and be obligated to comply in full with all terms, conditions of approval and other provisions and all requirements of such governmental authority to show technical and financial ability as a precondition for such transfer; and

WHEREAS, the Optionor is willing to grant to the Optionee the option to purchase all of the Property pursuant to the stipulations, agreements, conditions, and covenants contained and set forth herein.

NOW, THEREFORE, in consideration of the premises, the payment by the Optionee to the Optionor of a non-refundable option fee in the amount of One Dollar and Zero Cents (US\$ 1.00) Dollar (the "Option Fee") and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows: