



October 17, 2014

Mr. Alexander Jaegerman, Senior Planner  
Mr. Richard Knowland, Planner  
City of Portland  
389 Congress Street  
Portland, ME 04101

**Subject: Subdivision and Preliminary Level III Site Plan and Development Review Applications  
“midtown” Project  
Somerset, Elm, Chestnut, and Pearl Streets**

Dear Alex and Rick:

On behalf of The Federated Companies, we are pleased to provide the accompanying package of submission materials related to the development of a mixed-use commercial complex. This submission package is intended to meet the City’s Preliminary Submission Requirements as outlined in the Level III Application procedures. The proposed project is comprised of a parking garage for 800 vehicles, 440 residential apartments, and 87,200 SF of retail space on four lots totaling 3.50-acres of property.

The project will include two types of subdivisions. The first type of subdivision is an amended subdivision plan of the physical property into individual building lots. The existing subdivision plan (ref Sheet C-1.2A prepared by SGC) will be amended to the proposed subdivision presented on C-1.2 of the plan set. The second type of subdivision is to permit multiple residential housing units within the midtown buildings.

Accompanying this cover letter are the following materials:

- Subdivision and Preliminary Level III Site Plan and Development Review Applications
- Attachment A – Written Description of Project
- Attachment B – Evidence of Right, Title and Interest
- Attachment C – Utilities Narrative
- Attachment D – Written Assessment of Proposed Project’s Compliance with Applicable Zoning and B-7 Land Use Requirements
- Attachment E – Summary of Proposed Easement, Covenants, Public or Private Rights of Way, or Other Burdens on the Site
- Attachment F – Technical and Financial Capacity
- Attachment G – Evidence of State and/or Federal Approvals
- Attachment H – Traffic Analysis
- Attachment I – Stormwater Management Summary
- Attachment J – Written Requests for Waivers from Site plan or Technical Standards

Mr. Alexander Jaegerman, Senior Planner  
Mr. Richard Knowland, Planner  
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- Attachment K – Preliminary Building Code Review
- Attachment L – Architectural Graphics
- Reduced Sized Plans
- CD of Complete Application and Plan Set

You will find in the accompanying materials, information including the Preliminary Site Layout Plan and various site plans that provide greater detail for the site development activities. We have also included preliminary building elevations for the proposed building. Preliminary information pertaining to the project's utilities needs and statements regarding compliance with the City's Standards are contained within this submission.

On behalf of the Design Team, we look forward to your assistance on the project and we look forward to the November 12, 2014 Workshop meeting with the Planning Board. Please find one (1) hard copy of the application materials including one set each of 11 x 17 and full size plans, along with a CD containing PDF files for all submitted materials.

If you have any questions regarding these materials, please contact our office.

Sincerely,

FAY, SPOFFORD & THORNDIKE



William G. Hoffman, P.E.  
Vice President

WGH/cmd

Enclosure

THE FEDERATED COMPANIES



Jonathan Cox  
Founder and Chairman



Jeff Levine, AICP, Director  
Planning & Urban Development Department

## **Electronic Signature and Fee Payment Confirmation**

Notice: Your electronic signature is considered a legal signature per state law.

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a **legal signature** per Maine state law. You are also signifying your intent on paying your fees by the opportunities below.

I, the undersigned, intend and acknowledge that no Site Plan or Historic Preservation Applications can be reviewed until payment of appropriate application fees are **paid in full** to the Inspections Office, City of Portland Maine by method noted below:

- Within 24-48 hours, once my complete application and corresponding paperwork has been electronically delivered, I intend to **call the Inspections Office** at 207-874-8703 and speak to an administrative representative and provide a credit/debit card over the phone.
- Within 24-48 hours, once my application and corresponding paperwork has been electronically delivered, I intend to **call the Inspections Office** at 207-874-8703 and speak to an administrative representative and provide a credit/debit card over the phone.
- I intend to deliver a payment method through the U.S. Postal Service mail once my application paperwork has been electronically delivered.

Applicant Signature: \_\_\_\_\_

William G. Hoffman, P.E. \_\_\_\_\_

I have provided digital copies and sent them on: \_\_\_\_\_

October 17, 2014 \_\_\_\_\_

Date: \_\_\_\_\_

October 17, 2014 \_\_\_\_\_

Date: \_\_\_\_\_

NOTE: All electronic paperwork must be delivered to [buildinginspections@portlandmaine.gov](mailto:buildinginspections@portlandmaine.gov) or by physical means i.e. a thumb drive or CD to the Inspections Office, City Hall, 3<sup>rd</sup> Floor, Room 315.



## Level III – Preliminary and Final Site Plans Development Review Application Portland, Maine

Planning and Urban Development Department  
Planning Division

Portland's Planning and Urban Development Department coordinates the development review process for site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Level III: Preliminary or Final Site Plan. Please note that Portland has delegated review from the State of Maine for reviews under the Site Location of Development Act, Chapter 500 Stormwater Permits, and Traffic Movement Permits.

### Level III: Site Plan Development includes:

- New structures with a total floor area of 10,000 sq. ft. or more except in Industrial Zones.
- New structures with a total floor area of 20,000 sq. ft. or more in Industrial Zones.
- New temporary or permanent parking area(s) or paving of existing unpaved parking areas for more than 75 vehicles.
- Building addition(s) with a total floor area of 10,000 sq. ft. or more (cumulatively within a 3 year period) except in Industrial Zones.
- Building addition(s) with a total floor area of 20,000 sq. ft. or more in Industrial Zones.
- A change in the use of a total floor area of 20,000 sq. ft. or more in any existing building (cumulatively within a 3 year period).
- Multiple family development (3 or more dwelling units) or the addition of any additional dwelling unit if subject to subdivision review.
- Any new major or minor auto business in the B-2 or B-5 Zone, or the construction of any new major or minor auto business greater than 10,000 sq. ft. of building area in any other permitted zone.
- Correctional prerelease facilities.
- Park improvements: New structures greater than 10,000 sq. ft. and/or facilities encompassing 20,000 sq. ft. or more (excludes rehabilitation or replacement of existing facilities); new nighttime outdoor lighting of sports, athletic or recreation facilities not previously illuminated.
- Land disturbance of 3 acres or more (includes stripping, grading, grubbing, filling or excavation).

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: <http://me-portland.civicplus.com/DocumentCenter/Home/View/1080>

Design Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2355>

Technical Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2356>

**Planning Division**  
Fourth Floor, City Hall  
389 Congress Street  
(207) 874-8719

**Office Hours**  
Monday thru Friday  
8:00 a.m. – 4:30 p.m.

**PROJECT NAME:** "midtown" Project \_\_\_\_\_

**PROPOSED DEVELOPMENT ADDRESS:**

Somerset Street between Elm and Pearl Street (northwesterly side) and Elm Street between Portland Trail and lot with Trader Joe's - mixed use. \_\_\_\_\_

**PROJECT DESCRIPTION:**

A 3.50 a.c. development with a parking garage up to 450 residential units and 90,000 s.f. of retail space. \_\_\_\_\_

**CHART/BLOCK/LOT:** 034/D009001; 025/A022001  
034/D010001; 034/D003; 025/A022; **PRELIMINARY PLAN** 10/17/2014 (date)  
025/B002; 025/B003; 025/B004; **FINAL PLAN** \_\_\_\_\_ (date)  
025/B005

**CONTACT INFORMATION:**

<b>Applicant – must be owner, Lessee or Buyer</b> Name: Jonathan Cox Business Name, if applicable: The Federated Companies Address: P.O. Box 370008 City/State : Miami, FL Zip Code: 33137-4110	<b>Applicant Contact Information</b> Work # (305) 974-1454 Home# Cell # (978) 375-1414 Fax# e-mail: j_cox@federatedcompanies.com
<b>Owner – (if different from Applicant)</b> Name: City of Portland, Maine Address: 389 Congress Street City/State : Portland, ME Zip Code: 04101	<b>Owner Contact Information</b> Work # Home# Cell # Fax# e-mail:
<b>Agent/ Representative</b> Name: Greg Shinberg, Shinberg Consulting, LLC Address: 477 Congress Street, Suite 102 City/State : Portland, ME Zip Code: 04101	<b>Agent/Representative Contact information</b> Work # 207-772-7070 Cell # 207-653-7510 e-mail: gls@shinbergconsulting.com
<b>Billing Information</b> Name: SAME AS APPLICANT Address: City/State : Zip Code:	<b>Billing Information</b> Work # Cell # Fax# e-mail:

<b>Engineer</b> Name: William G. Hoffman, P.E. - FST, Inc. Address: 778 Main Street, Suite 8 City/State : South Portland, ME Zip Code: 04106	<b>Engineer Contact Information</b> Work # 207-775-1121 Cell # 207-329-9810 Fax# 207-879-0896 e-mail: whoffman@fstinc.com
<b>Surveyor</b> Name: Owen Haskell, Inc. - Ellen Brewer Address: 390 U.S. Route 1 City/State : Falmouth, ME Zip Code: 04105	<b>Surveyor Contact Information</b> Work # 207-774-0424 Cell # Fax# e-mail: ebrewer@owenhaskell.com
<b>Architect</b> Name: David Hancock AIA LEED CBT Architects Address: 110 Canal Street City/State : Boston, MA Zip Code: 02114	<b>Architect Contact Information</b> Work # 617-646-5353 Cell # Fax# e-mail: hancock@cbtarchitects.com
<b>Attorney</b> Name: Address: TO BE DETERMINED City/State : Zip Code:	<b>Attorney Contact Information</b> Work # Cell # Fax# e-mail:

**APPLICATION FEES:**

**Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)**

<b>Level III Development (check applicable reviews)</b> <input type="checkbox"/> Less than 50,000 sq. ft. (\$500.00) <input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000) <input type="checkbox"/> 100,000 – 200,000 sq. ft. (\$2,000) <input type="checkbox"/> 200,000 – 300,000 sq. ft. (\$3,000) <input checked="" type="checkbox"/> over \$300,00 sq. ft. (\$5,000) <input type="checkbox"/> Parking lots over 11 spaces (\$1,000) <input type="checkbox"/> After-the-fact Review (\$1,000.00 plus applicable application fee)  <b>Plan Amendments (check applicable reviews)</b> <input type="checkbox"/> Planning Staff Review (\$250) <input checked="" type="checkbox"/> Planning Board Review (\$500)  The City invoices separately for the following: <ul style="list-style-type: none"> <li>• Notices (\$.75 each)</li> <li>• Legal Ad (% of total Ad)</li> <li>• Planning Review (\$40.00 hour)</li> <li>• Legal Review (\$75.00 hour)</li> </ul> Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.	<b>Other Reviews (check applicable reviews)</b> <input checked="" type="checkbox"/> Traffic Movement (\$1,000) <input type="checkbox"/> Stormwater Quality (\$250) <input checked="" type="checkbox"/> Subdivisions (\$500 + \$25/lot) # of Lots <u>6</u> x \$25/lot = <u>150</u> <input type="checkbox"/> Site Location (\$3,000, except for residential projects which shall be \$200/lot) # of Lots <u>    </u> x \$200/lot = <u>    </u> <input type="checkbox"/> Other _____ <input type="checkbox"/> Change of Use <input type="checkbox"/> Flood Plain <input type="checkbox"/> Shoreland <input type="checkbox"/> Design Review <input type="checkbox"/> Housing Replacement <input type="checkbox"/> Historic Preservation  *As indicated in previous conversations with City Staff and the Applicant, the Fees will be determined by City Staff corresponded directly to the applicant.
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**APPLICATION SUBMISSION:**

1. All site plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file which can be found on the **Electronic Plan and Document Submittal** page of the City's website at <http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal>
2. In addition, one (1) paper set of the plans (full size), one (1) paper set of plans (11 x 17), paper copy of written materials, and the application fee must be submitted to the Building Inspections Office to start the review process.

The application must be complete, including but not limited to the contact information, project data, application checklists, wastewater capacity, plan for fire department review, and applicant signature. The submissions shall include one (1) paper packet with folded plans containing the following materials:


1. One (1) full size site plans that must be folded.
2. One (1) copy of all written materials or as follows, unless otherwise noted:
  - a. Application form that is completed and signed.
  - b. Cover letter stating the nature of the project.
  - c. All Written Submittals (Sec. 14-525 2. (c), including evidence of right, title and interest.
3. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 50 feet.
4. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
5. One (1) set of plans reduced to 11 x 17.

Please refer to the application checklist (attached) for a detailed list of submission requirements.

**APPLICANT SIGNATURE:**

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for a Level II Site Plan review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.

Signature of Applicant: 	Date: October 17, 2014
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## PROJECT DATA

**The following information is required where applicable, in order to complete the application.**

<b>Total Area of Site</b>	152,296 sq. ft.	
<b>Proposed Total Disturbed Area of the Site</b>	152,296 sq. ft.	
If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland.		
<b>Impervious Surface Area</b>		
Impervious Area (Total Existing)	Disturbed Site - >95% sq. ft.	
Impervious Area (Total Proposed)	>150,000 sq. ft.	
<b>Building Ground Floor Area and Total Floor Area</b>		
Building Footprint (Total Existing)	1,127 sq. ft.	
Building Footprint (Total Proposed)	121,400 sq. ft.	
Building Floor Area (Total Existing)	1,127 sq. ft.	
Building Floor Area (Total Proposed)	750,200 sq. ft.	
<b>Zoning</b>		
Existing	B-7	
Proposed, if applicable	B-7	
<b>Land Use</b>		
Existing	Unimproved Former Rail Yard and Metal Recycling	
Proposed	Mixed Use	
<b>Residential, If applicable</b>		
# of Residential Units (Total Existing)	0	
# of Residential Units (Total Proposed)	440	
# of Lots (Total Proposed)	8 (2 of which are retained by the City)	
# of Affordable Housing Units (Total Proposed)	0	
<b>Proposed Bedroom Mix</b>		
# of Efficiency Units (Total Proposed)	115	
# of One-Bedroom Units (Total Proposed)	130	
# of Two-Bedroom Units (Total Proposed)	195	
# of Three-Bedroom Units (Total Proposed)		
<b>Parking Spaces</b>		
	On Street	Garage
# of Parking Spaces (Total Existing)	65	0
# of Parking Spaces (Total Proposed)	49	802
# of Handicapped Spaces (Total Proposed)	0	20
<b>Bicycle Parking Spaces</b>		
# of Bicycle Spaces (Total Existing)	0	
# of Bicycle Spaces (Total Proposed)	176	
<b>Estimated Cost of Project</b>	\$85 Million	



<b>PRELIMINARY PLAN (Optional) - Level III Site Plan</b>			
<b>Applicant Checklist</b>	<b>Planner Checklist</b>	<b># of Copies</b>	<b>GENERAL WRITTEN SUBMISSIONS CHECKLIST</b>
X		1	Completed Application form
X		1	Application fees
X		1	Written description of project
X		1	Evidence of right, title and interest
X		1	Evidence of state and/or federal approvals, if applicable
X		1	Written assessment of proposed project's compliance with applicable zoning requirements
X		1	Summary of existing and/or proposed easement, covenants, public or private rights-of-way, or other burdens on the site
X		1	Written requests for waivers from site plan or technical standards, if applicable.
X		1	Evidence of financial and technical capacity
X		1	Traffic Analysis (may be preliminary, in nature, during the preliminary plan phase)
<b>Applicant Checklist</b>	<b>Planner Checklist</b>	<b># of Copies</b>	<b>SITE PLAN SUBMISSIONS CHECKLIST</b>
X		1	Boundary Survey meeting the requirements of Section 13 of the City of Portland's Technical Manual
X		1	<b>Preliminary Site Plan including the following: (information provided may be preliminary in nature during preliminary plan phase)</b>
X			Proposed grading and contours;
X			Existing structures with distances from property line;
X			Proposed site layout and dimensions for all proposed structures (including piers, docks or wharves in Shoreland Zone), paved areas, and pedestrian and vehicle access ways;
X			Preliminary design of proposed stormwater management system in accordance with Section 5 of the Technical Manual (note that Portland has a separate applicability section);
X			Preliminary infrastructure improvements;
X			Preliminary Landscape Plan in accordance with Section 4 of the Technical Manual;
X			Location of significant natural features (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features) located on the site as defined in Section 14-526 (b) (1);
X			Proposed buffers and preservation measures for significant natural features, as defined in Section 14-526 (b) (1);
X			Location , dimensions and ownership of easements, public or private rights of way, both existing and proposed;
X			Exterior building elevations.

<b>FINAL PLAN - Level III Site Plan</b>			
<b>Applicant Checklist</b>	<b>Planner Checklist</b>	<b># of Copies</b>	<b>GENERAL WRITTEN SUBMISSIONS CHECKLIST (* If applicant chooses to submit a Preliminary Plan, then the * items were submitted for that phase and only updates are required)</b>
		1	* Completed Application form
		1	* Application fees
		1	* Written description of project
		1	* Evidence of right, title and interest
		1	* Evidence of state and/or federal permits
		1	* Written assessment of proposed project's specific compliance with applicable Zoning requirements
		1	* Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens on the site
		1	* Evidence of financial and technical capacity
		1	Construction Management Plan
		1	A traffic study and other applicable transportation plans in accordance with Section 1 of the technical Manual, where applicable.
		1	Written summary of significant natural features located on the site (Section 14-526 (b) (a))
		1	Stormwater management plan and stormwater calculations
		1	Written summary of project's consistency with related city master plans
		1	Evidence of utility capacity to serve
		1	Written summary of solid waste generation and proposed management of solid waste
		1	A code summary referencing NFPA 1 and all Fire Department technical standards
		1	Where applicable, an assessment of the development's consistency with any applicable design standards contained in Section 14-526 and in City of Portland Design Manual
		1	Manufacturer's verification that all proposed HVAC and manufacturing equipment meets applicable state and federal emissions requirements.

Applicant Checklist	Planner Checklist	# of Copies	<b>SITE PLAN SUBMISSIONS CHECKLIST</b> <b>(* If applicant chooses to submit a Preliminary Plan, then the * items were submitted for that phase and only updates are required)</b>
		1	* Boundary Survey meeting the requirements of Section 13 of the City of Portland's Technical Manual
		1	<b>Final Site Plans including the following:</b>
			Existing and proposed structures, as applicable, and distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone);
			Existing and proposed structures on parcels abutting site;
			All streets and intersections adjacent to the site and any proposed geometric modifications to those streets or intersections;
			Location, dimensions and materials of all existing and proposed driveways, vehicle and pedestrian access ways, and bicycle access ways, with corresponding curb lines;
			Engineered construction specifications and cross-sectional drawings for all proposed driveways, paved areas, sidewalks;
			Location and dimensions of all proposed loading areas including turning templates for applicable design delivery vehicles;
			Existing and proposed public transit infrastructure with applicable dimensions and engineering specifications;
			Location of existing and proposed vehicle and bicycle parking spaces with applicable dimensional and engineering information;
			Location of all snow storage areas and/or a snow removal plan;
			A traffic control plan as detailed in Section 1 of the Technical Manual;
			Proposed buffers and preservation measures for significant natural features, where applicable, as defined in Section 14-526(b)(1);
			Location and proposed alteration to any watercourse;
			A delineation of wetlands boundaries prepared by a qualified professional as detailed in Section 8 of the Technical Manual;
			Proposed buffers and preservation measures for wetlands;
			Existing soil conditions and location of test pits and test borings;
			Existing vegetation to be preserved, proposed site landscaping, screening and proposed street trees, as applicable;
			A stormwater management and drainage plan, in accordance with Section 5 of the Technical Manual;
			Grading plan;
			Ground water protection measures;
			Existing and proposed sewer mains and connections;

- Continued on next page -

		Location of all existing and proposed fire hydrants and a life safety plan in accordance with Section 3 of the Technical Manual;
		Location, sizing, and directional flows of all existing and proposed utilities within the project site and on all abutting streets;
		Location and dimensions of off-premises public or publicly accessible infrastructure immediately adjacent to the site;
		Location and size of all on site solid waste receptacles, including on site storage containers for recyclable materials for any commercial or industrial property;
		Plans showing the location, ground floor area, floor plans and grade elevations for all buildings;
		A shadow analysis as described in Section 11 of the Technical Manual, if applicable;
		A note on the plan identifying the Historic Preservation designation and a copy of the Application for Certificate of Appropriateness, if applicable, as specified in Section Article IX, the Historic Preservation Ordinance;
		Location and dimensions of all existing and proposed HVAC and mechanical equipment and all proposed screening, where applicable;
		An exterior lighting plan in accordance with Section 12 of the Technical Manual;
		A signage plan showing the location, dimensions, height and setback of all existing and proposed signs;
		Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.



**DeLUCA-HOFFMAN ASSOCIATES, INC.**  
**CONSULTING ENGINEERS**

778 MAIN STREET  
 SUITE 8  
 SOUTH PORTLAND, MAINE 04106  
 TEL. 207.775.1121  
 FAX 207.879.0896

- SITE PLANNING AND DESIGN
- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION

May 23, 2013

Captain Chris Pirone  
 City of Portland Fire Department  
 380 Congress Street  
 Portland, ME 04101

**Subject: Proposed Federated midtown project  
 Fire Department Site Review Checklist**

Dear Captain Pirone:

In accordance with instructions in the City’s Level III Site Plan Review packet, please find enclosed the drawings necessary for your review of the proposed amended project. We have listed each item in your checklist below, followed by our response.

1. *Name, address, telephone number of applicant.*

The Federated Companies  
 Attn: Matt Jeffries  
 3301 NE 1<sup>st</sup> Avenue, Suite M-302  
 Miami, FL 33137-4110

2. *Name, address, telephone number of architect.*

Project Architect: Perkins Eastman (Architect for the four office towers)  
 2121 Ward Court, 6<sup>th</sup> Floor  
 Washington, DC 20037  
 Attn: R. Douglas Smith, AIA  
 (202) 861-1325

CWS (Architect for the garages)  
 434 Cumberland Avenue  
 Portland, ME 04101  
 Attn: Ben Walter, AIA  
 (207) 774-4441

3. *Proposed uses of any structures.*

<b>Parking Garages</b>	<b>IBC Code</b>	<b>NFPA Code</b>	<b>Sprinkler</b>
First Floor Retail	Storage IIB	New Mercantile/II (000)	NFPA 13
Floors 2-7 Open Parking Structure	Storage IIB	Storage/II (000)	N/A

<b>Residential Towers</b>	<b>IBC Code</b>	<b>NFPA Code</b>	<b>Sprinkler</b>
First Floor Lobby & Leasing	Business/IA	New Business/II(030)	NFPA 13
First Floor Retail	Mercantile/IA	New Mercantile/II(030)	NFPA 13
Floors 2-15 Residential Apartments	R-2/IA	New Apartment/II(032)	NFPA 13

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4. *Square footage of all structures (total and per story).*  
124,570 SF (Per Story – The four residential towers and garages)  
1,161,950 SF Total
5. *Elevation of all structures.*  
The finish floor for the buildings and parking garages will be Elevation 12. The four office towers will be about 165 feet in height; the garages are 4 to 6 stories.
6. *Proposed fire protection of all structures.*  
The occupied spaces will all be sprinkled.
7. *Hydrant locations.*  
Hydrant locations are shown on Drawing C-4.0. This includes a new hydrant on Pearl Street Extension and Elm Street.
8. *Water main(s) size and location.*  
The Portland Water District maintains a 16-inch line in Somerset Street. An 8-inch line looped between the 16-inch main in Somerset Street and a 6-inch main in Preble Street.
9. *Access to all structures (min. 2 sides).*  
The structure will be accessible from two sides except for Parking Garage #2, which will have major access from Somerset Street. Access for emergency vehicles could occur on the trail, which was designed with a 16-foot section and reportedly designed for fire apparatus loads. (Confirmation of the basis of design should be verified by the City of Portland and MDOT).
10. *A code summary shall be included referencing NFPA 1 and all fire department technical standards.*

**NFPA 1 – Chapter 18 Fire Department Access and Water Supply**

18.2 Fire Department Access:

The streets in the area have 12-foot travel lanes and a minimum pavement width of 24 feet. The pavement expands to 32 feet in areas with designated deliveries and parking. The applicant will be constructing a driveway from Somerset Street on Pearl Street Extension. The width of this driveway varies from 21 to 24 feet.

Per NFPA 1 – Chapter 18.2.3.2.2.1, all first story floors shall be located not more than 450 ft. from a Fire Department access road.

**City of Portland Technical Manual – Section 3 Public Safety**

3.4.1 *Every dead-end roadway more than one hundred fifty (150') feet in length shall provide a turnaround at the closed end. Turnarounds shall be designed to facilitate future street connectivity and shall always be designed to the right (refer to Figure I-5).*

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Supporting Evidence: The applicant is proposing Pearl Street Extension as a driveway. The City of Portland may construct this as a through street between Somerset and Marginal Way sometime in the future. The City would need to acquire additional property in the future in order to construct Pearl Street Extension as a public street.

*3.4.2 Where possible, developments shall provide access for Fire Department vehicles to at least two sides of all structures. Access may be from streets, access roads, emergency access lanes, or parking areas.*

Supporting Evidence: The buildings are accessible on two sides except for:

- midtown 1 which will have a 21 to 24 foot driveway in the Pearl Street Extension Right-of-Way and access for emergency vehicles along the trail;
- Parking Garage #2 which will have a rear face along the trail; and
- midtown 4 which has driveway or trail access on both sides of the building.

*3.4.3 Building setbacks, where required by zoning, shall be adequate to allow for emergency vehicle access and related emergency response activities and shall be evaluated based on the following factors:*

- *Building Height.*
- *Building Occupancy.*
- *Construction Type.*
- *Impediments to the Structures.*
- *Safety Features Provided.*

Supporting Evidence: Refer to the Site Plans, Utility Plans and information provided herein.

*3.4.4. Fire Dept. access roads shall extend to within 50' of an exterior door providing access to the interior of the structure.*

Supporting Evidence: The public streets and building locations will allow an emergency vehicle to pull within 19 feet of the structure.

*3.4.5. Site access shall provide a minimum of nine (9) feet clearance height to accommodate ambulance access.*

Supporting Evidence: There are no planned obstructions except for the possibility of an upper level connector between midtown 1 and Parking Garage #1. This would be elevated well above the height of any emergency vehicle.

*3.4.6. Elevators shall be sized to accommodate an 80 x 24 inch stretcher.*

Supporting Evidence: The building designs meet this requirement.

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May 23, 2013  
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*3.4.7. All structures are required to display the assigned street number. Numbers shall be clearly visible from the public right of way.*

Supporting Evidence: The applicant will work with the City's Public Services Division to assign street addresses and numbering to meet City Standards.

If you need any further information, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



William G. Hoffman, P.E.  
President

WGH/smk

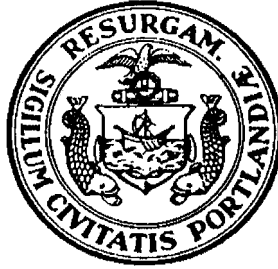
Enclosure

c: Matt Jeffries  
Greg Shinberg  
Rick Knowland



# CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION

Department of Public Services,  
55 Portland Street,  
Portland, Maine 04101-2991



Mr. Frank J. Brancely,  
Senior Engineering Technician,  
Phone #: (207) 874-8832,  
Fax #: (207) 874-8852,  
E-mail: fjb@portlandmaine.gov

Date: November 12, 2012

**1. Please, Submit Utility, Site, and Locus Plans.**

Site Address: Lots located on Elm and Somerset Streets

(Regarding addressing, please contact Leslie Kaynor, either at 756-8346, or at LMK@portlandmaine.gov)

Chart Block Lot Number: 034 D003; D010; D009  
025 A022; B002; B003;  
B004; B005

Proposed Use: Please see attached sheet

Previous Use: Industrial

Existing Sanitary Flows: 0 GPD

Existing Process Flows: 0 GPD

Description and location of City sewer, at proposed building sewer lateral connection:

Existing sewer is 36" to 72" diameter - See attached sketch

Site Category	Commercial	<u>X</u>
	Industrial (complete part 4 below)	---
	Governmental	---
	Residential	---
	Other (specify) (mixed-use)	<u>X</u>

*Clearly, indicate the proposed connection, on the submitted plans.*

**2. Please, Submit Domestic Wastewater Design Flow Calculations.**

Estimated Domestic Wastewater Flow Generated: 170,000 GPD

Peaking Factor/ Peak Times: 3.5 - typical diurnal flow of residential uses

Specify the source of design guidelines: (i.e.  "Handbook of Subsurface Wastewater Disposal in Maine,"  "Plumbers and Pipe Fitters Calculation Manual,"  Portland Water District Records,  Other (specify)

**Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet. (see attached spreadsheet)**

**3. Please, Submit Contact Information.**

Owner/Developer Name: The Federated Companies c/o Greg Shinberg

Owner/Developer Address: Shinberg Consulting-477 Congress Street, Suite 1012 Portland, Maine 04101

Phone: 207-653-7510 Fax: 207-772-7080 E-mail: gls@shinbergconsulting.com

Engineering Consultant Name: William G. Hoffman, P.E., DeLuca-Hoffman Associates, Inc.

Engineering Consultant Address: 778 Main Street, Suite 8, South Portland, ME 04106

Phone: 207-775-1121 Fax: 207-879-0896 E-mail: whoffman@delucahoffman.com

City Planner's Name: Rick Knowland Phone: 207-874-8725

**Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review.**

**4. Please, Submit Industrial Process Wastewater Flow Calculations**

Estimated Industrial Process Wastewater Flows Generated: \_\_\_\_\_ GPD

Do you currently hold Federal or State discharge permits? Yes  No

Is the process wastewater termed categorical under CFR 40? Yes  No

OSHA Standard Industrial Code (SIC): \_\_\_\_\_ (<http://www.osha.gov/oshstats/sicser.html>)

Peaking Factor/Peak Process Times: \_\_\_\_\_

**Note: On the submitted plans, please show the locations, where the building's sanitary, and process water sewer laterals, exit the facility, where they enter the city's sewer, the location of any control manholes, wet wells, or other access points, and the locations of any filters, strainers, or grease traps.**

**Notes, Comments, or Calculations:**

The proposal is for mixed-use development with residential units above the first floor, retail or commercial uses on the ground floor, and off-street parking garages. The sanitary sewer along Somerset Street will be used for lateral connections. The applicant will use existing laterals for the connections to the extent possible and likely add two or three new services. Refer to Figures 1 and 2 for a schematic of the sewer system and lateral connections.

# ATTACHMENT A

## MIDTOWN PROJECT DESCRIPTION

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The proposed project is a mixed-use residential/retail development in the Bayside area of Portland. It consists of four buildings designated “midtownOne”, “midtownTwo”, “midtownThree”, and midtownFour” further described below. The project will contribute about 87,200 square feet of direct street access retail space at the ground level, about 440 new apartments ranging from 400 square foot studios to 1,050 square foot two-bedroom units, and structured off street parking for about 800 vehicles.

The project site is bound on the north by the Bayside Trail, on the East by Pearl Street, on the South by Somerset Street, and on the West by Elm Street, Chestnut Street bisects the site. Immediately neighboring uses consist of Whole Foods to the southeast at Somerset and Franklin, warehousing and open land along Somerset Street opposite the project and low-rise retail and commercial development supported by surface parking extending from the Bayside Trail to Marginal Street to the North. Low and mid-rise residential development extends up the slope from Somerset Street to Portland’s downtown district along Congress Street.

The proponent’s intent is to lead the way in creating a compact walkable mixed-use residential “main street” anchoring the Bayside neighborhood with continuous retail frontage along Somerset Street, while also improving the trail.

Concurrent with the project, both Somerset Street and the Bayside Trail will be raised above flood level from Pearl Street to Elm Street. Future projects may be expected to raise this infrastructure to the East and West of the project site. Pearl Street to the north of Somerset Street has been designed in such a way as to allow its extension to Marginal Street in the future.

midtownOne and Two are located between Pearl and Chestnut Street. They are separated by a mews and courtyard providing public access between Somerset Street and the Bayside Trail. midtownOne will be a six-story building containing 80 dwelling units in a mix of studio, one, and two bedroom apartments with a main entrance on Pearl Street and a secondary entrance on the courtyard. The ground floor retail space is provided with frontage on Somerset Street, the mews, and the courtyard. midtownOne’s façade will be a mix of cement fiberboard and enameled metal panels.

midtownTwo is a seven story-parking garage. The entire ground floor is retail space accessible from Somerset Street, Chestnut Street, and the Trail. Elevator and stair cores are located in the northeast and southwest corners to provide access and egress to the mews/courtyard at one end and the corner of Somerset and Chestnut streets at the other. Garage vehicular entrance and retail service access is located at the eastern end to allow the greatest flexibility in retail leasing. Building B’s facades will consist of architectural precast concrete, painted railings, and “green screen” living plant panels.

The four buildings abut public space on all sides and therefore do not have “fronts” and “backs”. All facades of each building are composed of the same materials.

midtownThree is located between Chestnut Street and the Bayside Trailhead connection at the intersection of Elm and Somerset Streets. It consists of 260 apartments in a mix of one and two bedroom dwelling units in a pair of five story buildings over a continuous one-story retail base. The retail space has frontage on all four sides, although access to/from the trail is prevented by a six-foot high berm

containing contaminated soil abutting the building along most of its trailside facade. Apartments are accessed through a lobby and elevators on Chestnut Street. Service is located at a single point along Somerset Street contiguous with the apartment building cores. The unobstructed retail space west of these core functions allows the greatest possible flexibility to attract the variety and high quality of merchants who will make the project a success and contribute to the pedestrian desirability of Somerset Street.

midtownFour is of similar construction to midtownOne and Three; five stories of residential development over one story of retail space. This building will have 100 studio or loft apartment units with a lobby entry facing Elm Street near the trail. Retail frontage will face Elm Street and the trail. The buildings service entrance will be located to the east adjacent to the building's entrance. Move in/move out, delivery and trash/recycling vehicles will use the pull-off provided on Elm St for convenient access to these entrances. This building's façade will also be composed of a combination of enameled metal panels and cement fire boards constructed as an energy efficient "rain-screen" enclosure.

In total the project will consist of approximately 87,200 square feet of retail space in the four buildings, approximately 440 new apartments in three building to provide housing for 500-600 residents, and about 800 off-street parking spaces, providing one space per dwelling unit and four spaces per thousand square feet of retail space. The development of the midtown buildings will provide essentially continuous active street frontage along Somerset, Chestnut, Pearl, and Elm Streets and along the Bayside Trail. The height of the residential buildings at 72 feet, and of the parking garage at 92 feet, are substantially lower than the 105 and 125 foot heights allowed by the B-7 height overlay for these parcels. The design of the buildings will be in keeping with planning guidelines for the district. This project will bring great enhancement to Somerset Street, provide residential development immediately adjacent and overlooking the Bayside Trail, and will provide the catalyst for a walkable retail district from Whole Foods to Trader Joe's in the spirit of Portland's other great streets.

Prepared by

David Hancock  
CBT Architects

**ATTACHMENT B**  
**EVIDENCE OF RIGHT, TITLE & INTEREST**

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## CORPORATE GUARANTY AGREEMENT

<sup>15<sup>th</sup></sup> THIS CORPORATE GUARANTY AGREEMENT, (this "Guaranty"), is made as of the day of Oct, 2012, by LEGACY PARK APARTMENTS, LLC, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131 ("Guarantor"), and, jointly and severally, by THE FEDERATED COMPANIES LLC, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, see below and THE CITY OF PORTLAND, MAINE, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101, ("City").

WHEREAS Guarantor is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, ("Agreement"), as amended, for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7,8 and a portion of Lot 9, (collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

WHEREAS City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a \$9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park Apartments, LLC from funds being provided to the City by the U.S. Department of Housing and Urban Development, ("HUD Funds"), toward the expense of the design, development and construction of a garage, with no fewer than 700 parking spaces on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage"), pursuant to the terms of a Parking Garage Contribution and Funding Agreement of even or near date hereto between City and Guarantor. ("Parking Garage Agreement").

WHEREAS City, in order to induce Guarantor to enter into this Guaranty and a Job Creation Agreement, hereby agrees to pay the City Grant Funds to Guarantor, Legacy Park Apartments, LLC or its nominee ("Receiving Entity") in accordance with the terms of the Parking Garage Agreement.

WHEREAS Guarantor, contingent on receiving the City Grant Funds, hereby makes the following Guaranty, subject to the conditions contained herein.

NOW THEREFORE in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City hereby agrees to pay the City Grant Funds to the Receiving Entity and Guarantor guarantees to City that:

1. Guaranty: Guarantor shall construct and substantially complete Phase I of the Project, as more particularly described in the attached Phase I Site Plan, Design Guidelines, and Specifications Sheet, ("Exhibit 4," parts 1, 2, and 3), within three (3) years after the date of on which a total of \$1,000,000.00 in City Grant Funds has been requisitioned by the Receiving Entity and disbursed by the City to the Receiving Entity ("Guaranty Deadline"). The annual penalty for not meeting the Guaranty Deadline shall be limited to Guarantor paying to City, on an annual basis for a maximum term of 17 years, the annual difference between the actual tax revenue realized from Phase I, as constructed, and the Phase I tax revenue the City would have received had Phase I been substantially completed (The "Phase I Projected Value") by the Guaranty Deadline. The Phase I Projected Value shall be the City of Portland Assessor's estimated assessed value of the Phase I property (real and personal), made on the April 1 following the Guaranty Deadline, and based on the

description of Phase I in Exhibit 4, and the related specifications and design guidelines provided by the Guarantor on or about July 1, 2012. Notwithstanding anything in the forgoing, this Guaranty is contingent on the full \$9,007,000.00 in City Grant Funds being contributed to Guarantor for the construction of the Garage. Guarantor's aggregate, maximum penalty liability under this Guaranty shall not exceed \$9,007,000. Finally, regardless of when substantial completion of all buildings in Phase I is achieved, this Guaranty shall automatically terminate, Guarantor shall have zero financial liability under this Guaranty and City shall provide Guarantor with a release from any financial liability under this Guaranty effective as of the earlier of the date of substantial completion of Phase I or as of the date of the timely and valid exercise of the City's right of repurchase under Section 9 of the Parking Garage Agreement, as amended. For purposes of this Guaranty, "substantial completion" is deemed to mean a structure having received a Certificate of Occupancy from the City of Portland, and the complete 'fit-out' of all commercial portions of Phase I.

The rights and obligations under the Agreement between the parties hereto, and under the Parking Garage Contribution Agreement of near or even date, are cumulative and in addition to the rights described herein.

2. Warranties and Representations: In connection with the foregoing, City and Guarantor hereby make the following warranties and representations:

(a) The financial liability limitations of this Guaranty are intended by the parties to supersede and amend the defense and indemnification obligations of the Buyer/Guarantor to City in regard to the City Grant under Section 11 of the Agreement. Similarly, the provisions of the Job Creation Agreement are intended by the parties to supersede and amend the job creation duties and obligations of the Buyer/Guarantor to City under Section 11 of the Agreement. Accordingly, this Guaranty is contingent upon the City paying the City Grant Funds to Guarantor in accordance with the terms of the Parking Garage Agreement, irrespective of the source of funds utilized by the City for such City Grant Funds.

(b) Apart from the express modifications stated in this Guaranty, the Parking Garage Agreement and Job Creation Agreement, the Agreement for the purchase of the Land, as assigned and amended, remains in full force and effect and has not been otherwise modified, amended or terminated.

(c) Attached as Exhibit 1 to this Guaranty is a true, accurate and complete copy of the Purchase and Sale Agreement and First Amendment thereto.

(d) Attached as Exhibit 2 to this Guaranty is a true, accurate and complete copy of the Assignment.

(e) Attached to Exhibit 3 to this Guaranty is a true, accurate and complete copy of the Parking Garage Agreement.

(f) Attached as Exhibit 4 to this Guaranty is the, Phase I Site Plan, Design Guidelines, and Specifications Sheet.

(g) Attached as Exhibit 5 to this Guaranty is a true, accurate and complete copy of the Job Creation Agreement.

(h) Neither the Guarantor, nor the City is in default of the Agreement.

3. Successors and Assigns and Enforcement: This Guaranty shall be binding upon and inure to the benefit of the Guarantor's respective successors and assigns. Guarantor pledges that:

(a) it will not assign its rights hereunder without the City's consent, and only to a related entity;

(b) it will permit the City's Corporation Counsel, Manager, Director of Economic Development and Finance Director to review balance sheet, to satisfy themselves of the strong solvency and net worth of both the Guarantor and The Federated Companies LLC;

(c) it will not substantially change such strong solvency and net worth without notifying the City of such changes;

(d) it will not alter its corporate structure or transfer substantially all its assets without providing the City a replacement Guaranty from another entity with strong solvency and net worth, or in the alternative, a letter of credit for the obligations hereunder; and

(e) In any legal proceeding with respect to the obligations created by this Guaranty, all parties hereto waive jury trial, agree that the Maine Superior Court shall have exclusive jurisdiction, that the substantive and choice of law used shall be Maine law and that the prevailing party shall be awarded the reasonable attorneys' fees and costs incurred in regard to any legal proceeding arising out of the obligations created by this Guaranty, including, should the City prevail, a reasonable hourly fee for the services of the City's employee attorneys, that is, its Corporation Counsel.

(f) This Agreement and the performance hereof by Guarantor will not contravene any law, judgment, order, injunction, decree or any contractual restriction or arrangement binding on Guarantor, at the time execution hereof. All parties hereto acknowledge that this Agreement is a legally enforceable instrument and the obligations stated herein are likewise legally enforceable, and that at the time of execution hereof they have no reason to believe otherwise.

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


5. Amendments: This Guaranty may not be amended in any respect whatsoever except by a further agreement, in writing, fully executed by each of the parties.

(Signature page follows on p. 4.)



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives under seal as of October 19, 2012.

LEGACY PARK APARTMENTS LLC, a Florida limited liability company

By:   
Jonathan Cox, Manager

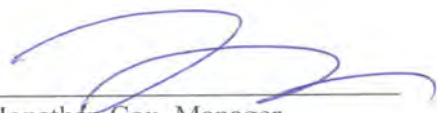

CITY OF PORTLAND

By:   
Mark H. Rees  
City Manager


JOINDER

THE FEDERATED COMPANIES LLC, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, hereby joins in this Guaranty, agreeing that it is jointly and severally liable for, and hereby makes, the same guaranty and other obligations as described in the paragraphs numbered 1, 2 and 3 above, subject to the terms and conditions stated therein.

THE FEDERATED COMPANIES, LLC, a Florida limited liability company

By:   
Jonathan Cox, Manager

  
Finance Director  
City of Portland, Maine

APPROVED AS TO FORM:  
  
CORPORATION COUNSEL'S OFFICE

September 6, 2012 by LCW

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**EXHIBIT 1**  
**[P&S]**

September 6, 2012 by LCW

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## **EXHIBIT 2**

[Assignment to Legacy Park]

September 6, 2012 by LCW

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## FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

**THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT**, ("Amendment"), is entered into as of Oct. 15, 2012, by and between **THE CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 ("Seller") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company with a place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, or its nominee or assignee ("Buyer"). (Seller and Buyer are also hereinafter referred to individually as "party" or, collectively, "parties").

**WHEREAS** Buyer is the assignee, by virtue of an Assignment and Assumption Agreement, ("Assignment"), effective June 27, 2011 of a Purchase and Sale Agreement, effective June 23, 2011, between The Federated Companies LLC and Seller ("Agreement"). Assignment and Agreement are attached hereto and incorporated herein by reference, collectively, as Exhibit "A".

**WHEREAS** Section 11 of the Agreement requires that the Seller and Buyer enter into a formal agreement stipulating to the terms and conditions of the Seller's contribution of HUD Funds during the Inspection Period.

**WHEREAS** Section 11 of the Agreement provides that the Inspection Date shall be extended until the parties have reached agreement on the use of HUD Funds for the garage.

**NOW THEREFORE** for good and valuable consideration, including the mutual promises made below, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree that the Agreement is amended as follows:

A. Section 4 of the Agreement is amended by deletion of the original text of Paragraph 2 and insertion of the following text in its place:

"The term "Inspection Date" means midnight on the sixtieth (60<sup>th</sup>) day following full execution by the parties and HUD approval, if HUD approval is required, of the formal agreement stipulating the terms and conditions of the HUD Funds contribution identified under Section 11 of this Agreement."

B. Section 5 of the Agreement is amended by deletion of the original text and insertion of the following in its place:

C. Section 5. **Use Restrictions and Environmental Matters.** Buyer understands that lots 1, 2, 3, 5 and a portions of lot 6 and a portion of lot 9 were encumbered with deeds restrictions, including but not limited to a restriction on residential uses on a portion of the Property. Pan Am/Guilford, the holder of those restrictions has released these restrictions, and before the start of construction by Buyer the Seller will secure environmental liability insurance on the Railyard to protect Pan

September 6, 2012 by LCW

O:\Bayside - Federated Companies\Purchase and Sale Agreement\2final FIRST AMENDMENT TO PURCHASE AGREEMENT for Execution.doc

Am/Guilford, which was a condition of its releasing these restrictions.

The Seller, through its consultant and others has undertaken a number of environmental studies which are referenced in Exhibit B to this Amendment. The Maine Department of Environmental Protection (hereinafter "DEP") has issued one or more letter(s) confirming their approval of a Voluntary Response Action Program ("VRAP") Plan for the former rail yard property which is contained within lots 1, 2, 3, 5 and a portion of lot 6 and a portion of lot 9 (hereinafter "Railyard"). The VRAP includes a remediation plan approved on the Railyard property by the DEP. As part of the development plan for the Railyard property, Buyer is responsible for complying with the remediation VRAP Plan for the Property. To the extent required by law, the approval of the U.S. Environmental Protection Agency shall also be obtained for both of these VRAP Plans.

The Seller has commenced review of the environmental conditions for on the portion of Property which is contained within a portion of Lot 6 and Lots 7, 8 and a portion of Lot 9, (hereinafter "Scrapyard"). The Seller will secure a VRAP for the Scrapyard (subject to Buyer's input and approval) and Buyer shall undertake remediation in accordance with the VRAP. The Seller will reimburse Buyer for its first Fifty Thousand Dollars (\$50,000.00) of actual expense for such remediation, and all other costs of remediation, which shall fully comply with such VRAP, shall be paid by the Buyer from City Grant Funds received from City. The Seller will work together with the Buyer to ensure the timely remediation in accordance with the Buyer's development plans.

Although Buyer is under no obligation to obtain such environmental liability insurance, should Buyer, at Buyer's sole election, secure environmental liability insurance on the Scrapyard and/or any other portion of the Property, Buyer will use best efforts to secure for the Seller the option to obtain coverage under such insurance policy(ies) as an Additional Insured, by endorsement in any other form; provided, however, that any additional cost for such additional coverage shall be paid by the Seller and shall not relieve Seller of the duty of providing the environmental liability insurance required to provide on the Railyard for the benefit of PanAm/Guilford described above.

D. Section 6 of the Agreement is amended by adding, at the end of the existing first sentence, "including but not limited to Site Plan approval from the City of Portland, Subdivision Approval Amendment(s) from the City of Portland, and any amendments to the Land Use Code of the City of Portland."

E. The first sentence of Section 11 of the Agreement is amended by deleting the existing text, and replacing it with the following:

Contingent on the full disbursement of \$9,007,000.00 in City Grant Funds from Seller to Buyer as provided in the Parking Garage Contribution Agreement, and as a condition of this sales transaction, the Buyer will construct, at its expense, a parking garage on (approximately, as the exact location is not yet set), a portion of Lot 5 and all

of Lots 6 and 7 and a portion of Lot 9 which shall contain not less than 700 parking spaces. ("Garage").

F. Section 11 of the Agreement is amended by deleting the original text of numbered Paragraph 4 and the insertion of the following text in its place:

"Buyer shall construct the Garage using sustainable and energy efficient construction methods, including, but not limited to, energy efficient lighting."

G. Section 15 of the Agreement is amended by deletion of the original text and insertion of the following in its place:

"Section 15. Rights of Seller to Repurchase Undeveloped Property.

(a) If three years after the substantial completion of the Garage, construction activity has not been commenced and diligently pursued on any other portions of the Property, the Seller shall have a one-time right to notify Buyer in writing of such default under this Section within thirty (30) days of such default and Buyer shall have ninety (90) days thereafter to cure such default. Provided, however, that there shall be no event of default by Buyer if the City is in default of any provision of the Parking Garage Contribution Agreement. If Seller fails to provide Buyer with written notice of default within thirty (30) days of such default, then the provisions of this Section shall be deemed waived by Seller.

(b) If the Garage does not reach substantial completion within three years after the date of closing on the purchase by Buyer of the Property related to the Garage then the Seller shall have a one-time right to notify Buyer in writing of such default under this Section within thirty (30) days of such default and Buyer shall have ninety (90) days thereafter to cure such default. If Seller fails to provide Buyer with written notice of default within thirty (30) days of such default, then the provisions of this Section shall be deemed waived by Seller.

If Buyer fails to cure a default under either 15(a) or 15(b) above, the Seller shall have the right or remedy, but not the obligation, which is described in this paragraph in concept: namely, to repurchase any or all such portions of the undeveloped Property at Buyer's Purchase Price (prorated with respect to the quantity of land, as necessary). Seller may, at the closing of such repurchase, use such consideration (that is, the prorated portion of Buyer's Purchase Price) to pay-off and remove any and all then existing mortgages, liens, assessments or other encumbrances on the undeveloped Property being repurchased. Any amounts by which such then existing mortgages, liens, assessments and other encumbrances exceed such consideration, shall continue to the obligations of Buyer, or its successors or assigns; and Buyer, its successors or assigns, shall indemnify Seller with respect to such excess amounts.

September 6, 2012 by LCW

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The City acknowledges that Legacy Park will most likely use the entire Property as collateral for a construction loan for the purpose of developing and building all portions of the project. The City therefore agrees to work on documents at the time of such financing, with Buyer and its construction lender, to make it possible for the City to have the remedy described above in concept, and to also permit such construction financing. Buyer agrees that while this right or remedy exists as described in the paragraph above no portion of the Property will not be mortgaged for any purpose other than development and construction of the Project.

It is noted here that the 'Parking Garage Contribution Agreement' contains Seller's remedies with respect re-acquisition of the parking garage portion of the Property, and the Rights created by this Section do not pertain to that property." The rights and obligations under the Corporate Guaranty Agreement and the Parking Garage Contribution Agreement, both of near or even date are cumulative and in addition to the rights described herein.

H. The original description of the Land in the Purchase and Sale Agreement is hereby modified to include this conveyance a portion of Lot 9, and the "Exhibit ~~A~~<sup>B</sup>" to the Purchase and Sale Agreement is hereby replaced with the "Exhibit ~~A~~<sup>B</sup> to the Purchase and Sale Agreement, [2012]" attached hereto.

Except as amended above, all other terms and conditions of the Agreement remain unaffected by this Amendment, are in full force and effect between the parties and are hereby ratified by the parties.

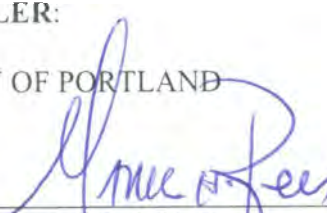
All terms capitalized herein shall have their original meaning as defined in the Agreement unless otherwise defined herein. In the event of conflicting provisions or language in this Amendment and the Agreement, this Amendment is intended to control.

This Amendment may be signed in counterparts, which shall be construed together as one document.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment as of the day and year first written above.

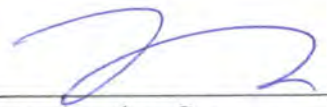
**SELLER:**

CITY OF PORTLAND

By:   
Name: Mark H. Rees  
Title: City Manager  
Date of Execution: 10-15-12

**BUYER:**

THE FEDERATED COMPANIES, LLC

By:   
Name: Jonathan Cox  
Title: Manager  
Date of Execution: 10/15/12

September 6, 2012 by LCW

O: Bayside - Federated Companies Purchase and Sale Agreement 2final FIRST AMENDMENT TO PURCHASE AGREEMENT for Execution.doc



Approved: Ellen Sanborn, Finance Director



Approved as to Form: Corp. Counsel

**EXHIBIT "A"**  
**TO FIRST AMENDMENT TO**  
**PURCHASE AND SALE AGREEMENT**

[insert Assignment AND P&S]



**ASSIGNMENT AND ASSUMPTION AGREEMENT**

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Agreement") is made as of the 27th day of June, 2011, by and between **THE FEDERATED COMPANIES, LLC**, a Florida limited liability company, with an address of 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 (together, the "Assignor") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company, with an address of 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 (the "Assignee").

For and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration to it in hand paid by the Assignee to the Assignor and the mutual covenants herein contained, the receipt and sufficiency of the foregoing consideration being hereby acknowledged, the parties hereto agree as follows:

1. **ASSIGNMENT**: The Assignor hereby assigns, transfers, sets over and conveys to the Assignee all of the Assignor's right, title and interest in, to and under that certain Purchase and Sale Agreement by and between The City of Portland, Maine (the "City") and Assignor, with respect to certain real property described therein (the "Purchase Agreement").

2. **ASSUMPTION**: The Assignee does hereby assume and agree to perform all of the Assignor's obligations with respect to the Agreement accruing from and after the date hereof. Assignee acknowledges that Assignor has posted the required deposit under the Purchase Agreement and agrees that such deposit shall be refunded to Assignor upon Assignee's closing on the acquisition under the Purchase Agreement.

3. **WARRANTIES AND REPRESENTATIONS**: In connection with the foregoing assignment and assumption of the Purchase Agreement, the Assignor does hereby make the following warranties and representations:

(a) The Purchase Agreement remains in full force and effect and has not been modified, amended or terminated;

(b) Attached as Exhibit A to this Agreement is a true, accurate and complete copy of the Purchase Agreement; and

(c) Neither the Assignor nor, to the best of Assignor's knowledge without inquiry, the City is in default of the Purchase Agreement.

With the exception of the foregoing warranties, this Assignment is made without recourse or representation or warranty, express, implied or by operation of law, of any kind and nature whatsoever.

4. **SUCCESSORS AND ASSIGNS**: This Agreement shall be binding upon and inure to the benefit of the Assignor and the Assignee and their respective successors and assigns.

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

6. **AMENDMENTS:** This Agreement may not be amended in any respect whatsoever except by a further agreement, in writing, fully executed by each of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives under seal as of June 27, 2011.

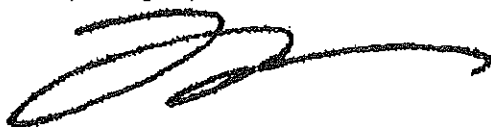
ASSIGNOR:

THE FEDERATED COMPANIES, LLC, a Florida limited liability company

By:   
Jonathan Cox, Manager

ASSIGNEE:

LEGACY PARK APARTMENTS LLC, a Florida limited liability company

By:   
Jonathan Cox, Manager

**Exhibit A**

## PURCHASE AND SALE AGREEMENT

This Purchase Agreement (this "Agreement"), is entered into as of the *Effective Date*, as defined below, by and between The City of Portland, Maine a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine 04101 ("Seller") and The Federated Companies LLC, a Florida limited liability company with a place of business at 404 Washington Avenue, Suite PH, Miami Beach, FL 33139 or its nominee or assignee ("Buyer").

**WHEREAS**, Seller is the Owner of a certain real property located on Somerset Street, Portland, Maine which contains approximately 3.25 acres and which is known as lots 1, 2, 3, 5, 6, 7 and 8, which land is further described in Exhibit A, attached hereto and incorporated herein (collectively "the Land") and

**WHEREAS**, Seller seeks to sell the Land for development purposes; and

**WHEREAS**, Buyer desires to acquire the Land from Seller, and Seller seeks to sell the same to Buyer on such terms as are set out herein,

**Now Therefore**, in consideration of the foregoing and for good and valuable consideration, the parties intend to be legally bound as follows:

**Section 1. Property.** The Land, all rights and privileges appurtenant to the Land and all improvements located on the land, are referred to collectively as the "Property." The Seller agrees to sell the Property to Buyer on the terms and conditions contained herein. The parties understand and agree that a portion of land representing a trail access from Somerset Street as shown on Exhibit A-1, may need to be adjusted depending on the nature and extent of development on Lots 6 and 7. The trail access adjustment shall be subject to the mutual agreement of the parties on the placement of the lot lines and the trail access

**Section 2. Purchase Price and Deposit.** The "Purchase Price" for the Property shall be Seven Hundred Thousand Dollars (\$700,000) per acre and shall be paid in cash (or by certified or bank check or federal funds wire transfer) at the Closing as defined in Section 8 of this Agreement subject to the adjustments described in this Agreement. The calculation of the acreage of the Property shall be made by the Seller providing, not later than forty-five (45) days after the Effective Date, an ALTA survey, satisfactory to Buyer and Buyer's lender, of the Property, excluding that portion of land utilized for trail access as described above. Within ten (10) business days after the Effective Date of this Agreement, Buyer shall deliver to a nationally-recognized title company ("Escrow Agent") the sum of Twenty Five Thousand Dollars (\$25,000) (the "Initial Deposit"), which shall be held in escrow in accordance with the terms of Section 14 of this Agreement. The Initial Deposit, and any other deposits made by Buyer under the terms of this Agreement shall be held by the Escrow Agent, and is referred to collectively as the "Deposit." The Deposit shall be

applied toward the Purchase Price at the Closing unless otherwise forfeited by the Buyer pursuant to the terms of this Agreement.

### **Section 3. Title.**

(a) Seller shall convey its interest in the Property to Buyer by a good and sufficient quitclaim deed with covenant (the "Deed"). The Deed shall convey insurable title to the Property and be free of encumbrances except (i) zoning, environmental and subdivision laws, rules, regulations and restrictions and other land use matters; and (ii) any "Defects of Title" (as defined below) accepted or waived by Buyer pursuant to Section 3(b). Buyer acknowledges that: the deed of conveyance shall contain a restriction lasting for 30 years, including the 30<sup>th</sup> year, starting on the closing date, that, in the event that the property or any portion thereof shall be exempt from real and personal property taxes then a yearly payment by the then-owner of the exempt portion shall be made in lieu of taxes equivalent to the property taxes that would otherwise be paid on the exempt portion of 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. For purposes of this Agreement, insurable title means title which an insurance company with a rating of B+ or better by Standard & Poor's (or other comparable rating by another rating organization) licensed to do business in Maine is willing to insure upon payment of a premium at customary and filed rates on a standard ALTA Form B Policy (rev. October 17, 1992) with no exceptions listed on Schedule B, Part I thereof, except for the standard exceptions and Defects of Title pursuant to paragraph 3(b) below, with no indemnification or legal opinion to be required from Buyer to issue such policy, and with the creditor's rights exception deleted.

(b) On or before the date that is forty-five (45) days after the Effective Date, Buyer shall notify Seller of any defects in title that would make Seller unable to give title to the Property as herein stipulated or which would otherwise adversely affect Buyer's intended development of the Land (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 Seller of such Defect of Title on or before the end of such 45-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 Seller of any such Defect of Title on or prior to the Closing Date as defined in Section 8 hereof. Seller shall have, at its option, a period of not more than sixty (60) days after receipt of notice(s) of any defect in title within which to remedy or cure any Defect of Title and Seller agrees to use good faith efforts to cure such Defect of Title. If the Closing Date shall fall within the said 60-day period, it shall be extended to the date that is ten (10) business days after the expiration of such 60-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 Seller that the Defect of Title has been cured to advise Seller whether it is satisfied with the title defect cure. If such Defects of Title are not corrected or remedied within such 60-day period, then Buyer shall elect by written notice to the Seller 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 Seller, 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 Agreement. For purposes of this subsection (b), Seller 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 reasonable discretion; or the Seller may cure by other means satisfactory to the Buyer.

Any time taken to cure any defect in title shall extend by the same amount of time the Inspection Date described by section 4 of this Agreement.

(c) Seller represents and warrants to Buyer, effective as of the date of this Agreement and also effective as of the date of Closing, that: (i) Seller holds good and clear, record and marketable title to the Property in fee simple; (ii) there are no uncorrected violations of any laws or codes with respect to the Property, its condition, or use; (iii) no options, rights of first refusal, or other contracts have been granted or entered into which give any other party a right to purchase or acquire any interest in the Property or obligate the Seller in any respect; (iv) there are no leases, licenses, or other occupancy agreements in effect with respect to any part of the Property, other than a deed restriction preventing residential use and other uses as required which Seller shall seek to lift before Closing; (v) Seller has not received written notice of any planned or threatened condemnation or eminent domain proceedings with respect to the Property; (vi) the Property abuts a public way which imposes no access restrictions; (vii) this Agreement has been duly authorized by all requisite action and is not in contravention of any law or organizational documents and this Agreement has been duly executed by a duly authorized officer or official of Seller; (viii) Seller's execution of this Agreement does not violate any other contracts, agreements, or any other arrangements of any nature whatsoever that Seller has with third parties and (ix) the Seller shall seek to obtain, at its sole cost and expense, such environmental insurance as may be agreed upon by Seller and PanAm/Guilford, as a prior titleholder, that is sufficient to get PanAm/Guilford to lift the current deed restrictions on uses. Seller will not cause nor, to the best of Seller's ability, permit any action to be taken which would cause any of Seller's representations or warranties to be false as of Closing, and in any event shall notify Buyer of any change in these representations and warranties. Seller's representations and warranties shall survive the Closing and the delivery of the Deed.

**Section 4. Inspection of Property.** Buyer, and those parties controlled by Buyer or associated with Buyer, shall have the right to access the Property to inspect its condition, including, without limitation, making surveys, testing the geotechnical quality of soils and whether any Hazardous Materials exist (including sub-surface), and pursuing permits and approvals. Seller shall cooperate with Buyer, without material cost to Seller, in connection with all such inspections and

actions by Buyer, including without limitation, by delivering to Buyer within ten (10) days of the effective date of this agreement, copies of any and all surveys, permits, title reports, hazardous waste reports, environmental assessments, geotechnical reports, samplings and investigations, all contracts and leases affecting the Property, any documents relating to the physical condition of the Property (including, without limitation, any improvements located thereon) and the status of the Property's compliance with applicable building code, zoning, land use and environmental laws, rules and regulations, feasibility studies (including financing), building and site plans, floor plans, property inspections, elevation studies, appraisals or other such pertinent information Seller has compiled related to the property and/or the proposed development that is in the Seller's possession or control, and signing any consents or authorizations for permit applications that may be required. If Buyer does not purchase the Property for any reason then Buyer shall promptly repair any damage that it may have caused.

The term "Inspection Date" means midnight on the sixtieth (60<sup>th</sup>) day following the Effective Date.

If Buyer is not satisfied with the condition of the Property for any reason, or no reason, in its sole discretion, then Buyer may terminate this Agreement by delivering written notice of such termination to Seller no later than five (5) days after the Inspection Date, in which event the Escrow Agent shall immediately return the Initial Deposit to Buyer. However, if Buyer does not so terminate this Agreement, then the parties shall proceed forward in this transaction. Upon Buyer's election to move forward, the Buyer shall deposit, within five (5) days, an additional Twenty Five Thousand Dollars (\$25,000) in escrow with the Escrow Agent as Additional Earnest Money ("Additional Deposit"). Both the Deposit and the Additional Deposit shall be deemed non-refundable except in the event that the Seller fails to perform or the Buyer is unable to obtain the permits and approvals. The Deposit and the Additional Deposit shall be credited against the purchase price upon closing unless forfeited as otherwise provided in this Agreement.

**Section 5. Covenants of the Seller.** The Seller, through its consultant and others have undertaken a number of environmental studies which are referenced in Exhibit B to this agreement. The Maine Department of Environmental Protection (hereinafter "DEP") has issued one or more letter(s) confirming their approval of a Voluntary Response Action Program ("VRAP") Plan for the former rail yard property which is contained within lots 1, 2, 3, 5 and a portion of 6 (hereinafter "Railyard"). The VRAP includes a remediation plan approved on the Railyard property by the DEP. As part of the development plan for the Railyard property, Buyer shall be responsible for complying with the remediation plan for the property.

Buyer understands that lots 1, 2, 3, 5 and a portion of lot 6 are encumbered with deed restrictions, including but not limited to a restriction on residential uses on a portion of the Property. Pan Am/Guilford, a prior owner of the property has the sole discretion and is under no obligation to remove said deed restrictions. Provided that Pan Am/Guilford is in agreement with the insurance coverage provided by the Seller, the Seller will secure environmental liability insurance on the Railyard portion of the Property which will permit Pan Am/Guilford and the Seller to remove the deed restrictions on the property for residential and other uses, as required by Buyer.

The Seller has commenced review of the environmental conditions on the portion of the Property which is contained within a portion of Lot 6 and Lots 7 and 8 (hereinafter "Scrapyard"). The Seller will secure a VRAP for the Scrapyard (subject to Buyer's input and approval) and shall undertake remediation at its sole cost and expense in accordance with the VRAP. The Seller will work together with the Buyer to ensure the timely remediation in accordance with the Buyer's development plans. Buyer understands and agrees that no residential uses shall be approved on Lots 7 and 8 of the Scrapyard, even if such uses are allowed by the VRAP.

**Section 6. Permit Period.** Buyer shall have an additional One Hundred and Eighty (180) days following the Inspection Date (the "Permit Period") in which to obtain the permits and approvals that are necessary or desirable for Buyer's contemplated development of the Property for a mixed-use project including a parking garage as described in Section 11 of this Purchase Agreement. Buyer shall work with the City on the development of a master plan of all properties. Subject to the mutual agreement of the parties, the master plan may, but is not required to, include the elimination of the accessway from Somerset St to the Bayside Trail between Lots 6 and 7 or the 20ft wide accessway from Somerset St. to the Bayside Trail running through Lot 3, and the purchase of the underlying property in the accessway between Lots 6 and 7 by Buyer. It is the intent of the Buyer to build a mixed-use project which incorporates goals proposed by the City in its "A New Vision for Bayside", including, but not limited to, provide commercial and/or retail space on the first floor to allow for a user friendly neighborhood. If, by the end of the Permit Period, Buyer has not obtained all such permits and approvals, with all appeal periods with respect to such permits and approvals having expired with no appeal having been taken (or if taken, then with such appeal having been resolved to Buyer's satisfaction), then Buyer may terminate this Agreement by delivering written notice of such termination to Seller no later than five (5) business days after the end of the Permits Period, in which event the Deposit shall be returned to Buyer as provided in the Escrow Agreement. However, if Buyer does not so terminate this Agreement then the parties shall proceed forward in this transaction in accordance with the terms of this Agreement and the Deposit shall become non-refundable (except in the event of a Seller default, or because the Closing does not occur due to the failure of a condition precedent or as otherwise provided in this Agreement), but the Deposit shall always remain applicable to the Purchase Price unless otherwise provided by this Agreement.

During the Permit Period, as soon as practicable but no later than the same time as the Buyer presents its formal application for site plan approval, the Seller will present its plan for subdivision amendments to the Land consistent with the needs of the Buyer's site plan approval. The Seller shall be the applicant for the subdivision amendment, whether the review is done administratively or otherwise. Buyer shall provide, at its sole cost and expense, all required surveys in connection with the necessary subdivision amendments.

Notwithstanding anything in the foregoing to the contrary, Buyer shall have the right to extend the Permit Period up to three times, each extension for a period of thirty (30) days, by notifying Seller in writing of such extension within five (5) business days after the end of the then-current Permits Period, and depositing with Escrow Agent an additional deposit of Three Thousand Dollars (\$3,000) per extension (the "Permit Extension Deposit"). The Permit Extension Deposit shall be



considered part of the Deposit and shall non-refundable (except in the event of a Seller default, or because the Closing does not occur due the failure of a condition precedent or if Buyer/Seller is unable to obtain the permits and approvals or as otherwise provided in this Agreement), but the Deposit shall always remain applicable to the Purchase Price as provided herein. All references in this Agreement to the Permit Period shall mean the Permit Period as the same may be extended in accordance with the terms of this paragraph.

**Section 7. Conditions Precedent to Closing.** Seller and Buyer's obligation to Close hereunder are conditioned upon the satisfaction of the following conditions:

- (a) there shall be no pending or threatened action, suit, litigation, hearing or administrative proceeding relating to Seller, any entity comprising Seller, or to all or any portion of the Property;
- (b) the Property shall be free and clear of any leases, licenses, occupancy agreements, and any other parties in possession;
- (c) Seller shall have delivered to Buyer such documentary and other evidence as the Buyer's title company may reasonably require evidencing Seller's authority, the absence of mechanic's liens and parties in possession, and any other matters that the title company may reasonable require;
- (d) all of Seller's obligations under this Agreement shall have been performed and all its representations and warranties shall be true and correct;
- (e) the condition of the Property (including without limitation the condition of the Property with respect to title and survey matters, as well as the presence of fixtures, equipment, and other personal property that is to be transferred at the Closing as elected by Buyer) shall be as required by this Agreement and no changes shall have occurred to such condition of the Property since the date of this Agreement (Buyer shall have the right to re-inspect the Property prior to the Closing to confirm the foregoing);
- (e) notwithstanding anything in this Agreement to the contrary, Buyer shall have obtained any and all permits and approvals necessary or desirable for its contemplated development of the Property, with all appeal periods with respect to such permits and approvals having expired with no appeal having been taken (or if taken, then with such appeal having been resolved to Buyer's satisfaction);
- (f) any hazardous materials on the property shall be handled in accordance with the requirements of the applicable VRAP agreement and this Agreement;
- (g) Seller shall have paid, or will pay at or prior to Closing, all taxes, assessments, charges, fees, levies and impositions, coming due prior to the Closing Date;
- (h) if any subdivision or other governmental approval is required in order to convey the Property as a separate parcel or lot then Seller shall have obtained all such subdivisions and/or other governmental approvals and shall have recorded any and all required plans in connection with the same;
- (i) from and after the Effective Date, there shall have occurred no material adverse change to the Property (or any material portion thereof) which is continuing at the date and time scheduled for Closing which could have an adverse impact on Buyer's intended use of the Property; and
- (k) Buyer shall have secured all permits, licenses and approvals (not subject to further action) necessary to construct its proposed mixed-use facility and parking garage on the Property.

**Section 8. Closing.** The Closing shall be held and completed at 10:00 A.M. or at such other time as may be agreeable to the parties at the office of the Buyer's lender's counsel in Portland, Maine, or through electronic communication or by mail by agreement of the parties, on the date that is thirty (30) days (or such shorter period of time as Buyer may elect upon five (5) days written notice to Seller) following the end of the Permit Period, time being of the essence. Notwithstanding the foregoing, in no event shall Buyer be obligated to close sooner than the fifth (5th) day following the satisfaction of the conditions precedent set forth in this Agreement. At the Closing, Seller shall cause the release of the Property from all loans and other monetary encumbrances secured by the Property, including, without limitation, municipal liens and utility fees of all kinds, and Seller shall pay all prepayment penalties or fees assessed by the holders of such loans and encumbrances, if any.

Seller is exempt from real estate transfer tax pursuant to 36 M.R.S.A. § 651. Seller shall pay the brokerage commission due to the brokers(s) described below, and all of its costs incurred.

Buyer shall pay its share of the real estate transfer tax and for all recording costs, Buyer shall be responsible for all of its own costs incurred, including, without limitation, the cost of studies or inspections desired by Buyer. The real estate taxes and other customary items of proration and adjustment shall be computed as of the date of Closing and added to or deducted from the net proceeds as the case may be. In the event accurate prorations or other adjustments cannot be made at Closing because of the lack of necessary information, the parties shall prorate and adjust based on the best available information, subject to prompt modification upon the receipt of the necessary information. At the Closing, Seller shall deliver to Buyer: (i) a Quitclaim Deed with covenant (ii) releases of any real estate liens or other instruments or agreements to be cancelled pursuant to the terms of this Agreement, in form appropriate for recording; (iii) an updated certification of the warranties and representations contained herein; (iv) an assignment of permits and warranties; (v) a Bill of Sale (if applicable), in form and substance satisfactory to Buyer, transferring to Buyer, without additional charge, all fixtures, equipment, and other personal property located at the Property (except for any fixtures, equipment and other personal property that Buyer has directed Seller in writing to remove on or before the date of the Closing, which Seller shall so remove, without causing damage to the Property); (vi) an assignment, transferring ownership of all the permits, plans and approvals which are part of the Property and (vii) such other documents required under the terms of this Agreement or customarily delivered at closings in the State of Maine. On or before Closing, Seller shall terminate any contracts relating to the Property that Buyer has not agreed to assume and shall pay all costs associated with such contracts. On or before Closing, Seller will do, make, execute and deliver all such additional and further acts, instruments and documents as may be consistent with this Agreement and customarily and reasonably required by Buyer and/or the Buyer's title company to complete the transactions described in this Agreement.

**Section 9. Condemnation and Casualty.** If, prior to Closing, all or any part of the Property or access to the Property shall become subject to condemnation through eminent domain by governmental or other lawful authority, or should be subject to damage or destruction by fire or other casualty, then Buyer shall have the option of either (a) completing the purchase, in which event all condemnation proceeds or claims thereof (or, in the event of a fire or other casualty, all

casualty insurance proceeds, together with a credit against the Purchase Price for the amount of any insurance deductible) shall be assigned to Buyer, or (b) terminating this Agreement, in which event, notwithstanding any provision herein to the contrary, the Deposit shall be returned to the Buyer, and this Agreement shall have no further force or effect. Seller shall bear the risk of loss to the Property due to condemnation or casualty until the Closing and the recording of the Deed. Seller shall keep the Property insured at its presently insured levels from the date of this Agreement until the Closing and the recording of the Deed.

**Section 10. Broker.** At the Closing, Seller shall pay any and all fees or other commissions due and payable to CBRE| The Boulos Company (the "Broker"), pursuant to separate agreement. Except for the Broker, Seller and Buyer represent and warrant to each other that neither has dealt with any other real estate broker, agent, or salesperson. Seller agrees to defend, indemnify, and hold Buyer harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage fees through Seller. Buyer agrees to defend, indemnify and hold Seller harmless from any claims, costs, judgments, or liabilities of any kind advanced by persons (other than the Broker) claiming real estate brokerage fees through Buyer. The indemnities set forth in this Section shall survive Closing.

**Section 11. Conditions Which Survive Closing** As a condition of this sales transaction, the Buyer will construct, at its expense, a parking garage on a portion of Lot 6 and all of Lots 7 and 8 which shall contain not fewer than 500 parking spaces. The Seller shall make a contribution to the cost of construction from the funds being provided to the Seller from the U.S. Department of Housing and Development (the "HUD Funds") in accordance with and to the extent allowed by federal law and regulations, including HUD's regulations. During the inspection period described in Section 4 above, the Seller and the Buyer shall enter into a formal agreement stipulating the terms of this contribution and the conditions of the contribution, which are expected to include the following:

1. The garage shall be open during reasonable hours 7 days per week subject to modification from time to time by buyer based on historical and projected volume of usage of the garage.
2. The garage shall have shared use with residents 7 days a week, 24 hours per day.
3. During snow bans, garage shall be available for snow ban parking and the overnight snow ban parking rate shall not exceed 50% of the then current daily maximum rate charged for parking at the garage.
4. The garage shall be made available for special event parking during off hours.
5. The garage shall provide turnover parking for the general public.
6. Rates shall be based upon market conditions.

7. The garage shall participate in the Park & Shop program.
8. The garage must accept both cash and credit card payments.
9. The garage must remain as a public parking facility for a minimum of 30 years.

The agreement referred to in this section shall further provide that Buyer shall comply with all the terms and conditions related to the use of HUD funds including, but not limited to, providing documentation of job creation. The Inspection Date shall be extended until the parties have reached agreement on these issues.

The agreement shall further provide that HUD has to approve the use of its funds for the garage and that if such approval is obtained, Buyer or any nominees, assigns or successors in interest shall be responsible for complying with any conditions required by HUD in addition to the conditions listed above and shall defend and indemnify Seller against any actions brought by HUD to enforce any HUD conditions and any sanction or fines resulting from an enforcement action.

In return for the use of HUD funds, the garage and any attached structures or units in it designed for non garage use shall comply with and be certified by the U.S. Green Building Counsel's (USGBC) Leadership in Energy and Environmental Design (LEED) Silver Standard, and shall achieve the minimum LEED optimize energy performance points necessary to meet the targets of the 2030 challenge as published by Architecture 2030, pursuant to the City of Portland's City Code, Section 6, Article VII.

#### **Section 12. Default.**

(a) Buyer Default. If Buyer defaults and fails to perform its obligations under this Agreement under this Agreement, Seller, at no cost, shall receive the Deposit and all interest thereon, as well as the results and reports of all development studies, testing reports, construction and design documents related to the garage, and surveys of the Property completed by the Buyer. The parties agree that the Deposit and development studies and surveys are a reasonable liquidated measure of Seller's damages and not a penalty and shall be Seller's sole and exclusive remedy at law and in equity because of the difficulty in ascertaining the exact amount of damages sustained by Seller.

(b) Seller's Default. If Seller defaults and fails to perform its obligations under this Agreement, then Buyer may, without limitation of its other rights and remedies, terminate this Agreement upon written notice to Seller, upon which event the Deposit and all interest thereon shall be immediately refunded to Buyer, and/or exercise all of its available remedies at law or in equity, including, but not limited to, the right to seek a judgment compelling the specific performance of this Agreement and/or an action for damages.

(c) Attorney Fees. In the event of litigation, the substantially prevailing party shall be entitled to receive its reasonable legal fees and court costs from the other party. This provision shall survive the Closing and delivery of the Deed.

**Section 13. Miscellaneous.** This Agreement (i) constitutes the entire agreement between the parties hereto with respect to the transaction contemplated herein and it supersedes all prior discussions, undertakings or agreements between the parties; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maine. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to Seller, at Portland City Hall, 389 Congress Street, Portland, Me 04101, Attn: City Manager facsimile 207-874-8669, email: [pfinnigan@portlandmaine.gov](mailto:pfinnigan@portlandmaine.gov), with a copy to , the Director of Economic Development facsimile 207-756-8217, email: [gmitchell@portlandmaine.gov](mailto:gmitchell@portlandmaine.gov), and another copy to Corporation Counsel, at the same address (facsimile 207-874-8497), email: [gary@portlandmaine.gov](mailto:gary@portlandmaine.gov); and to Buyer c/o The Federated Companies, 404 Washington Ave, Floor 8, Miami Beach, FL 33139, Attn: Jonathan Cox, facsimile (800) 523-5931, email: [j\\_cox@federatedcompanies.com](mailto:j_cox@federatedcompanies.com) with a copy to Marc Shandler, Esq., The Federated Companies, 404 Washington Ave, Floor 8, Miami Beach, FL 33139, facsimile (800) 523-5931, email: [m\\_shandler@federatedcompanies.com](mailto:m_shandler@federatedcompanies.com) .

In the event any one or more of the provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

The term "Effective Date" as used in this Agreement shall mean the first date upon which both Buyer and Seller have executed a final counterpart of this Agreement and delivered the same to the other party.

The term "day" or "days" as it relates to a time or timeline for performance shall mean business days and shall not include weekends or state or federal holidays.

Buyer shall be entitled without Seller's consent to assign all of its right, title and interest in and to this Agreement to any primary lender or to any entity in which Buyer maintains a controlling interest. Buyer shall also be entitled with Seller's consent, which shall not be unreasonably withheld, to assign all or part of its right, title and interest in and to this Agreement to any other entity. Buyer may also take title in the name of a nominee at the closing in which case the nominee shall be subject to all obligations of Buyer under this Agreement, and all rights of Seller. If the end of any time period herein, or if any specified date, falls on a weekend or state or federal holiday, then the end of such time period, or such date, as the case may be, shall be extended to the next business day thereafter. At the request of either party, Buyer and Seller agree to reasonably cooperate with the

other and Escrow Agent in structuring and documenting the sale of the Property to effect a tax deferred exchange in accordance with the provisions of Section 1031 of the Internal Revenue Code and its corresponding regulations. Such cooperation shall be at no cost to the other party. In no event shall such cooperation require a delay of the Closing. The Section headings as used in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement.

**Section 14. Escrow Provisions.** As an inducement to Escrow Agent to act as escrow agent, Buyer and Seller agree that: (a) Escrow Agent will hold the Deposit in an interest-bearing account at a banking institution with which Escrow Agent has an established banking relationship, and such interest shall follow the disposition of the Deposit in accordance with the terms of this Agreement; (b) the Escrow Agent shall disburse the Deposit (and the interest earned thereon) only in accordance with this Agreement; (c) Escrow Agent will not be liable for any error or judgment, or for any act or omission under this Agreement made in good faith, except for Escrow Agent's own gross negligence or willful misconduct; (d) Buyer and Seller will jointly and severally indemnify and hold harmless Escrow Agent from and against any claim, costs, damages, attorneys' fees, expenses, obligations, or charges made against Escrow Agent by reason of its action or failure to act in connection with any of the transactions contemplated by this Agreement, unless caused by Escrow Agent's gross negligence or willful misconduct; (e) Escrow Agent will have no liability for any claim, costs, damage, attorneys' fees, expenses, obligations, or charges resulting from a delay in the electronic wire transfer of funds, unless such matters arise as a result of Escrow Agent's gross negligence or willful misconduct; and (f) in the event Escrow Agent receives or becomes aware of conflicting instructions, demands, or claims with respect to this Agreement or the Deposit, Escrow Agent may file a suit in interpleader, and upon the filing of such suit in interpleader and placing of the Deposit with a court of competent jurisdiction, Escrow Agent shall be fully released and discharged from all further obligations imposed by this Agreement with respect to the Deposit.

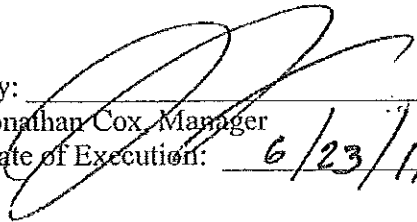
**Section 15. Right of Seller to Repurchase the Property.** If construction activity is not commenced and diligently pursued on any or all lots within two years of the date of receipt by the Buyer of final site plan approval, the Seller shall have the right, but not the obligation, to repurchase said lots at Buyer's purchase price

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year set forth next to their respective signatures below.

[Signature page to follow]

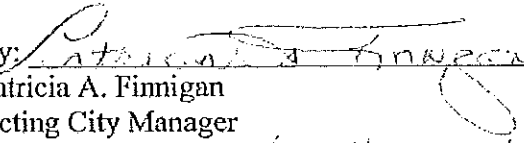
**PURCHASER:**

The Federated Companies LLC

By:  \_\_\_\_\_  
Jonathan Cox, Manager  
Date of Execution: 6/23/11

**SELLER:**

City of Portland

By:  \_\_\_\_\_  
Patricia A. Finnigan  
Acting City Manager  
Date of Execution: 6.16.2011

**JOINDER OF ESCROW AGENT**

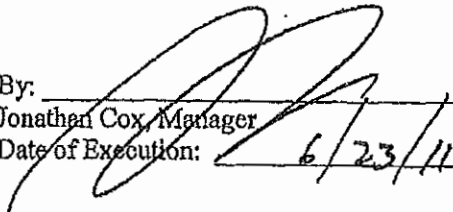
Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent hereunder and to handle the Deposit in accordance with the terms and conditions set forth herein.

**ESCROW AGENT:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

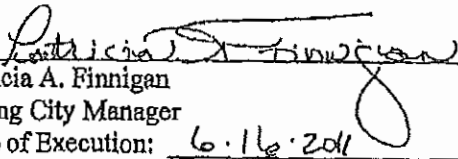
**PURCHASER:**

The Federated Companies LLC

By:   
Jonathan Cox, Manager  
Date of Execution: 6/23/11

**SELLER:**

City of Portland


By:   
Patricia A. Finnigan  
Acting City Manager  
Date of Execution: 6.16.2011

**JOINDER OF ESCROW AGENT**

Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent hereunder and to handle the Deposit in accordance with the terms and conditions set forth herein.

**ESCROW AGENT:**

Monument Title Company

By:   
Name: Karen L. Pelletier  
Title: Managing Director/Exec VP  
Date: July 1, 2011



**EXHIBITS**

**A - Description of Land**

**A-1 Proposed Somerset Street Subdivison plan, showing possible trail access**

**B -- index of environmental studies**

## EXHIBIT A

### Description of Land Being Purchased:

Lots 1,2, 3, 5, 6, 7 and 8 as shown on a subdivision plan entitled "Bayside Railyard Portland, Maine" prepared for the Downtown Portland Corporation by SGC Engineering, LLC as approved by the Portland Planning Board on December 9, 2008 and recorded in the Cumberland County Registry of Deeds on 1/27/09 in Book 209, Page 36.



## Exhibit B

### List of Bayside Rail Yard Related Environmental Reports

Site Assessment and Environmental Analysis: Phase I of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, April 1999

Environmental Remediation Plan, Phase III of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, Nov. 1998

Phase II Environmental Site Assessment, Union Branch Rail Line Property, Portland, Maine, Haley & Aldrich, Inc. Dec. 2000

Environmental Conditions at the Proposed DHS Building Land annex, Portland, Maine, Tewhey Associates, August 2003

Tewhey Associates Memo from J. Tewhey to M. Adelson of the City of Portland Re: Results of Testing of Excavated Soil at the Former Rail Yard Site in Bayside, Tewhey Associates, December 13, 2003

Subsurface Soil Observations and Testing at Northern End of Proposed Chestnut Street Extension, Tewhey Associates, Jan 2005

Phase I Environmental Site Assessment, Rail Yard Subdivision Lots 1,2,3,4 and 9 Somerset Street, Portland, Maine, Tewhey Associates, Dec. 2008

VRAP Completion Document, Bayside Trail Project, Former Union Branch Rail Line, Portland, Maine, Tewhey Associates, August 2010

Bayside Rail Yard DEP VRAP, July 2001

Bayside Rail yard DEP VRAP, November 2008

Chestnut Street Extension DEP VRAP, May 2005

DHS Annex Property DEP VRAP Certification, April 2004

Soil Remediation Consideration, Tewhey Associates, January 2002

Stockpiled Group 2 Soils at Brownfields Property Site, June 2005

NEMR Concrete Pad Sampling, September 2008

NEMR Phase I Environmental Site Assessment, February 2009

NEMR Phase II Soil Investigation, February 2007

NEMR Phase II Soil Investigation, July 2009

September 6, 2012 by LCW

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**EXHIBIT "B"**  
**TO FIRST AMENDMENT TO**  
**PURCHASE AND SALE AGREEMENT**

[insert Environmental Studies]

## Exhibit B

### List of Bayside Rail Yard Related Environmental Reports

Site Assessment and Environmental Analysis: Phase I of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, April 1999

Environmental Remediation Plan, Phase III of the Portland Brownfields Project, Portland, Maine, Tewhey Associates, Nov. 1998

Phase II Environmental Site Assessment, Union Branch Rail Line Property, Portland, Maine, Haley & Aldrich, Inc. Dec. 2000

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Bayside Rail Yard DEP VRAP, July 2001

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NEMR Phase II Soil Investigation, July 2009

September 6, 2012 by LCW

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Amended Exhibit ~~A~~<sup>S</sup> to the Purchase and Sale Agreement  
[2012]  
Description of the Land Being Purchased

Lots 1, 2, 3, 5, 6, 7, 8 and a portion of Lot 9 as shown on a subdivision plan entitled "Bayside Railyard, Portland, Maine" prepared for Downtown Portland Corporation by SGC Engineering, LLC as approved by the Portland Planning Board on December 9, 2008, and recorded in the Cumberland County Registry of Deeds in on January 27, 2009, in Plan Book 209, Page 36; the portion of Lot 9 included is that portion which is within 120 feet of northwesterly sideline of Somerset Street.

September 6, 2012 by LCW

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## **EXHIBIT 3**

[Parking Garage Agreement]



## PARKING GARAGE CONTRIBUTION AND FUNDING AGREEMENT

This Parking Contribution and Funding Agreement (the "Parking Garage Agreement") is made this 15<sup>th</sup> day of October, 2012, by and between the **CITY OF PORTLAND, MAINE**, a body politic and corporate with a place of business at 389 Congress Street, Portland, Maine (hereinafter "City") and **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company with a place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131 (hereinafter "Legacy Park").

**WHEREAS** Legacy Park is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, ("Agreement"), for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7, 8 and a portion of Lot 9, (collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

**WHEREAS** City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a \$9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park from funds being provided to the City by the U.S. Department of Housing and Urban Development pursuant to the Bayside Redevelopment Project, Maine BEDI Grant and Section 108 Loan Program, ("HUD Funds"), toward the expense of the construction of a garage, with no fewer than 700 parking spaces and at least thirty thousand square feet of retail space on the first floor on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage");

**WHEREAS** Section 11 of the Agreement requires City and Legacy Park to enter into a formal Parking Garage Agreement stipulating the terms and conditions of the contribution of the City Grant Funds to Legacy Park for the construction of the Garage.

**NOW THEREFORE**, in consideration of the foregoing and for good and valuable consideration the parties covenant and agree in this Parking Garage Agreement as follows:

1. Garage Construction. Subject to the terms and conditions of this Parking Garage Agreement and the City contributing City Grant Funds as described below, Legacy Park or its nominee shall construct the Garage in the location depicted on the plan attached hereto and incorporated herein by reference as Exhibit "A". The Garage shall have reached "Start-up Phase" as defined below within two (2) years after the date on which a total of \$1,000,000.00 in City Grant Funds has been requisitioned by Legacy Park and disbursed by the City to Legacy Park. Notwithstanding the above, Legacy Park will diligently work to have constructed a sufficient percentage of the Garage so as to permit Legacy Park to requisition the City Grant Funds in full by November 31, 2014, so as to allow full disbursement of the City Grant Funds by December 31, 2014. If Legacy Park informs the City, in good faith, before October 1, 2014 that Legacy Park will not meet this requisition timetable, with evidence and reasons for this, the City will use its best

efforts to obtain an extension of this disbursement deadline for the HUD Funds from HUD, and if it obtains such an extension, it shall immediately transmit to Legacy Park evidence of this extension by HUD, and this timetable shall thereby be correspondingly changed, without further action of the parties hereto being required.

Legacy Park shall construct the Garage and any attached structures or units designed for non-garage use using sustainable and energy efficient construction methods, including, but not limited to, energy efficient lighting.

2. City Grant Funds. The City shall provide a grant to Legacy Park or its nominee of Nine Million Seven Thousand Dollars (\$9,007,000.00) in City Grant Funds for use by Legacy Park for the City Grant Funds Uses as defined below. This funding is being provided in part as an incentive to build the Garage which would otherwise not be commercially viable. Accordingly, the City agrees that the first \$9,007,000.00 of City Grant Funds Uses, disbursed in accordance with this Parking Garage Agreement, shall be City Grant Funds, but subject to and less the retainage described below. The City Grant Funds may be used for all purposes related to the Garage allowed with such HUD Funds, including but not limited to design, planning, permitting, environmental testing and remediation, and construction (“City Grant Funds Uses”).
3. Legacy Park Contribution. Following the disbursement of City Grant Funds, less the retainage, Legacy Park shall provide sufficient additional funds for completion of the construction of the Garage, (“Legacy Park Contribution”). The Legacy Park Contribution shall either come from its own equity or financing from a construction lender. The Legacy Park Contribution, in addition to the City Grant Funds will cover the complete cost of constructing the Garage to completion.
4. Procedures for Making Disbursements (Payments). With respect to all requisitions for disbursements of the City Grant Funds, the City and Legacy Park agree as follows:
  - (a) Legacy Park shall deliver to the City a written request for payment (a “Requisition”) which shall be in substantially the same form as AIA Forms G702 and G703. The Requisition shall be accompanied by: (i) a summary of all expenses requested, (ii) copies of invoices, bills, receipts and such other information as may be reasonable to document the expenditures described in the Requisition, (iii) mechanics’ lien affidavits and/or written lien waivers from such contractors, laborers, subcontractors and materialmen for work done and materials supplied which were paid for pursuant to the immediately preceding Requisition, and (iv) a certified payroll in conformance with the requirements of the Davis-Bacon Act of 1931, as amended, for all contractors and subcontractors on site and for which invoices are included.

- (b) Requisitions shall be submitted by Legacy Park no more frequently than monthly. Prior to the disbursement by the City of any requested Requisition, City's construction inspector shall certify to City that the work for which a Requisition has been submitted has been completed and the City's Housing and Neighborhood Services staff will verify all workers are being paid the prevailing wage.
- (c) A copy of the construction schedule will be submitted to the City at the beginning of the project. Updates will be provided by Legacy Park as necessary to remain accurate.
- (d) City shall make disbursements to Legacy Park only after such certification and verification, and with a certified payroll, all the same must be correct and complete. Each Requisition for disbursement shall be submitted at least five (5) days before the date for which the disbursement is requested, and the City shall make such advancement no later than fifteen (15) days after receipt of each Requisition to make such disbursement. If the City fails to make any disbursement within fifteen (15) calendar days after such requisition with all required and correct and complete paperwork as delineated in this Parking Garage Agreement, such disbursement shall be paid with interest at a rate of one-quarter of one percent per month, from that date until the disbursement is in fact made ("Interest For Late Payment"). If any such Interest For Late Payment is owed then such amount shall be in addition to the City Grant Funds.
- (e) City shall retain ten percent (10%) of the City Grant Funds as retainage, which shall be disbursed to Legacy Park upon receipt of the Certificate of Occupancy for the Garage or as mutually agreed upon between the City and Legacy Park.

5. Garage Operations.

- (a) Key Card. The Garage shall be equipped with a "key card" system (or its equivalent) whereby weekly, monthly or longer term users shall have 24-hour access to the Garage 7 days a week, it being understood that certain users may only have access at certain hours based on contractual agreements with the owners of Garage. Legacy Park shall make the Garage available for public (hourly access) use during the "Start-Up Phase" at such times as established by Legacy Park during reasonable commercial business hours, which shall at a minimum be from 7 a.m. to 7 p.m., Monday through Saturday, and 10 a.m. to 7 p.m., Sundays and Holidays. The expression "Start-Up Phase" shall mean that period commencing when the Garage receives a Certificate of Occupancy allowing operation of the parking garage portion of the Garage facility and ending the date when the first other building (and not merely the retail portion within the parking garage structure) within the Project is issued a Certificate of Occupancy and that building starts using parking in the Garage. During and after

the Start-Up Phase the Garage shall be open during reasonable hours, seven days per week, subject to modification from time to time by Legacy Park based on historical and projected volume of usage.

(b) Additional Requirements:

(i) Hourly and monthly rates for the Garage shall be based upon prevailing market rates, defined as follows: in no event shall rates be greater than 110% of the average market rates charged by City at City-owned and operated garages or the average of the three highest rates charged by garages within the City, excluding any garages that may be owned by Legacy Park or any of its affiliates;

(ii) The Garage shall participate in the Park and Shop Program;

(iii) The Garage shall be available for City snow ban parking, and the overnight (i.e. 5:00 p.m. to 8:00 a.m.) snow ban parking rate per hour shall not exceed three times the then-current maximum hourly rate charged by the Garage;

(iv) Upon written request of the City in each such instance, the Garage shall be available at customary rates for parking for special events held on the Portland Peninsula after 5:30 pm on weekdays and if requested, at requested reasonable times on weekends.

(v) The Garage shall have shared use with the public 7 days a week, 24 hours per day.

(vi) The Garage shall provide a minimum of 200 hourly turnover parking to the general public, and will provide within 2 days upon request data and information, including the number of non-turnover parkers present in the Garage at any given time, in order for the City to verify compliance with this condition.

(vii) The Garage will accept both cash and credit card payments.

(viii) The Garage will be maintained so long as it is a public parking facility, in accordance with the then current edition of the National Parking Association's "Parking Garage Maintenance Manual (now in its Fourth Edition) , and in particular in accordance with the Recommended Maintenance Checklist contained therein.

(c) The Garage will remain a public parking facility for a minimum of thirty (30) years.

These requirements (a) through (c) shall be a covenant contained in the deed to Lots 6 and 7 and the covenant shall run with the Land for the stated thirty (30) year period from the date of

conveyance of Lots 6 and 7 from the City to Legacy Park and thereafter shall automatically expire.

7. Payments in Lieu of Taxes. In consideration of the City Grant Funds paid to Legacy Park by the City, Legacy Park agrees, for itself and its successors, assigns and lessees for a period of thirty (30) years starting on the closing date of the purchase of the Land, that in the event that any portion of the Land is ever exempt from real or personal property tax, then a yearly payment by the then owner of the exempt portion shall be made in lieu of taxes equivalent to the property taxes that would otherwise be paid on the exempt portion of the real and personal property situated on the property. This requirement shall be a covenant contained in the deed to the Land and the covenant shall run with the land for the stated thirty (30) year period.
8. Compliance with HUD requirements.
  - (a) Job Creation. HUD regulations require that the City, as the original grantee of the HUD Funds, document all jobs created through the use of HUD Funds disbursed to Legacy Park as City Grant Funds. Legacy Park recognizes that one of the primary goals of City's contribution of the City Grant Funds is the creation of jobs, and Legacy Park agrees to create the required number of jobs necessary for the City's use of the HUD Funds and to provide City with timely and complete documentation of all jobs created or caused to be created as a result of receiving the City Grant Funds, and requirements related to job creation shall be contained in a Job Creation Agreement to be entered into between the parties.
  - (b) Section 108 Compliance. Legacy Park, its employees, assigns, agents and subcontractors for this project, at all times shall comply with the requirements of the Section 108 Loan Guarantee and Brownfields Economic Development Initiative Grant program and Federal Labor Standards pursuant to Davis Bacon and related Acts, specifically including:
    - A. Davis-Bacon Act, as amended.(40 U.S.C 276a - 276a-5.) All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.
    - B. Contract Work Hours and Safely Standards Act, as amended. (40 U.S.C. 327-333). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with

and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.

C. Copeland Anti-Kickback Act, as amended. (18 U.S.C. 874 and 40 U.S.C. 276c). This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions.

9. Default. In the event that Legacy Park is in default of a material provision on any of the obligations contained in this Parking Garage Agreement, and Legacy Park fails to cure said default within ninety (90) days of receipt of written notice issued by the City, then Legacy Park shall, if requested to do so by the City, convey to the City the Garage and the related real property, on these terms and conditions:

- This conveyance to the City shall be without the requirement of further legal action by the City.
- The cost to the City for this purchase will, in concept, be the sum of the cost of construction of the Garage and all related improvements associated with the Garage, plus the cost to the cost to Legacy Park for the related land upon which the Garage sits (the "Garage Land"), less the amount of the City Grant Funds actually disbursed up to the time of this purchase.
- The City acknowledges that Legacy Park will most likely use the Garage and the Garage Land as collateral for a construction loan for the purpose of finishing the construction of the Garage and other costs and improvements related to the project. The City therefore agrees to work on documents at the time of such financing, with Legacy Park and its construction lender, to make it possible for the City to have the remedy described above in concept, and to also permit such construction financing.

The City agrees that Legacy Park's obligations under this Parking Garage Agreement are "non-recourse" and that any recovery by the City shall be limited to the Garage. None of Legacy Park, its officers, members, employees, attorneys, agents or affiliates (collectively, "Legacy Park Persons") shall be personally liable for the performance of this Parking Garage Agreement, and the City shall not commence or prosecute any action against any Legacy Park Person, for payment or performance of any obligations under this Parking Garage Agreement. The City shall not seek, obtain, or enforce a deficiency judgment against any Legacy Park Person. Notwithstanding this provision, the rights and obligations under the Agreement between the parties and the Corporate Guaranty Agreement of near or even date are cumulative and in addition to the rights described herein.

In the event of an alleged default by the City, Legacy Park, at its sole election, shall have the right to seek specific performance and any and all other relief to be provided

by a Court, at law or in equity, including, but not limited to, common law writs. City expressly consents to the jurisdiction of the Maine Courts in the event of an alleged City breach under this Parking Garage Agreement.

10. Assignment. Legacy Park shall be entitled, without the City's consent, to assign all of its right, title, interest and obligations in and to this Parking Garage Agreement to any lender or to any entity in which Legacy Park maintains a majority interest and management control. The City must be notified within thirty (30) days or Legacy Park will be in default of this Parking Garage Agreement as described in Section 9 of this Agreement.
11. Termination. In the event that the Parking Garage Agreement is terminated on account of Legacy Park's default, the obligation of the City to provide the City Grant Funds described herein is terminated.
12. Miscellaneous Provisions. In the event of litigation, the prevailing party shall be entitled to receive its reasonable legal fees and court costs from the other party. This provision shall survive the Closing and delivery of the Deed pursuant to the Agreement.
13. Entire Agreement. This Parking Garage Agreement (i) constitutes the entire agreement between the parties hereto with respect to the construction and operation of the Garage and it supersedes all prior discussions, undertakings or agreements between the parties in respect to the Garage; (ii) shall not be modified except by a written agreement executed by both parties; (iii) shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; (iv) may be executed in counterparts; and (v) may be executed by facsimile signatures. This Parking Garage Agreement shall not confer any rights or remedies upon any third-party other than the parties to this Parking Garage Agreement and their respective successors and permitted assigns.
14. Notices. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, email: MHR@portlandmaine.gov, with a copy to, the Director of Economic Development, facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), email: gary@portlandmaine.gov, and to Buyer c/o The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j\_cox@federatedcompanies.com
15. Severability. In the event any one or more of the provisions contained in this Parking Garage Agreement shall be for any reason held invalid, illegal or unenforceable in any

respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Parking Garage Agreement, and this Parking Garage Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Parking Garage Agreement.

**In Witness Whereof**, the parties have hereunto executed this Parking Garage Agreement as of the day and year set forth next to their respective signatures below.

**LEGACY PARK APARTMENTS LLC**



By: Jonathan Cox

Its: Member

Date of Execution: 10/15/12

**CITY OF PORTLAND**



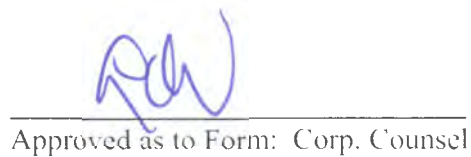
By: Mark Rees

Its: City Manager

Date of Execution: 10-15-12



Approved: Ellen Sanborn, Finance Director



Approved as to Form: Corp. Counsel



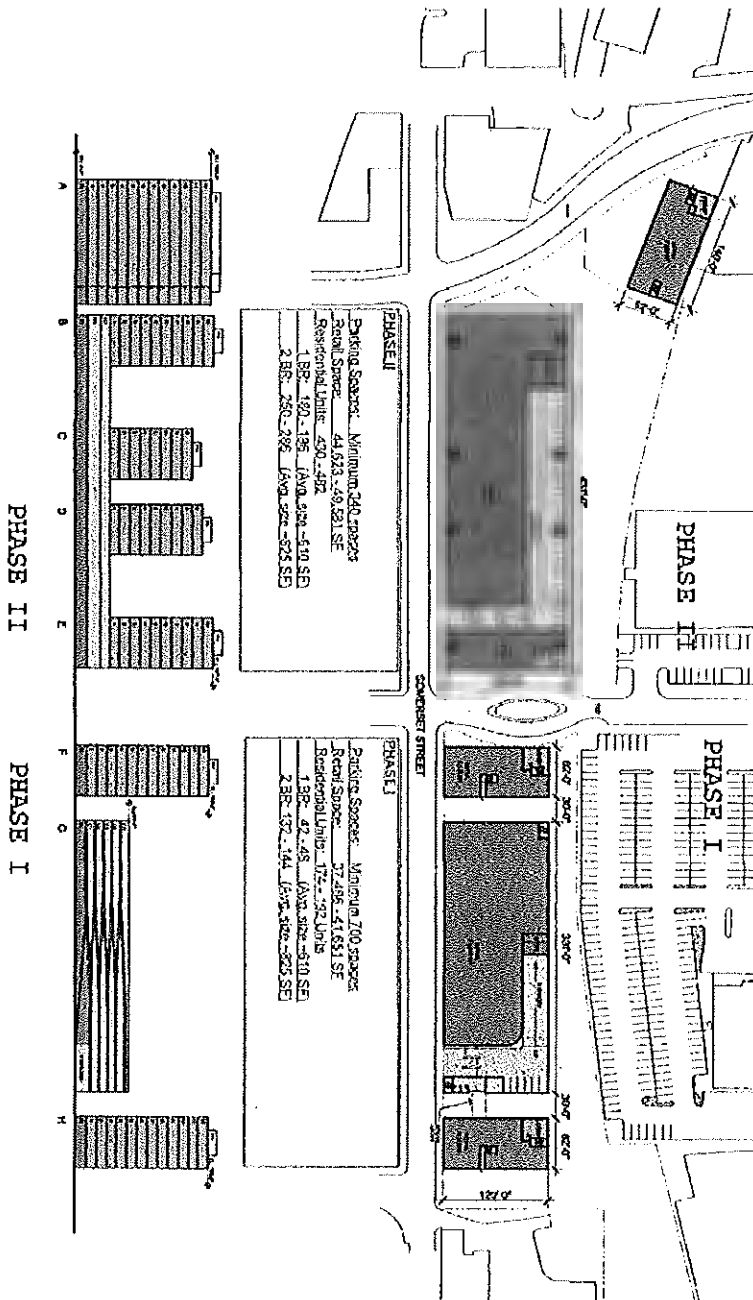
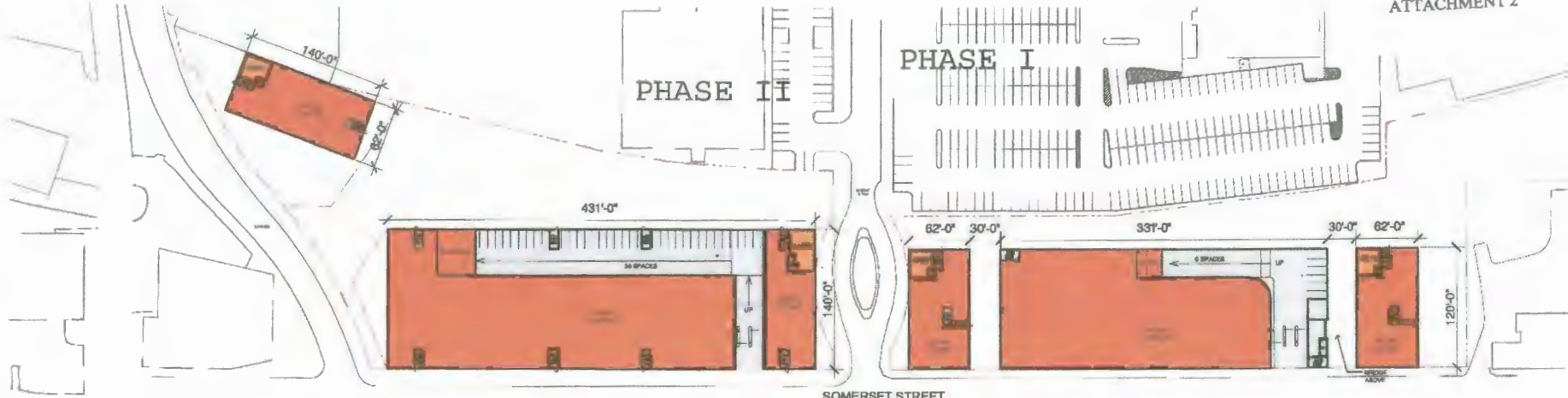


Exhibit A

September 6, 2012 by LCW

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**EXHIBIT 4 (part 1 of 3)**  
[Phase I Site Plan]

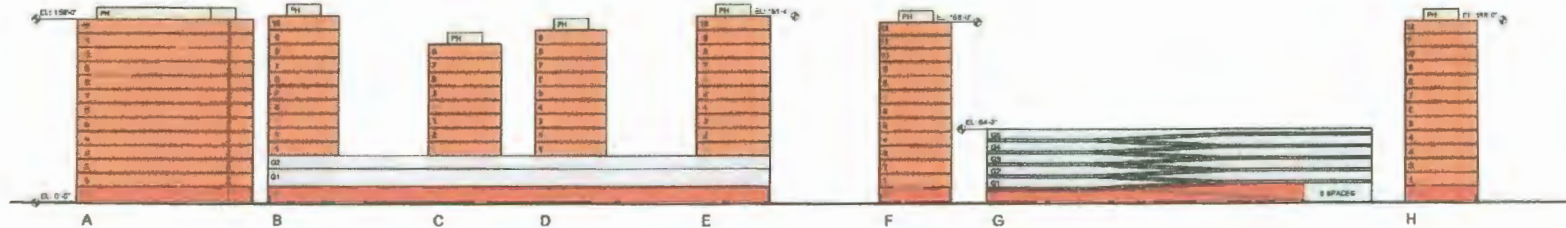


**PHASE II**

Parking Spaces: Minimum 340 spaces  
 Retail Space: 44,623 - 49,581 SF  
 Residential Units: 430 - 482  
 1 BR: 180 - 196 (Avg. size ~610 SF)  
 2 BR: 250 - 286 (Avg. size ~825 SF)

**PHASE I**

Parking Spaces: Minimum 700 spaces  
 Retail Space: 37,486 - 41,651 SF  
 Residential Units: 174 - 192 Units  
 1 BR: 42 - 48 (Avg. size ~610 SF)  
 2 BR: 132 - 144 (Avg. size ~825 SF)



PHASE II PHASE I



**BAYSIDE DEVELOPMENT**  
 PORTLAND | MAINE

**SITE DIAGRAM - GROUND FLOOR**  
 JULY 23, 2012  
 SCALE: 1" = 100'-0"

## **EXHIBIT 4 (part 2 of 3)** **[Phase I Design Guidelines]**

### **1. Introduction**

The emphasis of the Guidelines is on the public spaces. The goal of the Guidelines is to provide high quality, attractive and active spaces that employ contemporary techniques but connect to the unique history of the site and Portland, ME as a whole. To this end, the Guidelines are focused on the impact of buildings on the public environment. These Guidelines seek to create spaces, not projects. The goal is to create an ever-changing, lively atmosphere with visual appeal throughout (this is not a traditional business or residential district). The focus is on the pedestrian to provide a human scale, good way finding, and a comfortable walking environment. The Guidelines are also intended to create visual interest from near and far. Up close, ground level design standards produce comfortable, inviting, and stimulating environments. From afar, a variable skyline of roof edges, vertical shafts, and signage create interest.

### **2. Use**

#### **2.1 Active Ground Floor Uses**

Active uses that engage pedestrians shall be located along all street frontages. Ground level land uses shall be established and designed to animate public sidewalks, the wharf and alleys/mews to provide visual appeal. In required active ground floor areas, the following uses are acceptable:

- Commercial uses, such as retail stores, retail service establishments, food and beverage establishments; and/or entertainment facilities, and
- Lobbies for above grade uses such as office, residential, and hotel with an emphasis on high quality design, visual transparency, and where possible, uses that engage the street.

### **3. Massing**

The Guidelines describe the overarching design principles for all future construction in the Project Area. The Guidelines define the intended quality, characteristics and coherence of the urban elements, which regulate how the site shall be used for civic and commercial purposes. The Guidelines define building mass, street wall heights, and façade articulation necessary to create a lively urban waterfront environment.

Building setbacks above the lower levels should be employed to help limit the perceived mass of the structure and to insure that buildings maintain a human scale and a consistent street wall throughout. Setbacks for upper stories may vary in accordance with the Master Development Plan.

The buildings will have three basic components: base; middle; and top. The base will be designed in a scale and articulation that is related directly to the pedestrian. The middle portion of the building will provide scale to the buildings both horizontally and vertically. And finally, the top will be designed in a manner to provide unique articulation that visually terminates the top of the building.

#### **3.1 Build-to-Lines**

Street walls on public rights-of-way are encouraged to vary in height and express distinguishable facade types to evoke multiple buildings/uses. A minimum of 75% of the lineal length of the mandatory building frontage shall be set at the parcel boundary line or within 10 feet there from. The first two stories of a building are required to be set at this mandatory front parcel line. Variation in street wall facades is encouraged along upper levels and roof lines. In areas where active ground floor uses are required, building entrances should be located at least every 75 feet (preferably every 30-35 feet).

The character and scale of facades forming the street wall may involve the combined use of traditional and innovative materials to express a transition from a historical era to a more modern era design vernacular. The character, height and massing of street walls should include:

- Commercial uses, such as retail stores, retail service establishments, food and beverage establishments; and/or entertainment facilities, and
- Define a continuous street and highly articulated building by building wall mass along all building lines (i.e., zero front yard setbacks along public rights of way)
- Encourage projections, canopies, signage, lighting, and variation of building size
- Discourage projecting balconies
- Encourage balconies recessed within or integral with the façade wall where balconies are proposed.
- Encourage articulation of the façade that could include changing design treatment and/or materials to reduce the apparent mass of long building facades.

Encroachments on the sidewalk will be designed to encourage pedestrian activity and will be human scale. The encroachment will not impede the visual.

#### **4.0 Circulation & Service.**

Streetscapes in the Project Area are meant to be pedestrian friendly environments, featuring a consistent pallet of signage, lighting, paving, and furniture. Streets should be well lit, active, human scaled, and feel safe day and night.

The City's streetscape standards will be used for public sidewalks, streetlights, street furniture, fencing and walls, landscaping and signage in order to create a unified image of the neighborhood.

Street lighting shall comply with the *Technical and Design Standards and Guidelines*.

#### **4.1 Parking**

The provision of off-street parking within the Project Area will be as set forth in the approved planned unit development.

Parking structures will be designed to be compatible and integral to adjacent architecture in form, bulk, massing, articulation, and materials; incorporating design elements that provide visual interest on all sides visible from public rights of way.

Parking structures will be designed above grade and in a way to provide natural ventilation.

The entrance to parking structures will minimize impact on the pedestrian realm and be designed to maximize driver and pedestrian safety.

#### **4.2 Refuse Collection**

Refuse collection areas and dumpster locations shall be fully enclosed within portions of principal buildings for which they proposed to serve and shall be screened from view so as not to affect other views from around the site.

### **5. Architectural Features**

Design references to Portland's are encouraged. The design of new buildings and structures should be timeless and enduring, seeking inspiration from the rich industrial and architectural precedents of Portland's downtown and waterfront and should seek to uphold its strong history.

#### **5.1 Edges**

Special care and design attention along with more decorative treatment and materials are desired for all edges of buildings. These are the most visible part of the urban scene. Edges include roof lines, canopies, cornices, and more prominent window openings and entrances.

## **5.2 Bases**

Buildings should be articulated to respond to individual users. The diversity of storefront articulation will break down the scale of the overall project and street wall. The first level of buildings should be articulated by material change to express a building base and use other elements such as color, design detail, smaller scale, and higher quality materials to provide visual interest. Building ground floor bases, typically 25'x40', should emphasize the ground floor activity and provide the highest quality of pedestrian environment.

## **5.3 Storefront and Retail Facades**

See Article 9.

## **5.4 Corners**

Corners are particularly visible and are suggested to be made more noticeable. Changes in orientation, shapes, additional materials, colors, and projections are all favored means of adding special visual appeal to interesting streets, wharf, and public spaces.

## **5.5 Cornices**

A crowning projection, or cornice, shall be encouraged at the top of a building along the street wall (top of the building for those under 60', and at the setback for those over). These elements can be very modest in detail.

## **5.6 Appurtenances**

Canopies, awnings, and marquees are permitted and encouraged as they provide weather protection and provide visual interest and delight to the streetscape environment. These elements are to be decorative and light weight. Variety and non-repetitive design are desired. Canopies can be constructed of a variety of materials including both fabric and metal. Fabric awnings can be retractable.

Lettering and logos are permitted on the valence flap of the awning but lettering is generally discouraged on the main body of the awning. It is desirable for these projecting elements to incorporate outdoor heating systems to lengthen the comfortable use of outdoor spaces.

Backlit awnings and canopies are expressly prohibited. Awnings and canopies may be lit from the exterior.

## **5.7 Skyline**

A goal for the project is to create a varied and highly decorative skyline as seen from afar. The varied rooflines can be achieved by changing heights, also by varying roof types, roof angles, and the addition of vertical elements to contrast with the roofs.

Rooftop terrace structures shall not be enclosed and are not considered an additional building level. Rooftop terraces are encouraged to take advantage of views.

All exposed mechanical equipment and bulkheads shall be mounted on roofs. Equipment should be integrated into the roof design and screened in a method that is integral to the architectural design of the building and adds visual interest to the skyline. All venting of HVAC equipment shall occur on the interior of development parcels. All venting runs for cooking fans shall be fully enclosed and incorporated into the interior of proposed buildings and vented through the highest roof of the building podium.

## **5.8 Back Sides of Buildings.**

The back sides of buildings will be designed with high quality facade materials, transparent windows, operable building entrances, and other design features consistent with the primary facades of the building. Utility meters, exhaust vents, fire escapes etc. will be designed in a manner to be unobtrusive.

## **6. Materials**

### **6.1 Building Materials and Color**

Use of innovative building technologies is encouraged throughout the project and should be contrasted with traditional building materials that reference Portland's history.

Recent innovations in building materials can showcase advancements in environmentally conscious design and provide a sense of excitement for project visitors.

New buildings shall be constructed with materials common throughout the Portland's downtown and waterfront rich architectural history. Use of materials such as brick, stone, steel and wood is required for the first 40 vertical feet of a building's base, especially on pedestrian-oriented street wall facades. The use of these high-quality materials is intended to convey a solid, lasting look. Buildings should employ industrial materials as a way of visually and conceptually evoking the industrial/working heritage of Portland's downtown and waterfront. These include timber, forged and cast metals as well as rough hewn stone and metal cables.

The use of cement fiber shingles, imitation stone, imitation brick, stucco or exterior insulation finish systems will be considered on any building façade above the first 40 vertical feet of the buildings.

Facade coloration shall be achieved by use of the inherent color of building materials rather than the application of color to the surface of materials. Paint should be reserved for trims and accents on metal, wood, cornices, frames and the like. Use of material's inherent color sets a standard of authenticity associated with industrial structures. Examples of this type of façade coloration desired are a variety of earth tones achieved through the use of unglazed brick, wood, concrete and steel.

Masonry facades shall include the use of stone as architectural accents for lintels, sills, copings and keystones. Foundation bases, sills and lintels shall to the greatest extent possible use local (within 500 mile radius) stone or limestone. Masonry finishes are encouraged to be natural rather than highly finished or polished.

### **6.2 Glass and Fenestration**

The base of buildings should feature the use of glass for the first story to emphasize the importance of the ground level active use (only one level of active use is required). Glazing and openings shall promote a flexibility of ground floor uses and the potential for change over time. Proportion of glazing to overall wall area shall be a minimum of 75% on ground level street wall frontages facing public rights-of-way. The first floor windows and storefronts will be transparent with active uses visible behind them. Opaque glass shall not be used at the first floor level. Window openings shall express sills and headers of metal or stone. Storefronts should be integrated into the design and materials of the entire building. The storefront's bulkhead/knee wall should be constructed of a durable and evocative material. Transoms are encouraged for larger window units. In all building facades windows are encouraged to be set back from the wall surface a minimum of six inches from the surface of masonry to the glazing. Tinted or reflective glass will not be utilized.

Window proportions, groupings and rhythms shall be integral elements of the design of each building facade and urban street-wall. Punched windows are desired above the 2nd floor. Curtain walls are discouraged unless used to define a vertical corner or other discreet architectural emphasis. Glazing systems shall be designed to promote area-wide visibility, accessibility and safety during evening hours and during the winter season. Well designed fenestration patterns that evoke historic fenestration are preferred over attempts to replicate historic patterns.

## **7. Signage**

Signage lighting should come from direct shielded light sources and be carefully integrated into the overall design of the building so as to provide visibility and safety but avoid creating glare or light distribution that adversely affects motorists or pedestrians. Backlit signage is generally discouraged.

Neon signs may be allowed so long as they are carefully designed in size, shape and color that complement the architecture of the building and the district.

## **8. Lighting**

The vision for Bayside seeks a maximum amount of light that creates a variety of environments and experiences. Lighting should be used for artistic purposes and carefully integrated with the architecture and buildings, such as to accent edges.

The commercial buildings are intended to be inviting to the public, to encourage visitors to enter the site from the city streets, to shop at the retail stores and eat at the restaurants, and to generally stay longer and take full advantage of the waterfront area. Balanced against an appropriate level of street illumination, there is a need to limit light that is cast up and into upper floors of buildings or the atmosphere. Lighting fixtures should be scaled to the pedestrian and have a distinctive industrial character. Architectural accent lighting should highlight corners and roof edges.

Storefront lighting is one of the best sources of sidewalk lighting in urban areas. It is warm and welcoming, and contributes to a sense of activity and watchfulness. It also generally provides a greater amount of light directly onto the sidewalk than do street-level luminaries. Retail storefronts are an effective way to provide lighting from the buildings.

The first four feet inside any retail or restaurant establishment shall have decorative lighting, preferably with visible point sources. Occupancies on the first floor that do not have active, bright window displays shall be designed to provide visual articulation from lighting at no greater than 25 feet intervals. This can be accomplished in a variety of ways, such as:

- Decorative luminaries mounted to walls, posts, brackets, etc.
- Lighting surfaces, textures and objects such as pilasters, wall features, banners, sculptures, graphics, etc.
- Internally lighted glowing architectural or graphic elements such as glass block, display cases, signage panels, canopies, transparencies, etc.
- Lighting at entryways (especially if they are recessed).
- Lighting property addresses.

## **9. Retail**

### **9.1 Retail Storefront Requirements**

All buildings with retail on the first floor shall incorporate a traditional storefront design with a large display window or windows of clear glass, bulkheads, recessed entries (where appropriate), transom windows, and suitable locations for signs at their ground levels. Blank walls should be minimized and static displays (including photographs) will be discouraged in display windows. Modern and creative design solutions may be employed as long as the traditional storefront proportions are referenced. Multiple storefronts within the same building should be visually compatible in terms of scale, alignment, color and materials. The intent is to encourage creativity by individual retailers to add to the character and place making of Bayside.

#### **9.1.1 Storefront Character**

Storefronts should be individual expressions of a tenant's identity; however, tenants will be discouraged from using national brand standard storefronts and/or representations of their identity in an effort to create a retail environment that is uniquely Bayside. Storefronts should be integral to the building design but should also provide a distinct retail identity at the ground level.

#### **9.1.2 Storefront Entries and Doors**

Door placement and design are an integral part of each storefront, as they are the prevalent method of entry into each space. Placement and design should provide a direct "connection" to the sidewalks and streets. Restaurant tenants are encouraged to provide a clear thru-way and a visual connection to exterior seating areas, if any.



### **9.1.3 Storefront Materials**

The design, fit, and finish of all components for each storefront should be of the highest quality. Additional focus should be on window design to create a visual connection between the interior and exterior. Durable materials should be utilized for storefront construction as these are especially critical at street level where pedestrian contact will be considerable. Storefronts should be pre-dominantly glass to provide views into the store, but glass should not be the exclusive material.

### **9.1.4 Storefront Lighting**

Night lighting of retail will help animate Bayside, prolong street life after business hours, and increase pedestrian safety. Storefront facades, recessed doorways, outdoor spaces and passageways should be well lit. Sign lighting, including flat-mounted signs, blade and banner signs, must be lit with concealed lighting or from above with down-lighting. Fixtures should be located and angled to ensure that they spotlight the tenant's merchandise and do not point toward the window or cause distracting reflections. Include "after hour" lighting within the front of stores to contribute to pedestrian lighting and provide for a comfortable night time strolling experience.

### **9.1.5 Storefront Canopies and Awnings**

Design and placement should complement the scale of the store facade design. Collective placement of canopies and/or awnings along a street should maintain overall design integrity and avoid a uniform layout providing weather protection at a minimum of 20 feet at all storefront and building entrances. Canopies shall be constructed of permanent, durable materials, with glass and steel preferred. Awning material should be of a woven fabric or other material that projects the natural appearance of canvas, metal, glass, etc. Retractable or open side awnings are acceptable. Vinyl awnings and internally lit awnings are not allowed.

### **9.1.6 Storefront Signage**

Creativity in signage design is encouraged and adds to the ground level experience at Bayside. Non-descript box signs are discouraged.

## **10. Sustainability**

The project will be designed in accordance with the energy standards of the building codes and using new sustainability construction practices.

## **EXHIBIT 4 (part 3 of 3)** **[Phase I Specifications Sheet]**

### **Standard Features**

#### **EXTERIOR FEATURES**

- Pile / Grade Beam Foundation Construction
- Parapet roof design
- Multi-ply Insulated Roofing Membrane system
- Parking Garage access
- Direct access to ground floor retail
- Connecting walkways to Bayside trail
- Multi material exterior facade; brick, exterior insulated finish systems, glazing and metals

#### **BATHROOMS**

- 2- Bedroom Units shall have 2 baths; 1- Bedroom Units shall have 1 ½ baths
- Polished Brass/Chrome Fixtures & Accessories in Bathrooms
- Surface mount brushed nickel/brass vanity lights
- Half Baths/Powder rooms Pedestal Sink
- Full and ½ baths shall have White Laminate Cabinets and solid surface vanity tops with integral sink
- Baths shall have ceramic on floor and walls
- Elongated Commodes in all Baths
- Handicapped Units equipped per code
- Energy Star Rated Bathroom Fans per specification

#### **KITCHEN**

- Maple Cabinets with 30" – 42" Upper Wall Cabinets
- Premium grade Fornica Counter Tops with 3 ½" backsplash
- Single Bowl Stainless Steel Drop in Sink
- Garbage disposal
- Single Lever Polished Chrome Faucet with spray
- Energy Efficient Appliance Package to include: Dishwasher, Self-Cleaning Oven, Microwave with re-circulating exhaust fan, Side x Side Refrigerator
- Appliance Packages to be Profile or Stainless Steel
- Surface mount light in Kitchen and Dining areas

#### **ENERGY EFFICIENCY**

- Energy Star Forced Warm Air High Efficiency Electric Furnace with Central Air Conditioning per unit
- Energy Star Rated 45 Gallon Electric Hot Water Heater per unit
- Energy Star Rated Efficient Double Glazed Double Hung Vinyl Tilt Windows with Screens and Grilles
- Energy Star Rated Insulation in Attic ceiling areas and Interior Walls

#### **FLOORING**

- Vinyl Flooring in Foyer, Kitchen, Laundry and Baths
- Carpeting in Hallways, Bedrooms, Dining Room, Living Room and Closets

#### **INTERIOR FEATURES**

- Six Panel Masonite Interior Doors with Brushed Nickel/Brass Hardware
- All doors, windows and cased openings shall be trimmed with 2 ½" casing. Baseboard shall be 3 ¼"
- Walls are painted one prime and one matte flat finish Sherwin Williams Linen White; trim is painted one prime and two coats semi-gloss latex Sherwin Williams White. Ceilings are smooth finish and painted white
- Ventilated Shelving in closets
- Washer and Electric Dryer per unit
- Approximately 8' Ceiling Height on all levels
- Cable/Data/Telephone ports in all bedrooms and living areas
- Outlets per code

**COMMON AREAS**

- Vestibules and lobby areas shall have tile and carpet flooring and painted walls
- Common hallways shall have carpeting and painted walls
- Centralized elevator lobby location (pedestrian and service) per building
- Centralized mail center per building
- Fully furnished amenity areas
- Management/Leasing Office on-site
- Private ground floor door entry with security system

**CONSTRUCTION FEATURES**

- Type I Construction, steel and concrete frame
- Concrete/Metal decking Flooring system
- Panelized exterior wall system; EIFS, glazing, brick
- Concrete/Metal decking Flooring system
- Interior Walls and Ceilings are gypsum wall board per code
- Closed Loop Mechanical System
- 150 Amp Electrical Service per unit
- Hard wired smoke and heat detectors with battery backup and one combination smoke/carbon monoxide detector per code
- Ground Fault Interrupt (GFI) installed per code
- Fire Suppression designed per code
- STC Rating designed per code

August 20, 2012 by LCW

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## **EXHIBIT 5**

[Job Creation Agreement]

## JOB CREATION AGREEMENT

**THIS JOB CREATION AGREEMENT** made this 15<sup>th</sup> day of October between **LEGACY PARK APARTMENTS LLC**, a Florida limited liability company, with a principal place of business at 801 Brickell Avenue, Suite 720, Miami, Florida 33131, its nominee or assignee, ("Legacy Park"), and **CITY OF PORTLAND, MAINE** a municipal corporation located at 389 Congress Street, Portland, Maine 04101 ("City").

**WHEREAS** Legacy Park is the assignee, by virtue of an Assignment and Assumption Agreement effective June 27, 2011, ("Assignment"), of a Purchase and Sale Agreement between The City of Portland, Maine, ("City"), effective June 23, 2011, (collectively, "Agreement"), as amended, for the purchase of certain blighted and brownfield real property located on Somerset Street, Portland, Maine known as Lots 1, 2, 3, 5, 6, 7, 8 and a portion of Lot 9, (collectively, "the Land"), consisting of approximately 3.25 acres formerly known as the "Bayside Railyard";

**WHEREAS** City, in order to create jobs and economic growth for the Citizens of Portland, Maine, has agreed to make a \$9,007,000.00 contribution, ("City Grant Funds"), to Legacy Park from funds being provided to the City by the U.S. Department of Housing and Urban Development pursuant to the Bayside Redevelopment Project, Maine BEDI Grant and Section 108 Loan Program, ("HUD Funds"), toward the expense of the construction of a garage, with no fewer than 700 parking spaces and approximately thirty thousand square feet of commercial space on the first floor on a portion of Lot 5 and all of Lots 6 and 7 and a portion of Lot 9, ("Garage");

**WHEREAS** Section 11 of the Agreement requires Legacy Park to comply with all the terms and conditions related to the use of the HUD Funds contributed by the City as City Grant Funds to Legacy Park for the construction of the Garage related to providing documentation of job creation in accordance with the terms of this Job Creation Agreement.

**NOW THEREFORE**, in consideration of the foregoing and for good and valuable consideration the parties covenant and agree in this Job Creation Agreement as follows:

- I. Job Creation Requirement:
  - (a) Legacy Park shall create a minimum of 40 new<sup>1</sup> permanent, full-time or full-time equivalent jobs<sup>2</sup> in the Bayside neighborhood resulting from or related to the disbursement of the City Grant Funds for the construction of the Garage. ("Job Creation Requirement"). For the purpose of this Jobs Creation Agreement, Legacy Park may meet the Job Creation Requirement with jobs related to the operation of the Garage or jobs related to new or existing Bayside neighborhood business activity created or increased by the operation of the Garage. The new jobs may be, but are not required to be, employees of Legacy Park, or its lessees.

<sup>1</sup> In accord with HUD law and regulations, these must be new jobs, and not re-located jobs.

<sup>2</sup> Per currently applicable regulations, full time jobs require a worker to work at least 1750 hours per year. Part time jobs require a worker to work at least 875 hours but less than 1750 hours per year. Part-time jobs **must** be converted to Full Time Equivalents (FTE). An FTE can be defined as two part time jobs. Also or said another way, no more than two part-time jobs can equal one full-time job.

City agrees to assist Legacy Park with information required by Legacy Park to meet the Reporting Requirements of this Job Creation Agreement related to Job Creation Requirement. In particular, when 'countable' new jobs are created by businesses that are not lessees of Legacy Park, the City will use best efforts to assist Legacy Park to obtain the necessary documentation from such employers or otherwise, to 'count' these jobs to, in part, meet this Job Creation Requirement; Legacy Park, however, acknowledges that this Job Creation Requirement (and the related reporting) remains its obligation. The jobs must be created within two (2) years from the issuance of the Certificate of Occupancy for the Garage.

- (b) Legacy Park shall be deemed to have met the Job Creation Requirement and this Job Creation Agreement shall terminate upon submission to the City of a Position Summary Quarterly Report identifying the 40<sup>th</sup> full time or full time equivalent new job created in accordance with the provisions of Section I(a) of this Job Creation Agreement, and verification and approval of the same by the City.

2. Reporting Requirements:

Legacy Park shall submit a Position Summary Quarterly Report, (Attachment A), for all new jobs created under this Job Creation Agreement on a quarterly basis until the Job Creation Requirement is met:

- (a) total number of full time persons employed as a result of the completion of the Garage;
- (b) total number of part time persons employed as a result of the completion of the Garage; and
- (c) the employee name, job title, and average number of hours worked per week for the previous quarter.

AND EITHER (Choose 1 or 2 to be used for Legacy Park and it's Lessees reporting job creation):

- 1) Applicant/employer certifications (Attachment B) to be completed by all potential employees and the employer;

OR

- 2) A copy of the companies' payrolls. A baseline payroll must be submitted prior to the completion of the Garage.

- 3. Default. Legacy Park shall be deemed to be in default of this Job Creation Agreement if there is a failure to comply with any of the terms, conditions, provisions, or covenants of this Job Creation Agreement, or its obligations hereunder, including its obligation to meet

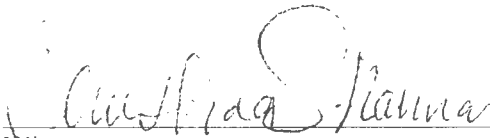
the Job Creation Requirement set forth herein. Any default will be considered a breach of this Job Creation Agreement and Section 9 of the Parking Garage Contribution Agreement. If Legacy Park informs the City, in good faith, at least 3 months before the deadline for its meeting this Job Creation Requirement that Legacy Park may not meet this deadline, with evidence and reasons for this, the City will use its best efforts to obtain an extension of this deadline from HUD or to otherwise change this requirement, such as a reduction in the number of required new jobs, and if it obtains such an extension or change, it shall immediately transmit to Legacy Park evidence of this extension or change by HUD, and this timetable shall thereby be correspondingly changed, without further action of the parties hereto being required.

4. Records. Legacy Park agrees to maintain a copy of all records related to the creation of jobs as required by this Job Creation Agreement for a period of four years after the creation of the 40th job. Legacy Park will, at any time during normal business hours, and as often as the City may deem necessary, permit the City, HUD or its designee to have full and free access to Legacy Park's records related to the new jobs identified in the Position Summary Quarterly Reports submitted under this Job Creation Agreement and to make copies of same at no cost or expense to the City. This right also extends to verification of the wages paid related to the new jobs. City agrees to review and maintain copies of such employment related records in complete confidentiality and in accordance with all State and Federal laws related to employment information and records.
5. Compliance with Laws and Regulations. Legacy Park, as the recipient City Grant Funds, shall comply with all applicable requirements of Federal laws related to the HUD Funds received by the City including, but not limited to, the applicable provisions of Title 24 Code of Federal Regulations, Section 570, state or local laws, regulations or ordinances and further agrees to abide by Title VIII of the Civil Rights Act of 1968 barring discrimination upon the basis of race, color, religion, familial status, sex or national origin, in the sale, lease, rental, use or occupancy of Legacy Park's property
6. Entire Agreement. This Job Creation Agreement and the Parking Garage Contribution Agreement constitute the entire agreement between the parties arising out of or related to Section 11 of the Agreement, as assigned and amended, and supersedes all prior representations and understandings of the parties. No modifications or amendments of the Job Creation Agreement shall be binding unless executed in writing by all the parties.
7. Waiver. No waiver of any of the provisions of this Job Creation Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
8. Successors. This Job Creation Agreement shall be binding upon and shall inure to the benefit of, the parties, their respective personal representatives, heirs, successors and assigns.
9. Assignment. Legacy Park shall not have the right to assign this Job Creation Agreement, or any rights hereunder, to any person or entity without the express written consent of the City. Such consent by the City shall not be unreasonably withheld.

10. Governing Law. This Job Creation Agreement shall be governed by and construed in accordance with the State of Maine.
11. Notices. Any notice by either party to the other party shall be in writing and shall be deemed to have been duly given when either delivered personally, or mailed by certified mail, return receipt requested, or sent by nationally recognized overnight courier, or sent by facsimile, or sent by e-mail addressed to the City at Portland City Hall, 389 Congress Street, Portland, Maine 04101, Attn: City Manager facsimile 207-874-8669, email: MHR@portlandmaine.gov, with a copy to, the Director of Economic Development, facsimile 207-756-8217, email: gmitchell@portlandmaine.gov, and another copy to Corporation Counsel, at the same address, facsimile 207-874-8497), email: gary@portlandmaine.gov, and to Buyer c/o The Federated Companies, 801 Brickell Avenue, Suite 720, Miami, Florida 33131, Attn: Jonathan Cox, facsimile (800) 523-5931, email: j\_cox@federatedcompanies.com.
12. Counterparts. This Job Creation Agreement may be executed in any number of counterparts, which together shall constitute one document.
13. Paragraph Headings. The paragraph headings hereof are for convenience only and shall not form a part of this Job Creation Agreement or be used in the interpretation hereof.

**IN WITNESS WHEREOF**, the parties have executed this Job Creation Agreement as of the date first written above.

**Legacy Park Apartments LLC:**

  
\_\_\_\_\_

Witness

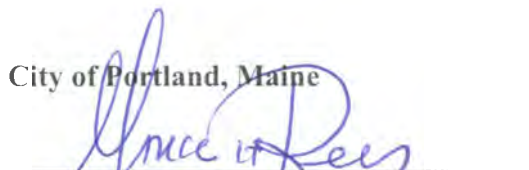
  
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Its: Member

  
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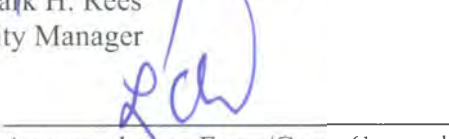
**City of Portland, Maine**

  
\_\_\_\_\_

By: Mark H. Rees  
Its: City Manager

  
\_\_\_\_\_

Approved: Ellen Sanborn/Finance Director

  
\_\_\_\_\_

Approved as to Form/Corp. Counsel





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Number of Full Time Employees at End of Last Quarter \_\_\_\_\_

Number of Part Time Employees at End of Last Quarter \_\_\_\_\_

Number of New Full Time Positions Filled in this Quarter \_\_\_\_\_

Number of New Part Time Positions Filled in this Quarter \_\_\_\_\_

Total Full Time and Part Time Employees Ending this Quarter \_\_\_\_\_

*(No more than two part time jobs can be added to create one full time equivalent.)*

**Employer Certification**

To the best of my knowledge, I certify that the information contained in this position Summary Report is true and accurate.

\_\_\_\_\_  
Quarter Ending

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company

**ATTACHMENT B**  
**Applicant/Employer Certification**

This employer has received funding from the City of Portland for business expansion that will create new jobs. The funding for this program comes from the U.S. Department of Housing and Urban Development. One of the requirements of this program is that we must report information about potential employees. Please complete the information requested below and return it to the employer. The information will not be used to evaluate you for this position.

Thank you in advance for your cooperation. If you have any questions about completing this form, please feel free to contact us at 207-874-8731.

---

**APPLICANT CERTIFICATION**

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Employer: \_\_\_\_\_ Job Applied For: \_\_\_\_\_

How many persons live in your household? \_\_\_\_  
The Head of Household is female \_\_\_\_ or male \_\_\_\_

Check all that apply. I am:

- \_\_\_\_\_ Hispanic or Latino
- \_\_\_\_\_ American Indian or Alaskan Native
- \_\_\_\_\_ Asian
- \_\_\_\_\_ Black or African American
- \_\_\_\_\_ Native Hawaiian or Other Pacific Islander
- \_\_\_\_\_ White

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

---

**EMPLOYER CERTIFICATION**

Job Title: \_\_\_\_\_

Full Time \_\_\_\_\_ Part Time \_\_\_\_\_ # of Hours per Week \_\_\_\_\_

Starting Pay/Hourly Rate \$

Date Interviewed: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Date Hired: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Employer Name \_\_\_\_\_ Signature/Title \_\_\_\_\_

# ATTACHMENT C

## UTILITIES NARRATIVE

The public utility providers which will serve the project are as follows:

<p><b><u>Water</u></b>                  Attn: Rico Spugnardi                  Portland Water District                  22 Douglas Street                  P.O. Box 3533                  Portland, Maine 04104                  207.761.8310</p>	<p><b><u>Sewer</u></b>                  Attn: David-Margolis-Pineo, P.E.                  City Of Portland                  Public Services Engineering Dept.                  55 Portland Street                  Portland, Maine 04102                  207.87 4.8840</p>
<p><b><u>Power</u></b>                  Attn: Jamie Cough                  Central Maine Power                  162 Canco Road                  Portland, Maine 04103                  207.791.1023</p>	<p><b><u>Telephone</u></b>                  Attn: John Capnio                  Fairpoint Communications                  5 Davis Farm Road                  Portland, Maine 04103                  207.797.1842</p>
<p><b><u>Cable</u></b>                  Attn: Andrew Trottier                  Time Warner Cable                  118 Johnson Road                  Portland, Maine 04102                  877.546.0962</p>	<p><b><u>Natural Gas</u></b>                  Attn: Joe Render, Kelly Fowler                  Unutil (formerly Northern Utilities)                  1075 Forest Avenue                  Portland, Maine 04103                  207.541.2505</p>

Previous but recent approvals for the midtown project demonstrated the utility infrastructure was adequate to serve the project. CMP cautioned the electrical demand was approaching a threshold wherein an upgrade to the substation behind the Portland Post Office would be required. This new application will place substantially less demand on the utility infrastructure than the previous plan. This is demonstrated by the following comparison of the scope of the project:

Previous	Proposed	Change
100,000 SF of Retail	87,200 SF of Retail	-12,800 SF of Retail
560 Apartments	440 Apartments	-120 Apartments
160 Condominiums	--	-160 Condominiums

For this new application, the applicant is proposing to rely upon the “ability to serve” letters that were secured from the various utilities for the prior project on file with the City. The exception to the ability to serve without any reservation concerned the capacity of the substation that provides power for the project. Jamie Cough of CMP had noted during utility coordination meetings for the project design that the substation would be adequate for phase 1 of the prior project but phase 2 and 3 might place an untenable load upon the substation. The applicant is confident the combination of the following will keep the electric demand levels below those which would exceed current capacity of the existing substation:

1. The substantial reduction in the size and scope of the project of this application compares with the prior application;
2. The use of highly efficient lighting and power equipment; and
3. The use of natural gas in lieu of electrical power, where appropriate, to reduce the electrical demand.

The precise method of avoiding a demand which exceeds CMP's substation capability at the Post Office will be part of the final building design of the mechanical and electrical engineers.

The applicant will coordinate with CMP during the design of the building.

The applicant will confirm with the City of Portland's Planning Staff to see if updated "ability to serve" letters are required for the new project.

## PROJECT UTILITIES NARRATIVE PREPARED BY FAY, SPOFFORD & THORNDIKE\*

---

The applicant has investigated the availability of utility service in the area. Sketches showing the current sewer, water, storm drainage, gas, communications, and electrical services along the streets, which front the project, which initiated the utility, reviewed last fall are attached. Owen Haskell's Inc. existing conditions survey was updated following the area being Dig-Safed to assist in determining the location of the utilities in the area.

All utilities except a limited amount of storm drainage will come from services along Somerset Street. The exceptions are:

1. Sewer, power, and water services for midtown one will come from services connected to extensions of the mains on Pearl Street from Somerset Street;
2. midtown two and three will have sewer services from the Chestnut Street sewer;
3. Midtown four will have sewer, water, gas, power, and communications services from utility extensions along Elm Street; and
4. The distribution system for power and individual services to Phases 1, 2, and 3 of the midtown project will come from the northerly (public trail side) of the project.

Conservative assumptions were used to determine a flow rate for use in requesting the ability to serve the project with sewer and water. The flows used for this purpose were based upon a tabulation of flow for water and sewer based upon the Maine State Plumbing Code Part II and assumed uses within the project. This tabulation is attached and shows that a flow of about 170,000 gallons per day was used when the ability to serve letter was requested from both the City (sewer) and the Portland Water District.

The utility service adjustments, replacement, and design required numerous meetings with the utility providers, the City and the Federated team to insure the layout met the utility needs of the project, did not preclude future development in other portions of Bayside, to satisfy aesthetic concerns, and to avoid conflict with other project elements. Resolution of utility issues is also needed as part of the City's application to re-subdivide the property since the requirement to place the utilities underground is part of the subdivision. Federated will become the owner of the lots with the City retaining lots two and nine.

*\*DeLuca-Hoffman Associates, Inc. was acquired by Fay, Spofford & Thorndike. The two names are used interchangeably in portions of the midtown documents.*

**WATER:**

The Portland Water District's ability to serve letter for the project is enclosed with a schematic of the area showing hydrants and recent hydrant flow data. The data shows the 16-inch main on Somerset Street or is expected to have adequate fire flow capacity. Estimate of the available fire flow will consider a pressure reduction of about 75 psi to account for the elevation difference between the top and bottom floors of the building. Losses inside the building and the sprinkler distribution system will need to be computed by the designer of the sprinkler system. The Portland Water attended several of the utility coordination meetings. Their comments have been fully addressed except for a requirement to conduct test pits to allow the relative water main and lightweight concrete elevations to be confirmed such that adequate provisions are made to protect the main during construction.

**SEWER:**

The separated sewer along Somerset Street has stubs that were placed for serving the project site. Some of these existing stubs will be used but other new services will be required as shown on the utility plans that accompany this application. A wastewater capacity application was submitted and was acted upon in September. The ability to serve and capacity letter received from the City of Portland is enclosed. David Margolis-Pineo facilitated many of the utility coordination meetings as well as reviewed the sewer plans for the project.

Grease traps to permit potential restaurants to occupy portions of the project were recently added to the plans. Midtown 1, 2, 3, and 4 will have this capacity. The plans also include oil water separators and service connections for the internal decks of the parking garage with surface waters from the top deck being directed to the water quality pretreatment systems prior to discharge to municipal storm drains.

**GAS:**

Unitil has indicated they have the ability to serve the project but work will be required to permit the project to use gas as a major energy supplier for the project and will include replacement of the gas line along the portions of Somerset Street where reconstruction to raise the street elevation is proposed.

**DRAINAGE:**

The project site is served by a separated storm sewer, which was constructed as part of a sewer separation project in about 2003. The City's storm drain construction included drainage stubs to serve the project. A formal drainage study has been prepared to determine storm water generation for the project.

The project is required to meet water quality standards, which will need to be constructed on site. A series of options to meet the stormwater quality standards is provided in the stormwater management plan that accompanies this submission. The selected options are depicted on the plan set that accompanies this application.

**POWER AND COMMUNICATIONS:**

The existing electrical and communications lines are currently overhead along Somerset Street. The power includes a three-phase service. The overhead lines are on the opposite side of the street from Phase 1 but on the project side of Somerset Street for Phases 2 and 3. The telephone and communications lines will be placed underground on the northerly side of Somerset Street when it is reconstructed. Central Maine Power Company has issued an ability to serve letter for the project with financial obligations for the relocation and new services under discussion between the City (who is the subdivider of the property) and Federated (who plans to purchase lots 1, 2, 3, 4, 6, and 7) who will construct the midtown project.

**Attachments:**

- Portland Water District: Requests made by the applicant's engineers and letter of ability to serve from Portland Water District.
- Fairpoint Communications: Requests made by the applicant's engineers and letter of ability to serve from Fairpoint.
- Time Warner Cable Ability to Serve Request
- Central Maine Power: Requests made by the applicant's engineers and letter of ability to serve from CMP.
- City of Portland Wastewater Capacity Application submitted by the Applicant's agent and the City of Portland Approval.
- Sketches of Sewer, Water, Storm Drainage, Gas, Communications, and Electrical Services Along the Streets.

The utility plans (Drawings C-4.0 to C-4.4) show the utility extension and plans for the entire midtown project (i.e. phases 1, 2, and 3). Utility approval is a portion of the applicant's master plan requests.

R:\3062\Admin\Permitting\Local\Master Plan and Level III Site Plan App\Exhibit 4 Attach\Att D - Utilities Narrative.doc





DeLUCA-HOFFMAN ASSOCIATES, INC.  
CONSULTING ENGINEERS

778 MAIN STREET  
SUITE 8  
SOUTH PORTLAND, MAINE 04106  
TEL. 207.775.1121  
FAX 207.879.0896

- SITE PLANNING AND DESIGN
- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION

October 23, 2012

**Revised October 26, 2012**

Mr. Rico Spugnardi  
Portland Water District  
225 Douglass Street  
PO Box 3553  
Portland, ME 04104-3553

**Subject: Proposed Maritime Landing Project  
Somerset Street – Portland, Maine  
(Revised Usage)**

Dear Rico:

DeLuca Hoffman Associates, Inc. has been retained by The Federated Companies who plan on developing a mixed-use project on Somerset and Chestnut Street. Retail shops or restaurants are anticipated to occupy the ground floor level with about 12 stories of housing on each of the five buildings. An aerial photograph of the site and a survey are enclosed which identify the locus of the site. The development would include several multi level buildings and a parking garage.

The average daily consumptive flows are not expected to exceed 170,000 gallons per day, an average of 118 gallons per minute, and a peak flow of about 400 gallons per minute. There may be a small irrigation system for landscaping and the buildings will be sprinkled with fire services.

Our office is interested in the following information:

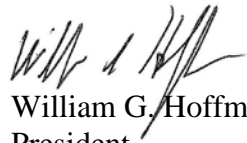
1. A map of the area bounded by and including Preble Street, Marginal Way, Franklin Arterial, and Somerset Street showing the existing water system in this area as well as records of hydrant tests.
2. If Portland Water District plans any construction projects in this area in the near or immediate future?
3. Can each building have its own service if there are multiple buildings even though there may be a single owner?
4. Verification that Portland Water District has the ability to provide water for the project.

Mr. Rico Spugnardi  
October 23, 2012  
**Revised October 26, 2012**  
Page 2

If you have any questions with regards to this request, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



William G. Hoffman, P.E.  
President

WGH/cmd

c: Matt Jefferies  
Greg Shinberg  
AP Means – Glissen Havu

Enclosure

*R:\3062-Maritime Landing\Admin\Correspondence Out\3062 2012.10.26 PWD.doc*



**Federated Maritime Landing  
Portland, Maine  
October 26, 2012**

The exact size and makeup of the mixed use development is unknown and subject to refinement.

A program that DeLuca-Hoffman Associates, Inc. would anticipate to be adequate and conservative for the "ability to serve" requests for water and sewer would be as follows:

<b>Use</b>	<b>Number</b>	<b>Unit</b>	<b>Unit Flow (gpd)</b>	<b>Total Flow (gpd)</b>
Residential	800	Units	180	144,000
Retail	8	Toilets	325	2,600
	75	Employees	12	900
Restaurants	900	Seats	25	22,500
<b>Total</b>				<b>170,000</b>

**Basis:**

Housing units with an average of two bedrooms.  
Restaurants at two meals per day average.

These flows are based upon the State of Maine Subsurface Disposal Rules.

Generally, DeLuca-Hoffman Associates, Inc. finds the rates in the Code to be about double average daily flows.

Peaking factor....flow of 170,000 is equal to a population equivalent of 2615.38

Per 10 State Standards, the peaking factor would be in the order of 3.5 (Page 2-3 Figure 1).

Actual flows may be substantially less. These data are for ability to serve request only, not for use computation.



# Portland Water District

FROM SEBAGO LAKE TO CASCO BAY

November 19, 2012

DeLuca-Hoffman Associates, Inc.  
778 Main Street, STE 8  
South Portland, ME 04106

Attn: William Hoffman, P.E.  
Re: Proposed Maritime Landing Project; Somerset Street, Portland  
Ability to Serve with PWD Water

Dear Mr. Hoffman:

The Portland Water District has received your request for an Ability to Serve determination for the noted site submitted on October 26, 2012. Based on the information provided, we can confirm that the District will be able to serve the proposed project as further described in this letter.

Please note that this letter does not constitute approval of this project from the District. Please review this letter for any special conditions specified by the District and to determine the appropriate next steps to take to move your project through the submittal and approval process.

## Existing Site Service

According to District records, the project site does currently have existing water service. A 1-inch diameter copper water service line at 25 Somerset Street, a 3/4-inch diameter plastic water service line at 3 Somerset Street and a 3/4-inch diameter copper water service line at 107 Somerset Street, located as shown on the attached water service cards, provide water service to this site. Please refer to the "Conditions of Service" section of this letter for requirements related to the use of these services.

## Water System Characteristics

According to District records, there is a 16-inch diameter ductile iron water main on the north side of Somerset Street west of the Chestnut Street intersection and a 16-inch diameter ductile iron water main on the south side of Somerset Street east of the Chestnut Street intersection and a public fire hydrant located adjacent to the site.

The current data from the nearest hydrant with flow test information is as follows:

Hydrant Location: Somerset Street opposite Pearl Street  
Hydrant Number: POD-HYD01864  
Last Tested: 6/22/2006  
Static Pressure: 112 psi  
Residual Pressure: 108 psi  
Flow: 2,846 GPM



### Public Fire Protection

You have not indicated whether this project will include the installation of new public hydrants to be accepted into the District water system. The decision to require new hydrants and to determine their locations is solely that of the local fire department. It is your responsibility to contact the Portland Fire Department to ensure that this project is adequately served by existing and/or proposed hydrants.

### Domestic Water Needs

The ability to serve requested noted that the average daily consumptive flows are not expected to exceed 170,000 gallons per day (GPD), an average of 118 gallons per minute (GPM), and a peak flow of 400 GPM. The data noted above indicates there should be adequate pressure and volume of water to serve the domestic water needs of your proposed project. Based on the high water pressure in this area, we recommend that you consider the installation of pressure reducing devices that comply with state plumbing codes.

### Private Fire Protection Water Needs

You have indicated that this project will require water service to provide private fire protection to the site. Please note that the District does not guarantee any quantity of water or pressure through a fire protection service. Please share these results with your sprinkler system designer so that they can design the fire protection system to best fit the noted conditions. If the data is out of date or insufficient for their needs, please contact the MEANS Division to request a hydrant flow test and we will work with you to get more complete data.

### Conditions of Service

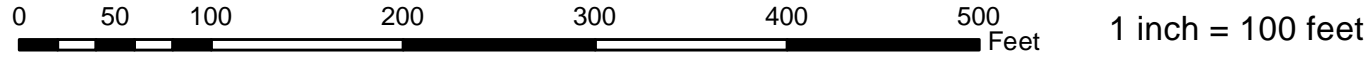
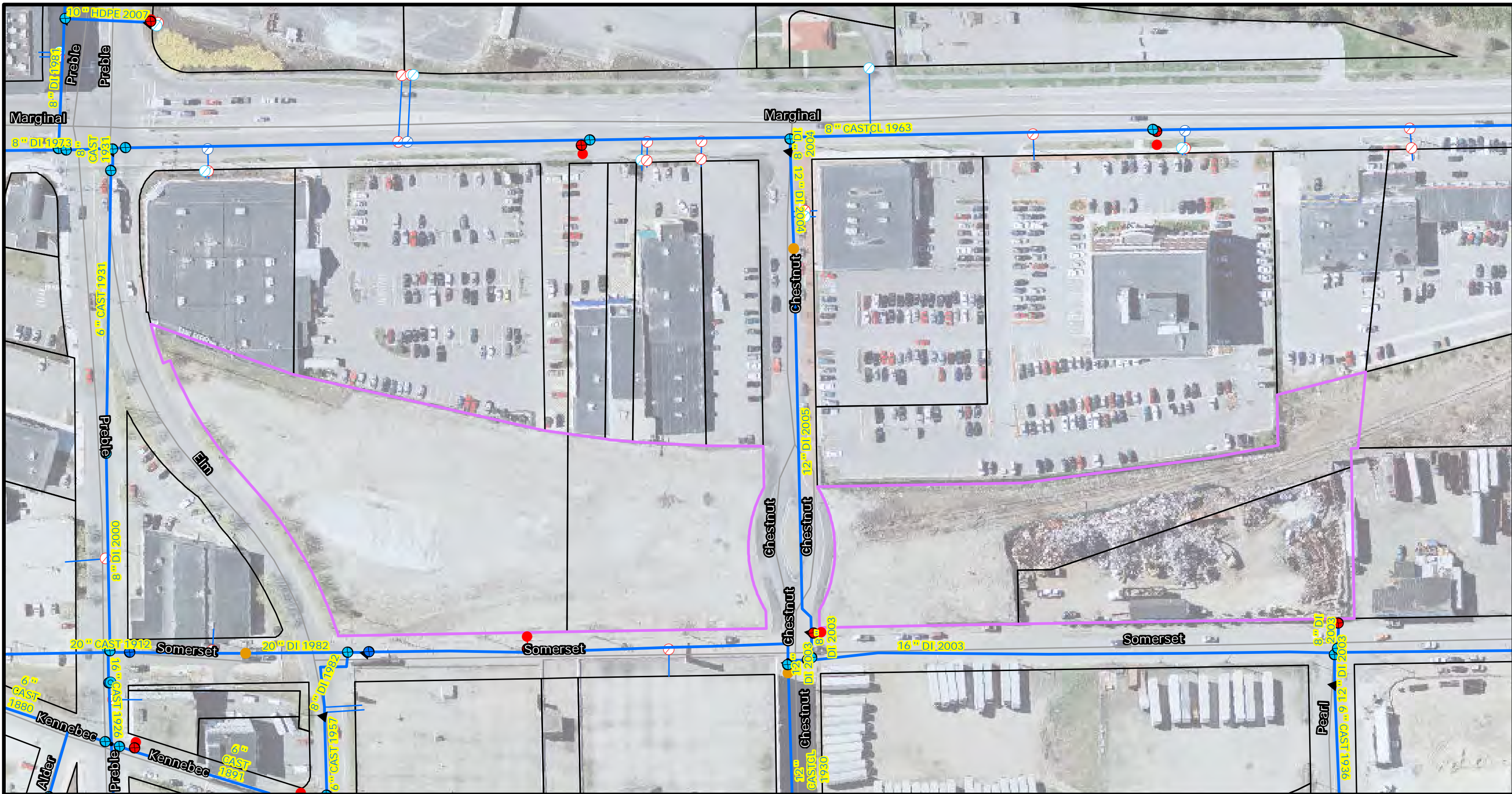
The District can confirm that the existing water system has the capacity to serve the proposed mixed use development on Somerset Street in Portland. If any of the existing services will no longer be used as a result of the development then they must be retired per PWD standards. This includes shutting the corporation valve and cutting the pipe from the water main (for 2-inch and smaller services) or removing the gate valve and capping the tapping sleeve (for 4-inch and larger services). New services may be installed from the water main in Somerset Street or Preble Street along the frontage of each respective parcel. Please note that only one meter and one bill will be associated to each domestic service line. This meter must be located in a common space that all tenants could gain access to if necessary. Multiple fire and domestic services may be installed to a single site if desired.


As your project progresses, we advise that you submit any preliminary design plans to the MEANS Division for review of the water service line configuration. We will work with you or your representative to ensure that the design meets our current standards. If the District can be of further assistance in this matter, please let us know.

Sincerely,  
Portland Water District



Rico Spugnardi, P.E.  
Business Development Engineer





**PORTLAND WATER DISTRICT**  
 225 Douglass Street  
 Portland, ME 04104

**Legend**

Air Valve	Connection	Combined Service	Manhole
Blow Off	Attribute Change	Domestic Service	CSO
By Pass	Reducer	Fire Service	Gravity
Distribution	Hydrant	Private Hydrants	Force
Transmission	Hydrant Control	Meter Pits	

# Somerset Street

## Portland


**Disclaimer:** This map is suitable for preliminary study and analysis and is based on PWD record information. PWD is not liable for any damages whatsoever resulting from inaccurate data or from errors made in the location and marking of its infrastructure.

Drawn By: GJH	Prepared For: DeLuca-Hoffman Associates
Scale: As Noted	Date: November 2, 2012



DeLUCA-HOFFMAN ASSOCIATES, INC.  
CONSULTING ENGINEERS

778 MAIN STREET  
SUITE 8  
SOUTH PORTLAND, MAINE 04106  
TEL. 207.775.1121  
FAX 207.879.0896

■ SITE PLANNING AND DESIGN  
■ ROADWAY DESIGN  
■ ENVIRONMENTAL ENGINEERING  
■ PERMITTING  
■ AIRPORT ENGINEERING  
■ CONSTRUCTION ADMINISTRATION

November 12, 2012

Mr. Marty Pease  
FairPoint Communications  
5 Davis Farm Road  
Portland, ME 04103

**Subject: Request for Ability to Serve  
Proposed Maritime Landing Project  
Somerset Street – Portland, Maine**

Dear Mr. Pease:

The Federated Companies intends to construct a mixed-use project on Somerset Street in Portland, Maine. A conceptual rendering of the proposal is enclosed. This will be changed as the design proceeds and may be further altered between the three phases of construction.

Our office has been retained by The Federated Companies to assist in the civil engineering and preparation of permit applications. The exact number of living units, retail, or commercial spaces will be better known in several months. However, we are confident the mix will not exceed the following:

- 800 residential dwelling units;
- Restaurants with a seating capacity of 900; and
- 100,000 square feet or retail or commercial space.

Parking garages will be constructed on site and will provide approximately 1,000 parking spaces.

On behalf of The Federated Companies, we are requesting the following information as soon as possible:

1. What facilities does FairPoint have on Somerset Street or in the vicinity of the project? (If mapping exists, please send us a copy.)
2. Does Fairpoint expect to have or expect to be able to provide communication systems in the vicinity and to support the project?
3. Will you be the point of contact at FairPoint for this project?

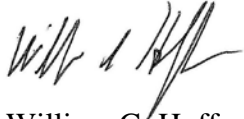
**We are required to include ability to serve letters from all utility providers as part of our first technical submission for the City application which we would like to make around December 1, 2012.**

Mr. Marty Pease  
November 12, 2012  
Page 2

If you have any questions or need further clarification of the project, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



William G. Hoffman, P.E.  
President

WGH/cmd

Enclosure

c: Greg Shinberg  
Matt Jefferies



Fairpoint Communications  
Engineering Dept.  
5 Davis Farm Rd  
Portland, Me. 04103  
November 26, 2012

*William G. Hoffman*  
*Deluca- Hoffman Associates Inc.*  
778 Main St  
Suite 8  
South Portland, Me. 04106

Bill,

Enclosed is the "Ability to Serve Letter" as requested for the Somerset St Project.  
I have also enclosed info pertaining to the Somerset St project from 2003. What the City of Portland has actual constructed would need to be verified with the City. Fairpoint would also need as built plans if in fact the City has constructed the Manhole systems on Somerset St.

Regards

John R Caprio  
Engineer  
Fairpoint Communications  
5 Davis Farm Rd  
Portland, Me. 04103  
jcaprio@fairpoint.com  
207-797-1678

NOV 27 2012

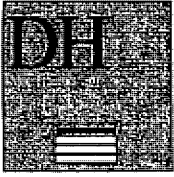
Fairpoint Communications  
Engineering Dept.  
5 Davis Farm Rd  
Portland, Me. 04103  
November 26, 2012

*William G. Hoffman*  
*Deluca- Hoffman Associates Inc.*  
778 Main St  
Suite 8  
South Portland, Me. 04106

To whom it may concern:

Fairpoint Communications does have the ability to service the proposed Maritime Landing Project located on Somerset St Portland, Me. per the Public Utilities Commission Tariff. Fairpoint would need a path from building to Fairpoint's manhole system.

Sincerely,  
John Caprio  
Engineer  
Fairpoint Communications  
jcaprio@fairpoint.com  
207-797-1678



DeLUCA-HOFFMAN ASSOCIATES, INC.  
CONSULTING ENGINEERS

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- SITE PLANNING AND DESIGN
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- CONSTRUCTION ADMINISTRATION

November 12, 2012

Mr. Marty Pease  
FairPoint Communications  
5 Davis Farm Road  
Portland, ME 04103

**Subject: Request for Ability to Serve  
Proposed Maritime Landing Project  
Somerset Street – Portland, Maine**

Dear Mr. Pease:

The Federated Companies intends to construct a mixed-use project on Somerset Street in Portland, Maine. A conceptual rendering of the proposal is enclosed. This will be changed as the design proceeds and may be further altered between the three phases of construction.

Our office has been retained by The Federated Companies to assist in the civil engineering and preparation of permit applications. The exact number of living units, retail, or commercial spaces will be better known in several months. However, we are confident the mix will not exceed the following:

- 800 residential dwelling units;
- Restaurants with a seating capacity of 900; and
- 100,000 square feet of retail or commercial space.

Parking garages will be constructed on site and will provide approximately 1,000 parking spaces.

On behalf of The Federated Companies, we are requesting the following information as soon as possible:

1. What facilities does FairPoint have on Somerset Street or in the vicinity of the project? (If mapping exists, please send us a copy.)
2. Does Fairpoint expect to have or expect to be able to provide communication systems in the vicinity and to support the project? *Yes*
3. Will you be the point of contact at FairPoint for this project? *SEE Business card*

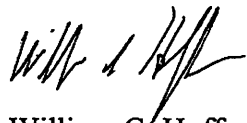
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Mr. Marty Pease  
November 12, 2012  
Page 2

If you have any questions or need further clarification of the project, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



William G. Hoffman, P.E.  
President

WGH/cmd

Enclosure

c: Greg Shinberg  
Matt Jefferies



**CITY OF PORTLAND**

January 27, 2003

Susan Sarrette, Engineer  
VERIZON COMMUNICATIONS  
5 Davis Farm Road, Floor 2  
Portland, ME 04103

**Re: Somerset Street Sewer Separation & City of Portland Future Technology/Business Park Development**

Dear Sue:

The purpose of this letter is to summarize our discussions from Thursday, January 23, 2003, regarding the City's offer to install a duct bank to benefit Verizon Communications. As we discussed, it is our intention to install a duct bank, per your details and specification, in conjunction with the Somerset Street Sewer Separation project. The purpose of this duct bank is to support the anticipated future needs associated with the potential tenants of the City's Technology/Business Park. During our meeting, you indicated a preference for locating your facility on the southerly side of Somerset Street, outside of the paved roadway.

Our request is that you provide a preliminary duct bank layout that serves future needs for the development of this area. Your layout should include locations for the required manhole structures, as well as any "street crossings" that may be necessary to access the City land. As part of our constructions plan set, we would appreciate construction details for the following:

1. Duct bank detail (include conduit size, spacing, number of conduits, etc.)
2. Manhole structure (include specifications for the access cover, steps, etc.)

Our hope is that you will be able to attend the February 4<sup>th</sup> "Utility Meeting" and can bring this preliminary design for discussion. Enclosed are the plans for your use.

We appreciate your efforts and cooperation with this project. We also look forward to working with you and providing a system that can accommodate your futures needs for the development of the Bayside area.

If you have any questions during the interim, please do not hesitate to contact me by phone at 874-8848 or e-mail at [awl@ci.portland.me.us](mailto:awl@ci.portland.me.us).

Sincerely,

A handwritten signature in cursive script that reads "Anthony W. Lombardo".

**CITY OF PORTLAND**

Anthony W. Lombardo, P.E., Project Engineer

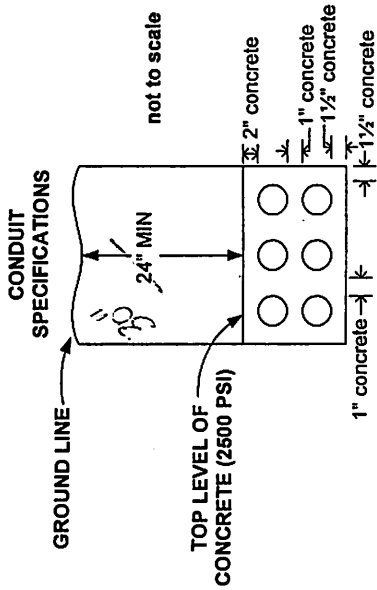
**SOMERSET FUTURE TECHNOLOGY/BUSINESS  
PARK DEVELOPMENT**



PREPARED BY SUE SARRETTE  
OSP ENGINEER  
207 797-1842  
2/7/03

**CONDUIT SPECIFICATION:**

4" B PLASTIC DUCT  
DUCT BANK DETAIL SEE BELOW



**MANHOLE SPECIFICATION:**

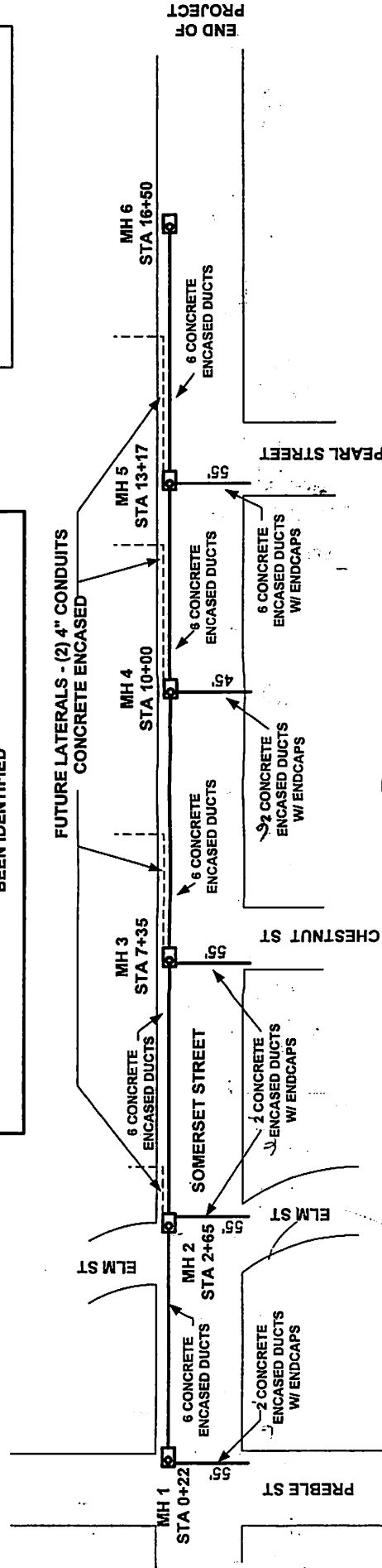
VERIZON'S STANDARD 4J MANHOLE - 6'-0"W X 12'0"L X 7'-0"H  
12 TERMINATORS ON EACH OF 4 WALLS- TOP SECTIONS. <sup>11</sup>  
PULLING EYES AND INSERTS REQUIRED. <sup>30</sup>  
SURFACE OF ROOF MUST HAVE A MIN OF 2" COVER.  
ATTACHED FIND 2 QUOTES FROM SUPPLIERS VERIZON USES -  
SUPERIOR CONCRETE & PRECAST CONCRETE PRODUCTS OF MAINE.  
COVERS NEED TO HAVE BELL LOGO.  
VERIZON TO PROVIDE RACKING AND STEEL LADDER ONCE CABLING NEEDED

VERIZON REQUIRES THEIR CONTRACT  
WORK INSPECTOR TO BE PRESENT DURING  
INSTALLATION

UNDERGROUND UTILITY SEPARATIONS:  
SEE ATTACHMENT #1

NOTE: LATERALS WILL BE REQUIRED ONCE BUILDING LOCATIONS HAVE  
BEEN IDENTIFIED

NOTE: PEARL STREET WILL BE  
THE INITIAL FEED FOR THIS NEW  
SYSTEM.



VISID Pld 2003 (Somerset)  
hojb#

**PLACEMENT**

**Duct Arrangements**

Duct Arrangements are subject to trench width and/or depth constraints imposed by terrain, the presence of other structures, required workman space, etc. The arrangement of ducts in a conduit run should be compatible with the manhole cable racking arrangement. (Refer to "Manholes" later in this section.) Generally, 2-, 3-, or 4-wide arrangements are preferred for single- or double-wall racking. Where a large number of ducts or other circumstances require center racking as well as wall racking, wider duct arrangements may be appropriate.

**Separation From Other Structures**

Practices 622-100-010, 622-300-205, NESC Rule 320, 919-000-100

The following separations are required for safety of personnel and for protection of telephone equipment:

Structure	Minimum Separation
Power or other foreign conduit	3-inch concrete 4-inch masonry 12-inch earth
Pipes (gas, oil) water, etc.)	6 inches when crossing 12 inches when parallel
Power conduit terminated on poles	Separate poles, if possible. If same pole, preferably 180°, but, not less than 90° F.
Railroads (except street railways)	Crossing: 5 feet below top of rail.* Terminating on poles: 12 feet from nearest rail, except 7 feet as sidings
Street railways	3 feet below top of rail.*

**\*Exception:** Where impractical, or for other reasons, these clearances may be reduced; however, the top of the conduit or conduit protection shall in no case extend above the bottom of the ballast section which is subject to working or cleaning. Local requirements will prevail.

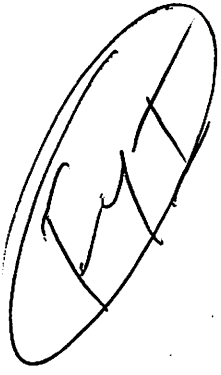
**Spacing and Backfill Requirements**

622-020-020

914-240-100

Practice 919-240-400

The next three pages show spacing and backfill requirements for single-bore conduit. The volume of concrete or granular backfill will vary with the trench width and the degree of irregularity of the trench surfaces. Volumes given for each arrangement are for the minimum trench width consistent with the specified clearances. Volumes for sand or granular backfill include an allowance of about 1/12 for compaction.



# Precast Concrete Products of Maine, Inc.

Topsham, Maine 04086

Tel: 207-729-1629 Fax 207-729-8710

Tel: 1-800-696-8265 (Maine)

## QUOTATION

www.precastofmaine.com

TO: Verizon / Attn: Corey McDonald

BID DATE:

*Somerset*

PROJECT: 38Y Telephone Manholes / Kennebec Street

LOCATION: Portland, ME.

Precast Concrete Products of Maine, Inc. proposes to furnish the following materials required for the above project, in accordance with the standards of the American Society for Testing Materials. The terms and provisions are agreed to and accepted by you upon acceptance of this proposal.

6 - 6' x 12' 38Y telephone manholes..... \$ 2300.00/ EA  
Terminators, duct openings and pulling eyes cast in as required.  
Cable racks provided by others.

6 - 32" diameter cast iron frames and covers marked TELEPHONE  
..... \$ 425.00 / EA

SALES TAX: Prices Quoted Do Not Include Sales Tax.

RETURNS: All returned product will be subject to a 15% re-stocking fee.

TERMS: 100% net within 30 days of delivery; Finance Charge of 2% per month (24% APR) will be applied to overdue invoices. There is no retainage. These terms apply to approved credit accounts in good standing. Contracts with others may be subject to additional terms to be established at the time of order. Date of invoice shall be date of shipment. Precast Concrete Products of Maine, Inc. retains security interest in its delivered product until final payment. Acceptance of this quotation by you and our written approval shall constitute a binding contract. This quote is valid for 30 days.

THE ABOVE PROPOSAL IS ACCEPTED

Precast Concrete Products of Maine, Inc.

BY:  
DATE:

BY: Paul A. Beers  
Date: 2/4/03

*Page 1 of 1*

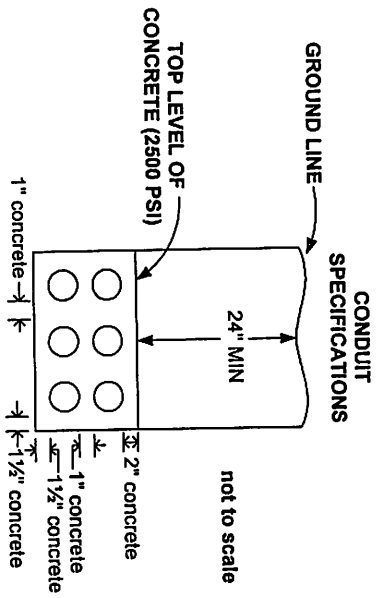


**SOMERSET FUTURE TECHNOLOGY/BUSINESS  
PARK DEVELOPMENT**

PREPARED BY SUE SARRETTE  
OSP ENGINEER  
207 797-1842  
2/7/03

**CONDUIT SPECIFICATION:**

4" B PLASTIC DUCT  
DUCT BANK DETAIL SEE BELOW



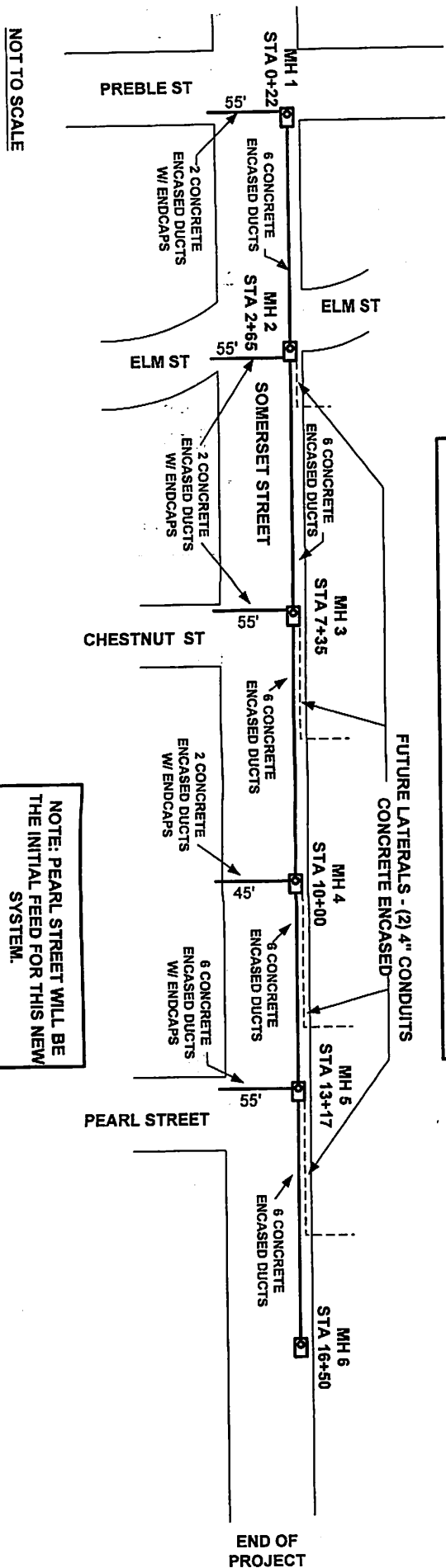
**MANHOLE SPECIFICATION:**

VERIZON'S STANDARD 4J MANHOLE - 6'-0"W X 12'0"L X 7'-0"H  
12 TERMINATORS ON EACH OF 4 WALLS- TOP SECTIONS.  
PULLING EYES AND INSERTS REQUIRED.  
SURFACE OF ROOF MUST HAVE A MIN OF 2' COVER.  
ATTACHED FIND 2 QUOTES FROM SUPPLIERS VERIZON USES -  
SUPERIOR CONCRETE & PRECAST CONCRETE PRODUCTS OF MAINE.  
COVERS NEED TO HAVE BELL LOGO.  
VERIZON TO PROVIDE RACKING AND STEEL LADDER ONCE CABLING NEEDED

VERIZON REQUIRES THEIR CONTRACT  
WORK INSPECTOR TO BE PRESENT DURING  
INSTALLATION

NOTE: LATERALS WILL BE REQUIRED ONCE BUILDING LOCATIONS HAVE  
BEEN IDENTIFIED

UNDERGROUND UTILITY SEPARATIONS:  
SEE ATTACHMENT #1



NOTE: PEARL STREET WILL BE  
THE INITIAL FEED FOR THIS NEW  
SYSTEM.

NOT TO SCALE

END OF PROJECT

## Underground Utility Separations

The minimum recommended separation between telephone conduit systems and structures are as follows:

### From Telephone Conduit

- A. Electric power and other conduits - at least 3 inches of concrete, 4 inches of masonry or 12 inches of well tamped earth.
- B. Other pipes - at least 6 inches of clearance when crossing and 12 inches when paralleling.

### From Telephone Manholes

- C. Power conduits - at least 3 inches of clearance from the outside surfaces of the manhole walls, floor or roof.
- D. Other pipes - at least 12 inches of clearance.

The clearances in B and D are required to allow for the maintenance of the foreign structures. If they have to be reduced, they should be discussed with a responsible representative of the owning company. When telephone conduit is being planned close to gas, steam or water mains, it is more desirable to cross under them so that adequate room is provided to maintain the foreign structures.

Attachment # 1



www.oldcastle-precast.com

P.O. Box 223  
Auburn, ME 04212

Phone: (207) 784-9144  
Fax: (207) 784-9647

# Quotation Contract

February 5, 2003

**Bid Date:** February 5, 2003  
**Quote No:** 11317-30131

COREY MACDONALD  
VERIZON of MAINE  
5 DAVIS FARM ROAD  
PORTLAND, ME 04103

Dear COREY MACDONALD:

Superior Concrete Company is pleased to provide your company with the following quotation for:

## PORTLAND, ME., VERIZON MANHOLES,

7 EA	PRECAST CONCRETE TELEPHONE MANHOLES MEASURING 6'-0" WIDE, x 12'-0" LONG, x 7'-0" HIGH INSIDE. MANHOLES PROVIDED WITH 4" TERMINATORS, PULL EYES, INSERTS, AND JOINT SEALANT.	2,400.00 / EA	16,800.00
EA	PRECAST CONCRETE 38Y RISER MEASURING 3'-0" ID x 12" HIGH @ \$120.00/EA	/ EA	
EA	NEENAH MODEL R-1750-C TELEPHONE DESIGN LARGE MANHOLE FRAME & SOLID COVER WITH BELL LOGO @ \$555.00/EA	/ EA	
<b>Total:</b>			<b>\$16,800.00</b>

### Delivery

- Product will be delivered and set in your excavation providing our trucks can set up within 15 feet of the center point of the structure. If additional crane rental is necessary, it will be provided by others and at the expense of others.
- Delivery on weekdays during normal daylight hours, excluding holidays.

**Terms**

- Taxes not included.
- No retainage shall be deducted from payment.
- All Invoices are due and payable within thirty (30) days from date of invoice, subject to purchaser's credit approval.
- This Proposal shall be valid for 90 days from the date hereof.
- We must have a signed proposal or purchase order before we release your order to production.

**Excludes**

- UNLESS SPECIFICALLY STATED ABOVE, THIS PROPOSAL DOES NOT INCLUDE THE FOLLOWING:
- Permits.
- All items not specifically listed in this quote.
- All frames and covers.
- Excavation, backfill or compaction.
- Racking and associated equipment.

**Production**

- We currently have all (7) seven manholes in stock.

**Materials**

- Concrete Minimum Strength: 5000 psi @ 28 days, standard grey cement with local sand and aggregates.
- Steel Reinforcing: ASTM-A-615-85, Grade 60, Black.
- Design Loading: AASHTO HS20-44

If you have any questions, please call me at (207) 784-9144.

\_\_\_\_\_  
Accepted By Date

Matt Mosher      2/5/03  
 Matt Mosher      Date

Sincerely,  
Matt Mosher



DeLUCA-HOFFMAN ASSOCIATES, INC.  
CONSULTING ENGINEERS

778 MAIN STREET  
SUITE 8  
SOUTH PORTLAND, MAINE 04106  
TEL. 207.775.1121  
FAX 207.879.0896

- SITE PLANNING AND DESIGN
- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION

November 12, 2012

Ms. Kelly Fowler, Sr. Business Development Rep.  
Unitil  
1075 Forest Avenue  
P.O. Box 3586  
Portland, Maine 04104

**Subject: Request for Ability to Serve  
Proposed Maritime Landing Project  
Somerset Street – Portland, Maine**

Dear Ms. Fowler:

The Federated Companies intends to construct a mixed-use project on Somerset Street in Portland, Maine. A conceptual rendering of the proposal is enclosed. This will be changed as the design proceeds and may be further altered between the three phases of construction.

Our office has been retained by The Federated Companies to assist in the civil engineering and preparation of permit applications. The exact number of living units, retail, or commercial spaces will be better known in several months. However, we are confident the mix will not exceed the following:

- 800 residential dwelling units;
- Restaurants with a seating capacity of 900; and
- 100,000 square feet of retail or commercial space.

Parking garages will be constructed on site and will provide approximately 1,000 parking spaces.

On behalf of The Federated Companies, we are requesting the following information as soon as possible:

1. Assuming the above are typical residential apartments, restaurants, and retail space, what would you expect the typical demand or range of demand would be:
  - Gas heat?
  - Gas heat with stove and clothes dryer?

Ms. Kelly Fowler  
November 12, 2012  
Page 2

2. What utility systems does Unitil have on Somerset Street or in close proximity to the project?
3. Does Unitil expect to have or expect to be able to provide natural gas service options for the project tenants?
4. Will you be the point of contact at Unitil for this project?

**We are required to include ability to serve letters from all utility providers as part of our first technical submission for the City application which we would like to make around December 1, 2012.**

If you have any questions or need further clarification of the project, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



William G. Hoffman, P.E.  
President

WGH/cmd

Enclosure

c: Greg Shinberg  
Matt Jefferies



DeLUCA-HOFFMAN ASSOCIATES, INC.  
CONSULTING ENGINEERS

778 MAIN STREET  
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SOUTH PORTLAND, MAINE 04106  
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- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION

November 12, 2012

Mr. Jamie Cough  
Central Maine Power Company  
162 Canco Road  
Portland, ME 04103

**Subject: Request for Ability to Serve  
Proposed Maritime Landing Project  
Somerset Street – Portland, Maine**

Dear Jamie:

The Federated Companies intends to construct a mixed-use project on Somerset Street in Portland, Maine. A conceptual rendering of the proposal is enclosed. This will be changed as the design proceeds and may be further altered between the three phases of construction.

Our office has been retained by The Federated Companies to assist in the civil engineering and preparation of permit applications. The exact number of living units, retail, or commercial spaces will be better known in several months. However, we are confident the mix will not exceed the following:

- 800 residential dwelling units;
- Restaurants with a seating capacity of 900; and
- 100,000 square feet or retail or commercial space.

Parking garages will be constructed on site and will provide approximately 1,000 parking spaces.

On behalf of The Federated Companies, we are requesting the following information as soon as possible:

1. Does CMP expect to have or expect to be able to provide sufficient electrical power for the project?
2. Assuming the above are typical residential apartments, restaurants, and retail space, what would you expect the typical power demand or range of power demand would be:
  - With electric heat and appliances?
  - Without electric heat and major appliances but including electric stove and clothes dryers?

Mr. Jamie Cough  
November 12, 2012  
Page 2

- Without electric heat, stoves, or clothes dryers?

We recognize that actual loads will need to be provided to you as the design is developed. Therefore, the questions above request you provide a ballpark or range of consumption.

Follow-up Questions:

We have other questions and suggest that a meeting to discuss these may be in order.

1. A previous proposal for the westerly side of the site included removal of the overhead power line along the frontage and placing it underground. A copy of the utility plan for the prior proposal is included with this letter. Several questions relative to underground power as illustrated on the previous utility plan include:
  - Who is responsible for installation and the cost of the underground power system (How much does the developer pay for placement of the line underground)?
  - Was CMP involved in the development and design of the previous proposal?
  - Does the previous proposal appear to be consistent with CMP design and related requirements?
2. Part of the street is below elevation 10 which is the current 100-year flood elevation in Back Cove. This project is hydraulically connected to Back Cove through the City's storm drain system:
  - Does CMP have concerns about the placement of underground duct banks below the 100-year flood plain in a saltwater environment?
  - If so, can this be mitigated through the use of watertight manhole covers, etc?
3. The site will be heavily developed with extremely limited open space.
  - Is it possible for transformers to be located within the parking garages?
4. Will you be the point of contact at CMP for this project?

**We are required to include ability to serve letters from all utility providers as part of our first technical submission for the City application which we would like to make around December 1, 2012.**




Mr. Jamie Cough  
November 12, 2012  
Page 3

If you have any questions or need further clarification of the project, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



William G. Hoffman, P.E.  
President

WGH/cmd

Enclosure

c: Greg Shinberg  
Matt Jefferies



9/11/2013

William Hoffman  
778 Main Street  
Suite 8  
South Portland, ME 04106  
Email: WHoffman@fstinc.com

RE: Ability to Serve Letter for Midtown Project, Somerset Street, Portland, ME

Dear Mr. Hoffman:

CMP has the ability to serve your proposed project located along Somerset Street in Portland, Maine, in accordance with our CMP Handbook (web link below). We can provide you the desired pad, submersible or pole mounted transformers per your request and city approval, in accordance with our CMP Standards Handbook. If you have any questions on the process, or need help in completion of the documents, please feel free to contact our Portland Service Center.

#### **New Service Milestones**

- Call 1-800-565-3181 to establish a new account and an SAP work order.
- Submit any electronic drawings (PDF (preferred) or DWG files) of the site layout and proposed electrical connections if you have them.
- Preliminary meetings with CMP to determine the details of job
- Field planner design appointment to cost out job and develop CMP Invoice.
- Submit invoice for payment.
- Easements signed and payment received. Please note that the customer is responsible for obtaining all easements necessary to complete the work.
- Job scheduled for completion after the electrical inspection has been received.

This process can take several months, depending upon several factors including transformer delivery, potential substation upgrades, return of completed paperwork, and other jobs in the system that may be ahead of yours. In addition, contact with the other utilities, including telephone and cable, should be commenced as soon as practical. They may have additional work or charges in addition to the CMP work required to bring your project on line.

For your convenience, here is a link to the CMP Website which contains our Handbook with details on most service requirements:

162 Canco Road Portland, ME 04103  
Tel (800) 750-4000  
207-842-2367 office  
207-458-0382 cell  
207-626-4082 fax

[www.cmpco.com](http://www.cmpco.com)



An equal opportunity employer



CMP Handbook of Standard Requirements

(<http://www.cmpco.com/MediaLibrary/3/6/Content%20Management/YourAccount/PDFs%20and%20Docs/handbook.pdf>)

If you have any questions, please contact CMP at 1-800-565-3181.

Regards,

A handwritten signature in black ink that reads "Jamie Cough".

Jamie Cough  
Energy Services Advisor  
Central Maine Power Company  
162 Canco Road  
Portland, ME 04103  
207-842-2367 office  
207-458-0382 cell  
207-626-4082 fax

162 Canco Road Portland, ME 04103  
Tel (800) 750-4000  
207-842-2367 office  
207-458-0382 cell  
207-626-4082 fax

[www.cmpco.com](http://www.cmpco.com)



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CONSULTING ENGINEERS

778 MAIN STREET  
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- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION

November 12, 2012

Mr. Andrew Trottier  
Time Warner Cable  
118 Johnson Road  
Portland, ME 04102

**Subject: Request for Ability to Serve  
Proposed Maritime Landing Project  
Somerset Street – Portland, Maine**

Dear Mr. Trottier:

The Federated Companies intends to construct a mixed-use project on Somerset Street in Portland, Maine. A conceptual rendering of the proposal is enclosed. This will be changed as the design proceeds and may be further altered between the three phases of construction.

Our office has been retained by The Federated Companies to assist in the civil engineering and preparation of permit applications. The exact number of living units, retail, or commercial spaces will be better known in several months. However, we are confident the mix will not exceed the following:

- 800 residential dwelling units;
- Restaurants with a seating capacity of 900; and
- 100,000 square feet or retail or commercial space.

Parking garages will be constructed on site and will provide approximately 1,000 parking spaces.

On behalf of The Federated Companies, we are requesting the following information as soon as possible:

1. What facilities does Time Warner have on Somerset Street or in close proximity to the project? (If mapping is available, please send us a copy for this area.)
2. What type of service do you anticipate being able to provide for the project?
3. Will you be the point of contact at Time Warner for this project?

**We are required to include ability to serve letters from all utility providers as part of our first technical submission for the City application which we would like to make around December 1, 2012.**

Mr. Don Trottier  
November 12, 2012  
Page 2

If you have any questions or need further clarification of the project, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



William G. Hoffman, P.E.  
President

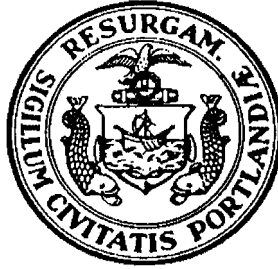
WGH/cmd

Enclosure

c: Greg Shinberg  
Matt Jefferies

# CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION

Department of Public Services,  
55 Portland Street,  
Portland, Maine 04101-2991



Mr. Frank J. Brancely,  
Senior Engineering Technician,  
Phone #: (207) 874-8832,  
Fax #: (207) 874-8852,  
E-mail: fjb@portlandmaine.gov

Date: \_\_\_\_\_

**1. Please, Submit Utility, Site, and Locus Plans.**

Site Address: Lots located on Elm and Somerset Streets

(Regarding addressing, please contact Leslie Kaynor, either at 756-8346, or at LMK@portlandmaine.gov)

Chart Block Lot Number: 034 D003; D010; D009  
025 A022; B002; B003;  
B004; B005

Proposed Use: Please see attached sheet

Previous Use: Industrial

Existing Sanitary Flows: 0 GPD

Existing Process Flows: 0 GPD

Description and location of City sewer, at proposed building sewer lateral connection:

Existing sewer is 36" to 72" diameter - See attached sketch

Site Category	Commercial	<u>X</u>
	Industrial (complete part 4 below)	_____
	Governmental	_____
	Residential	_____
	Other (specify) (mixed-use)	<u>X</u>

*Clearly, indicate the proposed connection, on the submitted plans.*

**2. Please, Submit Domestic Wastewater Design Flow Calculations.**

Estimated Domestic Wastewater Flow Generated: 170,000 GPD

Peaking Factor/ Peak Times: 3.5 - typical diurnal flow of residential uses

Specify the source of design guidelines: (i.e.  "Handbook of Subsurface Wastewater Disposal in Maine,"  "Plumbers and Pipe Fitters Calculation Manual,"  Portland Water District Records,  Other (specify)

**Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet. (see attached spreadsheet)**

**3. Please, Submit Contact Information.**

Owner/Developer Name: The Federated Companies c/o Greg Shinberg

Owner/Developer Address: Shinberg Consulting-477 Congress Street, Suite 1012 Portland, Maine 04101

Phone: 207-653-7510 Fax: 207-772-7080 E-mail: gls@shinbergconsulting.com

Engineering Consultant Name: William G. Hoffman, P.E., DeLuca-Hoffman Associates, Inc.

Engineering Consultant Address: 778 Main Street, Suite 8, South Portland, ME 04106

Phone: 207-775-1121 Fax: 207-879-0896 E-mail: whoffman@delucahoffman.com

City Planner's Name: Rick Knowland Phone: 207-874-8725

**Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review.**

**4. Please, Submit Industrial Process Wastewater Flow Calculations**

Estimated Industrial Process Wastewater Flows Generated: \_\_\_\_\_ GPD

Do you currently hold Federal or State discharge permits? Yes \_\_\_\_\_ No \_\_\_\_\_

Is the process wastewater termed categorical under CFR 40? Yes \_\_\_\_\_ No \_\_\_\_\_

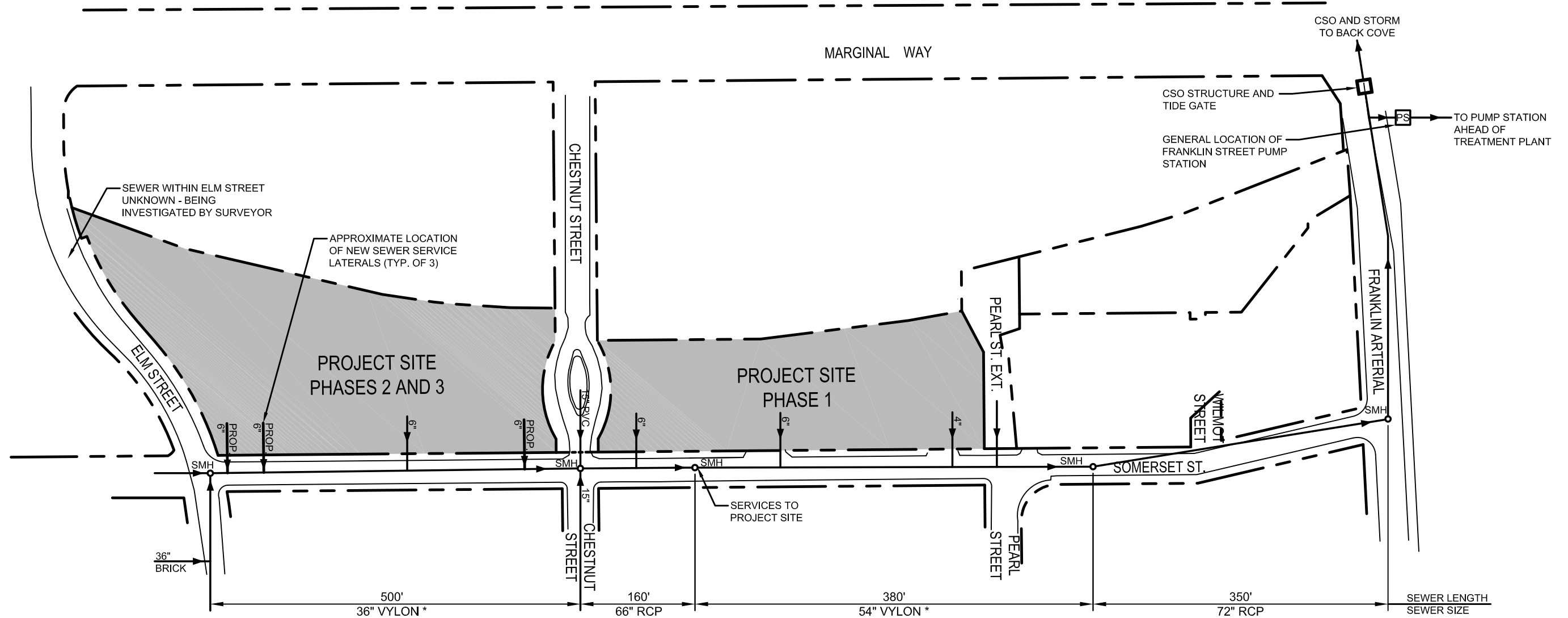
OSHA Standard Industrial Code (SIC): \_\_\_\_\_ (<http://www.osha.gov/oshstats/sicser.html>)

Peaking Factor/Peak Process Times: \_\_\_\_\_

**Note: On the submitted plans, please show the locations, where the building's sanitary, and process water sewer laterals, exit the facility, where they enter the city's sewer, the location of any control manholes, wet wells, or other access points, and the locations of any filters, strainers, or grease traps.**

**Notes, Comments, or Calculations:**

The proposal is for mixed-use development with residential units above the first floor, retail or commercial uses on the ground floor, and off-street parking garages. The sanitary sewer along Somerset Street will be used for lateral connections. The applicant will use existing laterals for the connections to the extent possible and likely add two or three new services. Refer to Figures 1 and 2 for a schematic of the sewer system and lateral connections.



THE 2003 CSO PROJECT INCLUDED THE INSTALLATION OF THREE 6" AND ONE 4" SEWER LATERALS TO SERVE THE PROJECT SITE

THREE NEW SERVICE LATERALS ARE PROPOSED

\* INSTALLED IN 2003

**DH** DeLuca-Hoffman Associates, Inc.  
 778 MAIN STREET, SUITE 8  
 SOUTH PORTLAND, ME 04106  
 207.775.1121  
 WWW.DELUCAHOFFMAN.COM

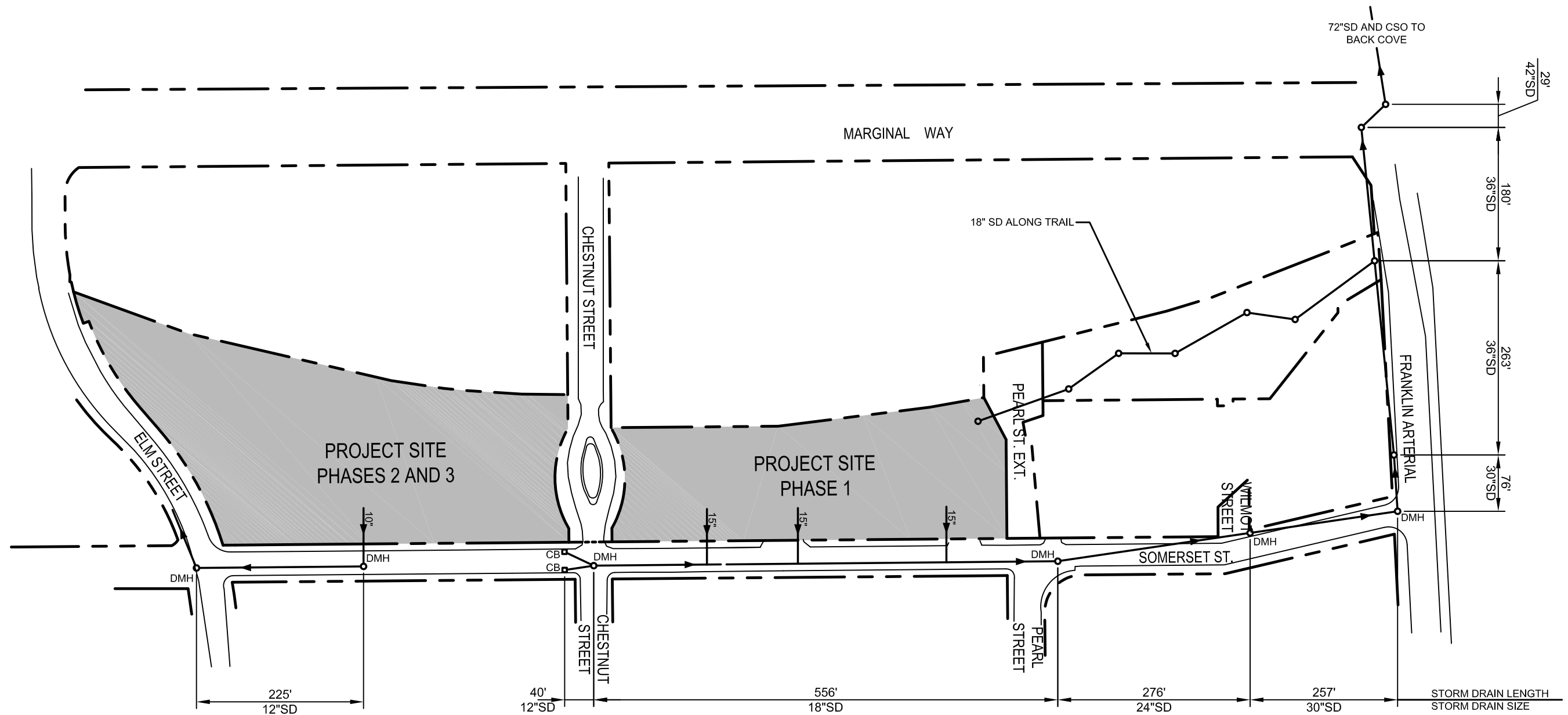
DRAWN:	LA	DATE:	10.26.12
DESIGNED:	WGH	SCALE:	N.T.S.
CHECKED:	WGH	JOB NO.:	3062
FILE NAME:	3062-PERMITS		

midtown  
PROJECT

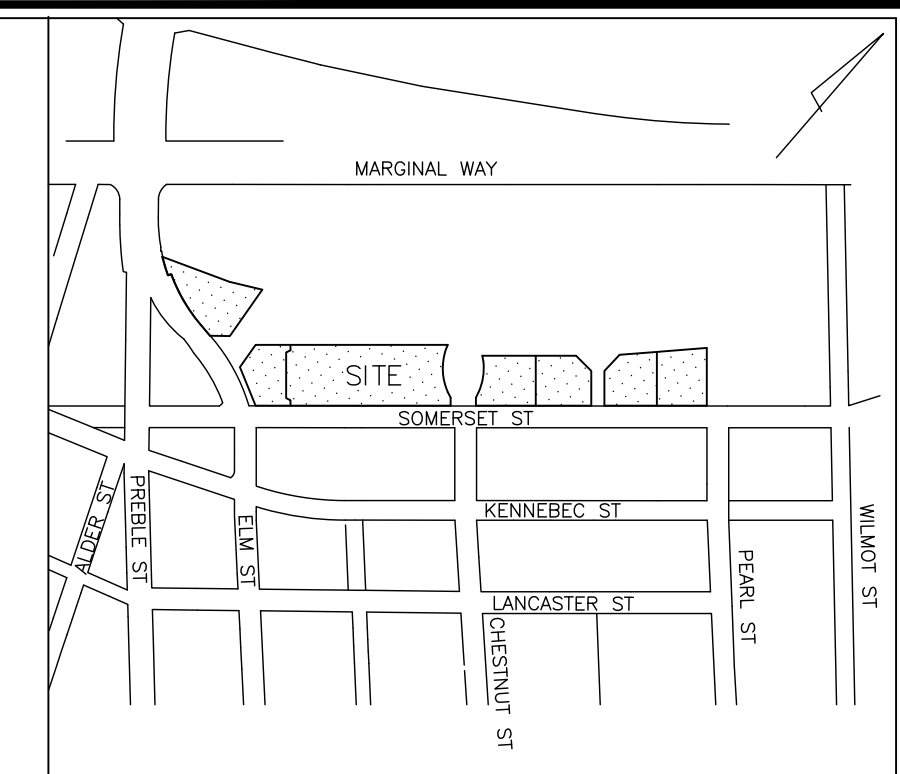
SANITARY SEWER SCHEMATIC  
ALONG SOMERSET STREET

FIGURE  
**S-1**  
REVISED 12.20.12

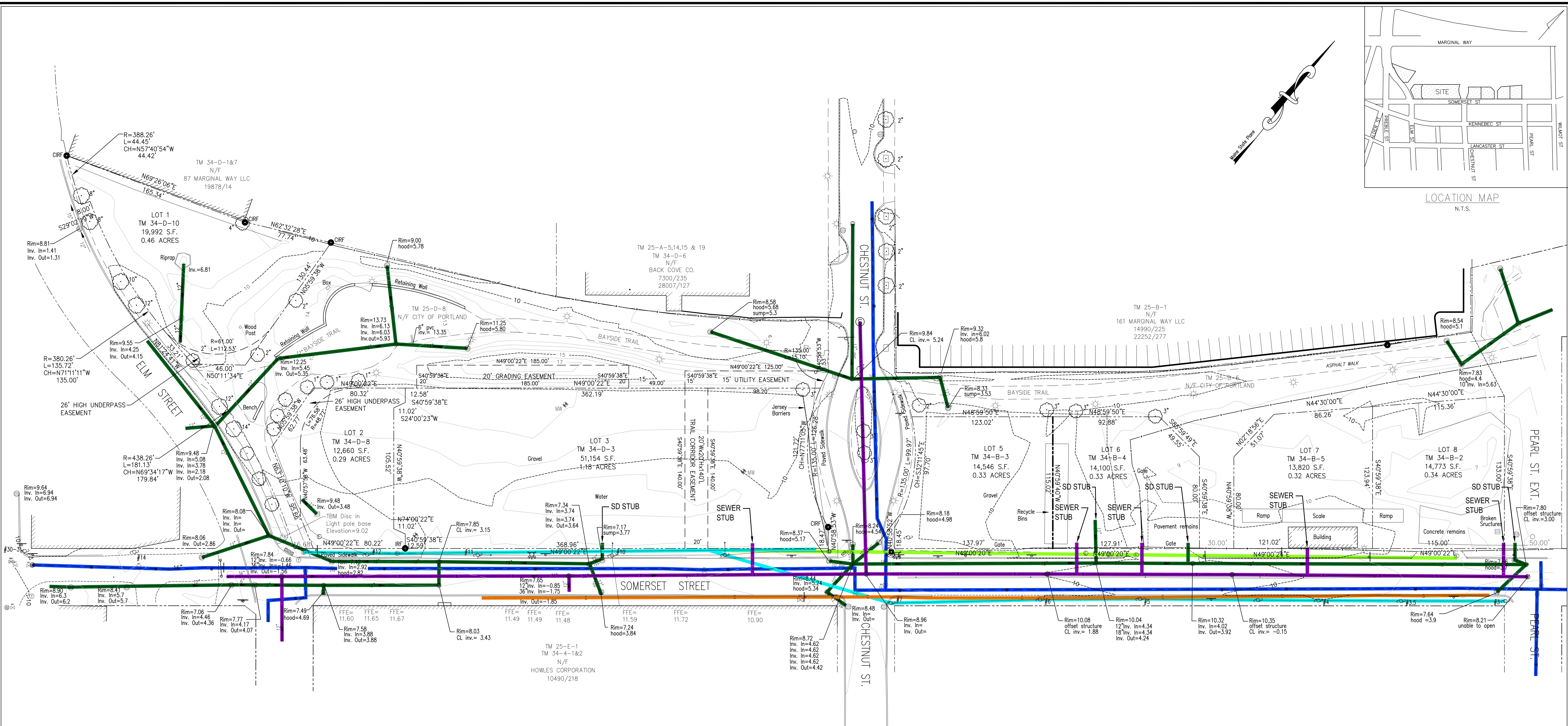




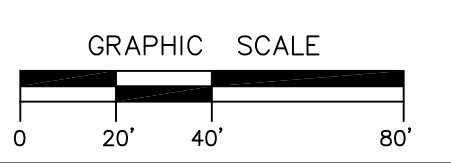
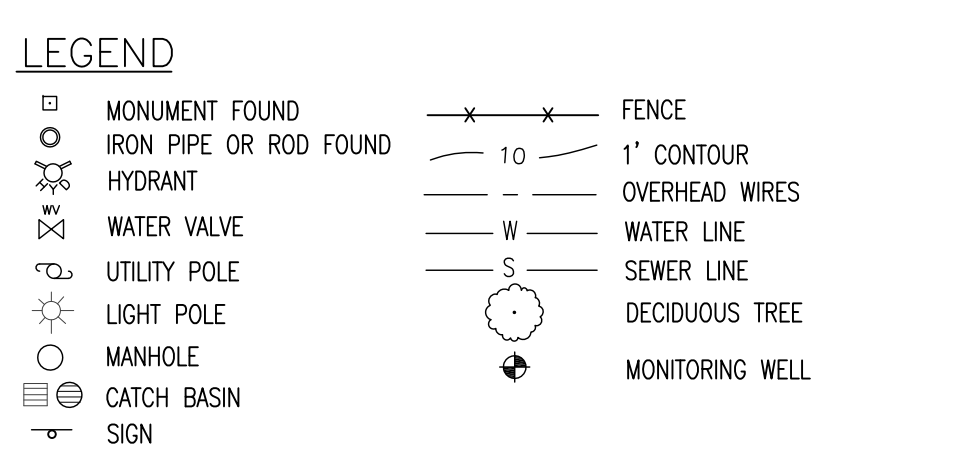
THE 2003 CSO PROJECT INCLUDED THE INSTALLATION OF THREE 15" AND ONE 10" SD LATERALS TO SERVE THE PROJECT SITE



LOCATION MAP  
N.T.S.



**UTILITY NOTE:**  
THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEY FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. CALL 1-800-DISSAFE AT LEAST THREE BUSINESS DAYS BEFORE PERFORMING ANY CONSTRUCTION. DUE TO OSHA CONFINED SPACE REQUIREMENTS, ALL INVERTS AND PIPE SIZES MUST BE VERIFIED PRIOR TO ANY CONSTRUCTION.



**PLAN REFERENCES:**

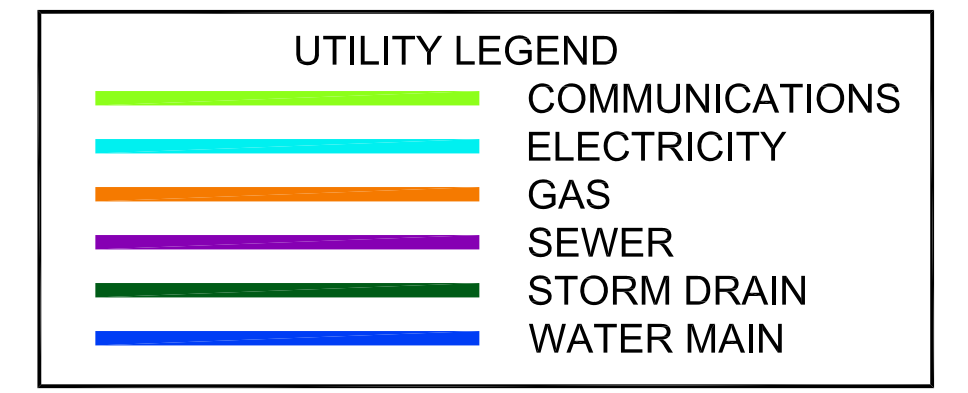
- "SUBDIVISION RECORDING PLAT OF PROPERTY LOCATED ON BAYSIDE RAILWAY, PORTLAND, MAINE PREPARED FOR DOWNTOWN PORTLAND CORPORATION" DATED OCTOBER 30, 2008 REV. 3/13/09 BY SCC ENGINEERING, LLC RECORDED IN C.C.R.D. PLAN BOOK 209 PAGE 36.
- "EXISTING CONDITIONS SURVEY OF PROPERTY LOCATED ON SOMERSET STREET, PORTLAND, MAINE PREPARED FOR CITY OF PORTLAND" DATED OCTOBER 30, 2008, REV. 1/10/20/11 BY SCC ENGINEERING, LLC.
- "STANDARD BOUNDARY SURVEY FOR BAYSIDE TRAIL & PROPOSED SOMERSET STREET EXTENSION" DATED SEPTEMBER 2012 PREPARED BY CITY OF PORTLAND, MAINE PUBLIC SERVICES DEPARTMENT ENGINEERING DIVISION.

**NOTES:**

- OWNER OF RECORD: CITY OF PORTLAND, C.C.R.D. BOOK 27870 PAGE 299.
- BASIS OF BEARINGS: MAINE STATE PLANE COORDINATE SYSTEM WEST ZONE NAD83.
- ELEVATIONS ARE BASED ON CITY DATUM. BENCH MARK: MDOT DISK "612-(1)-10 1983"
- THIS PLAN IS THE RESULT OF A FIELD SURVEY CONDUCTED BY OWEN HASKELL, INC. NOVEMBER 2012 AND DATA TAKEN FROM PLAN REFERENCE 2 AS SHOWN ABOVE.

**CERTIFICATE:**  
OWEN HASKELL, INC. CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

DATE \_\_\_\_\_ JOHN W. SWAN, PLS NO. 1038



**BOUNDARY & TOPOGRAPHIC SURVEY**  
ON  
SOMERSET STREET, PORTLAND, MAINE  
MADE FOR  
**DELUCA HOFFMAN ASSOCIATES**  
MAIN STREET, SOUTH PORTLAND, MAINE

**OWEN HASKELL, INC.**  
390 U.S. ROUTE ONE, PALMOUTH, ME 04105 (207) 774-0424  
PROFESSIONAL LAND SURVEYORS

Drwn By	RS	Date	NOVEMBER 9, 2012	Job No.	12012-180 P
Trace By	JLW	Scale	1" = 40'	Drwg. No.	1
Check By	JWS				
Book No.	FILE				



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life* [www.portlandmaine.gov](http://www.portlandmaine.gov)

**Public Services Department**  
Michael J. Bobinsky, Director

**CORRECTED COPY**

4 October 2013

Mr. William G. Hoffman, P.E.,  
Fay, Spofford & Thorndike,  
778 Main Street, Suite 8,  
South Portland, Maine 04106

**RE: The Capacity to Handle Wastewater Flows, from “midtown,” the Mixed Use (Residential, Retail, Parking Garage) Development Towers Proposed by Federated Companies, along The Northern Side of Somerset Street (23-63 Somerset), between Pearl Street Extension and Chestnut Street (Phase 1) and Continuing along The Northern Side of Somerset Street (69-105 Somerset), from Chestnut to Elm Street (Phases 2 and 3) including (127-161 Elm Street).**

Dear Mr. Hoffman:

*It has come to my attention that this project, formerly known as “Maritime Landing,” is now known as “midtown.” This letter corrects the name of the project and supercedes the letter of 2 October 2013.*

The existing thirty-six inch, fifty-four inch, and sixty-six inch reinforced concrete sewer pipes, located in Somerset Street, have adequate **capacity to transport**, while The Portland Water District sewage treatment facility, located off Marginal Way, has adequate **capacity to treat**, the total anticipated increase in wastewater flows of **171,110 GPD**, from the proposed mixed use development towers.

The City combined sewer overflow (C.S.O.) abatement consent agreement (with the U.S.E.P.A., and with the Maine D.E.P.) requires C.S.O. abatement, as well as storm water mitigation, in order to offset any increase in sanitary flows, from all projects. If the City can be of further assistance, please call 874-8832.

Sincerely,  
**CITY OF PORTLAND**

Frank J. Brancely, B.A., M.A.  
Senior Engineering Technician

FJB

**Anticipated Increase in Wastewater Flows from the Proposed  
Residential, Retail, Restaurant and Parking Garage Units**

**The Proposed Residential Units:**

800 Proposed Units @ 180 GPD/Unit = 144,000 GPD

**The Proposed Retail Outlets:**

75 Proposed Employees @ 12 GPD/Employee = 900 GPD

8 Proposed Toilets @ 325 GPD/Toilet = 2,600 GPD

**The Proposed Restaurants:**

900 Proposed Seats @ 25 GPD/Seat = 22,500 GPD

**The Proposed Parking Garages:**

1,110 Proposed Spaces @ 1GPD/Space = 1,110 GPD

Total Wastewater Design Flow, from the Proposed Mixed Use Project: = 171,110 GPD

**Total Anticipated Increase in Wastewater Flows for this Project = 171,110 GPD**

CC: Jeffrey Levine, Director, Department of Planning, and Urban Development, City of Portland  
Barbara Barhydt, Development Review Services Manager, Department of Planning, and Urban Development, City of Portland  
Rick Knowland, City Planner, Department of Planning, and Urban Development, City of Portland  
David Margolis-Pineo, Deputy City Engineer, City of Portland  
Michael Farmer, P.E., Project Engineer, City of Portland  
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland  
John Emerson, Wastewater Coordinator, City of Portland  
Rhonda Zazzara, Field Inspection Coordinator, City of Portland  
Harold Downs, Senior Wastewater Technician, City of Portland  
Jane Ward, Administrative Assistant, City of Portland

**ATTACHMENT D**

**WRITTEN ASSESSMENT OF PROPOSED PROJECT'S COMPLIANCE  
WITH APPLICABLE ZONING AND B-7 LAND USE REQUIREMENTS**

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# Summary of B-7 Standards -- 17 October 2014

Principle A, Urban Design		Plan for midtown Development	midtown Preliminary Level III Design
Standard A-1	Sense of Place	<ul style="list-style-type: none"> <li>▪ <i>The identity and "sense of place" of Bayside is based on design elements that contribute to the character of the district.</i></li> </ul> <p>The <u>Plan for midtown Development</u> responds to listed characteristics as follows:</p> <ul style="list-style-type: none"> <li>• Forms strong street edge as existing pattern development;</li> <li>• Extends the street grid at Pearl, Chestnut, and Elm streets;</li> <li>• Raises Somerset St in response to flood concerns (topography);</li> <li>• Maintains view corridors to and between Downtown, Back Cove, Deering Oaks and the East End;</li> <li>• Buildings are arranged to allow access to light and air;</li> <li>• Street extensions and Mews provide public connection to the pedestrian and bicycle network and other public spaces;</li> <li>• Access to the regional transportation system is provided via Somerset St to Franklin to I-295; and</li> <li>• Providing an opportunity for innovative architectural and landscape design.</li> </ul> <p>The <u>Plan for midtown Development</u> has characteristics which strengthen the identity of the Bayside district by:</p> <ul style="list-style-type: none"> <li>• Enhancing the artistic personality of Bayside in the future;</li> </ul>	<p><u>midtown building designs</u> respond as follows:</p> <ul style="list-style-type: none"> <li>• Forms street edges at Somerset, Pearl, Chestnut and Elm Streets;</li> <li>• Mediates the grade change between the new elevation of Somerset Street and the Bayside Trail with gentle steps and ramps;</li> <li>• Public Mews between Garage midtownTwo and Apartment midtownOne provides pedestrian and visual continuity of Myrtle St;</li> <li>• The buildings have been designed in a modern or contemporary aesthetic using a muted range of warm natural neutral colors with vibrant accents</li> </ul> <p><u>midtown building designs</u> support the intent of the Plan for Development by:</p>

		<ul style="list-style-type: none"> <li>• Respecting the industrial vernacular of existing buildings;</li> <li>• Encouraging innovative architectural design that expresses the aesthetic of the time in which it was built;</li> <li>• Strengthening the connections to adjacent neighborhoods of Bayside, Downtown, Back Cove, Deering Oaks, and the East End by providing one side of a dense pedestrian-oriented commercial spine along Somerset Street;</li> <li>• preserving views;</li> <li>• Mitigating traffic/pedestrian concerns across major streets through design of ADA access ramps and painted crosswalks;</li> <li>• Creating mixed retail and residential uses that have a neighborhood main street scale;</li> <li>• Creating neighborhood green spaces as places to gather; and</li> <li>• Utilizing native plant materials in landscaping.</li> </ul> <p>Characteristics in <i>The Vision for Bayside</i> that are not applicable to the <u>Plan for midtown Development</u>:</p> <ul style="list-style-type: none"> <li>• Encouraging adaptive reuse;</li> <li>• Respecting the “patina” of age and maintaining historic materials;</li> <li>• Mitigating the widths of the major arterials such as Marginal Way and Franklin Arterial which border the neighborhood because these arterials are not within the Development Plan area; and,</li> <li>• Highlighting Portland and Cumberland Streets as “Main Streets” to the traditional residential portions of the neighborhood, as these streets are not within the Development Plan area.</li> </ul>	<ul style="list-style-type: none"> <li>• Design in modern industrial style;</li> <li>• Innovative and contemporary use of materials and color;</li> <li>• Provides continuous retail frontage on Somerset and Elm Streets;</li> <li>• Provides mixed use of residential over retail;</li> <li>• Provides Mews and Courtyard; enhances the Bayside Trail; and</li> <li>• Design will utilize drought-tolerant native and non-invasive species</li> <li>• No buildings exist on site;</li> <li>• No historic materials exist on site;</li> <li>• Site does not border these streets;</li> <li>• Site does not border these streets</li> </ul>
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Standard A-2	Edges and Transitions	<ul style="list-style-type: none"> <li>■ <i>Transitions between larger scale mixed use buildings and smaller scale residential uses shall be designed so that there is a seamless connection.</i></li> </ul> <p>The area planned for <b>midtown</b> Development does not directly abut smaller scale residential areas of Bayside. Its immediate neighbors are unbuilt land, an unredeveloped factory/warehouse across Somerset Street and commercial open parking lots with low-rise commercial development on the opposite side of the trail.</p> <p>The <u>Plan for <b>midtown</b> Development</u> therefore does not delineate transitions between the larger scale and the smaller scale elements of the Bayside zone.</p> <p>The <u>Plan for <b>midtown</b> Development</u> provides several open spaces that provide elegant transitions from the taller to the lower scale elements of the design (The Courtyard, The Mews, Chestnut Square, The Urban Trail).</p>	<p><b>midtown</b> buildings One, Two, Three, and Four are designed so as not to have a “back”. Blank walls are avoided and services areas are internal to the buildings and screened from view. The same materials are used on all sides of each building and composed to provide an inviting contemporary appearance.</p> <p><b>midtown</b> design includes The Mews and The Courtyard</p>
Standard A-3	Gateways	<p><i>Gateways serve as landmarks signal arrival and promote district identity.</i></p> <p>As a landmark, the buildings of <b>midtown</b> Development will be visible and identifiable to vehicular traffic. This visibility and identity of place is tempered by addressing the pedestrian scale along the trail and Somerset Street.</p> <p>The <u>Plan for <b>midtown</b> Development</u> is unique as the first extensive intervention to create a walkable main street; it will create an identifiable landmark within surrounding neighborhoods and district. This landmark status will be emphasized by distinctive paving patterns, landscaping,</p>	<p>The <b>midtown</b> Apartment buildings have been designed in a unique contemporary industrial aesthetic to mark the beginning of this important development in Bayside.</p> <p>No less important at street level, the Garage building will feature a maximum retail frontage on Somerset Street, Chestnut Street and the Bayside Trail, enhancing the pedestrian experience. Upper levels of the garage will be clad in architecturally detailed industrial</p>



		accent lighting and way finding at the pedestrian scale.	materials in context with the Apartment buildings.
Standard A-4	Views and Landmarks	<p>□ <i>New development shall be designed with consideration of views and view corridors shown on Downtown Height Study and Bayside Height Overlay Map and other important views.</i></p> <p><u>The Plan for midtown Development</u> includes important characteristics:</p> <ul style="list-style-type: none"> <li>• Massing articulation responds to view corridors with heights substantially less than allowed</li> <li>• Myrtle Street and Cedar Street are not through streets to Somerset Street and are presently partially obstructed by existing buildings.</li> <li>• New development does not block view corridors</li> <li>• Roof top appurtenances will be screened from view corridors, and will not obscure important landmarks;</li> </ul>	<p><u>midtown building designs respond</u> to the intentions of the Plan for Development by:</p> <ul style="list-style-type: none"> <li>• Emphasizing in its materiality and tectonic articulation at the corners while de-emphasizing the other façades;</li> <li>• Pearl St Extension is designed with potential to extend street grid through to Marginal Street</li> <li>• While the Myrtle St view corridor will be partially blocked at lower levels, The Mews provides a continuity of the pedestrian realm which will be easily visible from the lower blocks of the street;</li> <li>• Mechanical equipment and elevator penthouses will be screened</li> <li>• Buildings are inset at ground level, meets the agreed 10' setback distance from street line at second and third floors. A request for a partial waiver of Standard A-4 that requires that new development be sited so that it does not block existing view corridors, is required to allow the garage midtownTwo to partially obstruct the Myrtle Street view corridor.</li> </ul>

Standard A-5	Pedestrian Environment	<ul style="list-style-type: none"> <li>■ <i>Development shall be human scale on public streets and enhance the pedestrian experience through details of design.</i></li> </ul> <p>The Plan for <b>midtown</b> Development's public streets and public spaces will achieve a human scale at the pedestrian level through the use of:</p> <ul style="list-style-type: none"> <li>• Ground floor retail throughout;</li> <li>• Articulated retail façades;</li> <li>• High quality building materials;</li> <li>• Retail entries primarily oriented to the street;</li> <li>• Active windows and storefronts;</li> <li>• Awnings and weather protection;</li> <li>• Outdoor seating;</li> <li>• 'Bump outs' traffic calming;</li> <li>• Adequately sized sidewalks;</li> <li>• Appropriately scaled streetlights;</li> <li>• New public spaces and connection to trail;</li> <li>• New urban streetscape, furniture, landscaping and trees; and,</li> <li>• Provision for public art, by others.</li> <li>• Development Plan is seeking a waiver of the future extension of Cedar and Myrtle Streets.</li> </ul>	<p><b>midtown building designs</b> respond to the Plan for Development intentions by providing:</p> <ul style="list-style-type: none"> <li>• Continuous retail frontage along Somerset St interrupted only by garage and service entries, and along Chestnut St and for more than half the length of the garage along the trail, and along Elm Street;</li> <li>• Retail façades which will be a majority clear vision glass with column and mullion articulation;</li> <li>• Entries will be from streets exclusively and will be protected with awnings;</li> <li>• Outdoor seating will be provided where space and tenant requirements allow;</li> <li>• Sidewalks are adequately sized and provide bump-outs at pedestrian crossings at Pearl and Chestnut streets;</li> <li>• Streetlights will be standard for the zone;</li> <li>• Connections to the trail are made at Pearl St, the Mews, Elm Street and Chestnut St; and</li> <li>• New paving, street furniture, landscape planting, and provision for public art will be provided</li> </ul>
Standard A-6	Mix of Uses	<ul style="list-style-type: none"> <li>■ <i>New development in Bayside shall incorporate a mix of residential, retail, commercial, and open space uses of various types and scales.</i></li> </ul> <p>The <u>Plan for <b>midtown</b> Development</u> incorporates a mix of</p>	<p>The <b>midtown</b> buildings incorporate a mix of residential,</p>

		residential, ground floor retail and open space uses of various types and scales. The plan is designed to allow adaptability and flexibility of use over time.	ground floor retail, and open space uses.
Standard A-7	Building Orientation	<ul style="list-style-type: none"> <li>Buildings shall be located at the property street line to provide definition and character to the streets.</li> </ul> <p>The <b>midtown Development</b> buildings have been located near the property street line in order to provide very clear definition and character to the street. The primary façades and entrances of buildings are oriented to streets, major pedestrian routes, or open spaces in order to enhance the pedestrian-oriented environment.</p>	<p><b>midtownOne</b> apartment building is oriented with continuous retail frontage on Somerset St and The Mews; the primary apartment entrance is on Pearl St near the trail and there are secondary entrances on Pearl St nearer Somerset St and from the Courtyard; service is confined to a narrow entrance on Pearl St; tenant amenities and the residential lobby have active windows facing the trail.</p> <p><b>midtownTwo</b> garage building is built out to the street line and features continuous retail development along both Somerset and Chestnut streets.</p> <p><b>midtownThree</b> apartment building is oriented with continuous retail frontage on Somerset St, windows along the trail, and at the corner of Somerset and Chestnut Streets, the building entrance faces Chestnut Street.</p> <p><b>midtownFour</b> apartment building has retail frontage on Elm Street and facing the trail, with the apartment resident and service entries on Elm St.</p> <p>All buildings thus front on streets at property line and form a strong and active street edge.</p>

Principle B, Access and Circulation		midtown Development Plan	midtown Level III Design Review
Standard B-1	Streets and Alleys	<ul style="list-style-type: none"> <li>Streets and alleys shall be scaled for expected vehicle, pedestrian, bicycle and transit activity to support mixed use development.</li> </ul> <p>The Plan for <b>midtown Development</b> provides streets scaled for expected vehicle, pedestrian, bicycle, and transit activity; they support mixed use development and will be well landscaped and promote traffic calming. Somerset Street will allow for on-street parking and loading.</p> <p>The proposed street grid of the <u>Plan for midtown Development</u> will follow the existing scale and pattern of Portland's street grid and blocks. The plan incorporates provisions for the future extension of Pearl Street to Marginal Street.</p>	<p><b>midtownOne, Two, Three, and Four</b> will include the development of streetscape to meet these standards along Somerset, Elm and Chestnut Streets. The full build-out of Pearl Street will require future property acquisition; the temporary construction of this first phase will provide a turn-around at the trail sufficient for emergency vehicles</p> <p>The immediate implementation will involve raising the grade of Somerset St (a B street on the <i>Bayside Street Hierarchy Map</i>), Chestnut St, and Pearl St (both C streets in the hierarchy). Temporary transition grades will be provided at the corner of Somerset and Pearl, and between at the west end of Somerset St. at Elm St.</p>
Standard B-2	Street Connectivity	<ul style="list-style-type: none"> <li>The prevailing street grid of Portland (and Bayside particularly) should be extended to provide opportunities for sun and airflow.</li> </ul> <p>The <u>Plan for midtown Development</u> incorporates provisions for the future extension of Pearl Street. Small block size would make the provision of an efficient parking garage impractical (as the length of ramp is determined by slope limited by code), so the Development Plan is seeking a waiver for the future extension of Cedar and Myrtle Streets.</p>	<p><b>midtownOne</b> apartment and garage building projects are designed to allow a public mews space to provide a pedestrian connection from a future Myrtle St extension to the Bayside Trail and to allow airflow and sunshine.</p> <p>Near Elm Street, the <b>midtownThree</b> building is held back from property line to provide a wide and clear</p>

			<p>public trail connection to future redevelopment of the land to the north (currently fenced parking lots)</p> <p>Sunlight and air are well-provided to all façades of all buildings.</p>
Standard B-3	Mid-Block Permeability	<ul style="list-style-type: none"> <li>Development should incorporate mid-block permeability perpendicular (and where feasible, parallel) to Marginal Way through provision of alleys, pedestrian corridors, trail access, plazas, and pocket parks.</li> </ul> <p>The <u>Plan for midtown Development</u> incorporates provisions for a new public open space connecting Somerset Street to the Bayside Trail between the first apartment and garage buildings.</p>	<p><b>midtownOne</b> apartment buildings and <b>midtownTwo</b> Garage building are sized to the block size typical of the Bayside neighborhood.</p> <p><b>midtownThree</b> provides retail space fronting on Somerset St which is designed as “through space,” that is, allowing a visual connection through to the Bayside Trail beyond. It is noted that the building opposite this building on Somerset St. has no mid-block connector and the trail adjacent to the building’s north façade is defined by a berm containing stabilized contaminated soil which rises 6 feet above the floor level of the retail space. In addition there is a fenced parking lot on the north side of the trail. A mid-block connector in this instance would serve no real purpose as there would be no matching connector on the other side of Somerset St and no pedestrian connection to the trail or properties to the north – that is a connector by itself (even if it could overcome the topographic problem of the berm, would generate no foot traffic as it would not be part of a larger pattern of pedestrian movement.</p> <p>At such time in the future as these adjacent properties</p>

			<p>are redeveloped and a strong pedestrian desire to move north-south is established, the retail leasing may respond with a public passage providing additional store frontage – without such strong pedestrian movement, such additional frontage is of no value, and such a passage would be empty, uninviting, and potentially dangerous.</p> <p>The building design does, however, hold back from the property line at its west end allowing an expanded trail connection to Somerset and Elm Streets with easy and inviting access from Somerset Street.</p>
Standard B-4	Sidewalks and Crosswalks	<ul style="list-style-type: none"> <li>■ <i>All sidewalks and crosswalks shall conform to the intent of the City's Technical and Design Standards and Guidelines providing sidewalks of 12 - 15 ft width on A and B streets with bump-outs at pedestrian crossings.</i></li> </ul> <p>The <u>Plan for midtown Development</u> incorporates new sidewalks which will be bifurcated by a grade change at Pearl and Somerset Streets as shown in the plans. However with the planned change in roadway elevation the majority of the Somerset frontage will be one continuous sidewalk without grade change.</p> <p>Somerset and Elm are designated 'B Streets' – the plan includes bump-outs and amenities such as tree wells, landscaping, café seating and provision for public art by others.</p>	<p>The <u>midtown Apartment and Garage buildings</u> will include development of detailed landscape areas on Pearl, Somerset, Chestnut, and Elm Streets, with new pavement, street furnishing and lighting.</p>
Standard B-5	Green Streets	na	

Standard B-6	Multi-modality	<ul style="list-style-type: none"> <li>■ <i>New development shall accommodate a full range of multi-modal transportation options including pedestrian, bicycle, private auto, delivery and pick-up vehicles, and transit users.</i></li> </ul> <p><b>midtown Development</b> incorporates plans for re-construction of Somerset, Pearl, Chestnut, and Elm streets to meet the City's standards and allow multi-modal use.</p>	
Standard B-7	Continuity of Street Level Uses	<ul style="list-style-type: none"> <li>■ <i>Development shall provide for the continuity of pedestrian-oriented uses along Somerset Street frontage.</i></li> </ul> <p>Unavoidable entrances to the garage of the <b>midtown Development</b> are located on Somerset street; pedestrians will be given priority by requiring cars to enter the garage at sidewalk level via a short ramp at curb edge. Service entries to residential buildings <b>midtownOne</b> and <b>midtownFour</b> are planned at the cross streets to assure maximum retail frontage on Somerset St; the service entry for <b>midtownThree</b> retail and residences will be along Somerset St</p> <p>A waiver is requested</p>	<p>A service entrance for the <b>midtownOne</b> apartment building and its ground floor retail use is provided on Pearl Street; service entrance for <b>midtownTwo</b> retail space is provided adjacent to the garage entrance; service entrance for <b>midtownThree</b> retail and residences is provided on Somerset Street, and the service entrance for <b>midtownFour</b> is provided on Elm Street.</p> <p>These service entrance doors will be about seven feet wide, will be designed as an integral part of the modern industrial aesthetic of the buildings, and will be opened only to remove trash and recycling to vehicles parked in designated service spaces.</p> <p>Service for the ground floor retail use in the Garage building will be provided through the front door(s) of the retail spaces from loading zones along Somerset St.</p> <p>Loading dock or service vehicle facilities are not planned for these retail spaces; tenants will provide for trash and recycling facilities within their leased premises.</p>

				Retail and apartment lobbies will form more than 90% of street frontages thus assuring the maximum frontage along Somerset Street.
Standard B-8	Traffic Calming	<ul style="list-style-type: none"> <li>■ <i>New development shall provide traffic calming on Chestnut Street where the Bayside Trail crosses and shall provide neck-downs, trees and landscaping, and crosswalks as wide as the sidewalks they serve.</i></li> </ul> <p>The <u>Plan for midtown Development</u> provides landscape treatment and sidewalk bump-outs (traffic neck-downs) along Somerset street at crosswalks, as well as traffic calming in the form of a central island in Chestnut street where the Bayside Trail crosses.</p>		The intersections of Pearl, Elm and Chestnut Streets with Somerset St will be constructed to city standards as part of the <b>midtown</b> construction work.
Standard B-9	Streetscape Design	<ul style="list-style-type: none"> <li>■ <i>New Development shall utilize the City's streetscape standards for Bayside to create a unified image for the neighborhood.</i></li> </ul> <p>The new privately owned and developed open spaces provided by the <u>Plan for midtown Development</u> will be designed to coordinate with the City's standards for streetscape design elements.</p>		The Mews and The Courtyard at <b>midtownOne and Two</b> have been designed with paving materials, lighting, street furniture, and plant species that have been coordinated to harmonize with the streetscape standards for Somerset Chestnut and Pearl Streets. The garage green screen is intended to bring the trail landscaping into the garage building façade.
Standard B-10	Encroachments	<ul style="list-style-type: none"> <li>■ <i>Encroachments on the public sidewalk shall be sited and designed to encourage pedestrian activity.</i></li> </ul> <p>No encroachments are planned in the <u>Plan for midtown Development</u>.</p>		<b>midtownOne, Two, Three, and Four</b> do not include any encroachments in the public sidewalk.



Standard B-11	Lighting	<p>□ <i>Street lights along public streets shall comply with the City's Technical and Design Standards and Guidelines and shall be scaled to the size and use typical for each street.</i></p> <p>The <u>Plan for midtown Development</u> will utilize the standard type fixture for Somerset Street, Elm, Chestnut Street and Pearl Extension. Location and spacing may need a waiver. As well, higher intensity lighting is appropriate for the retail locations especially along Somerset St and to create a uniform appearance along the ground floor retail areas of the development which may require a waiver of some requirements.</p> <p>Pedestrian lighting will be provided by the streetscape lighting noted above together with 'spill' lighting from retail store fronts.</p> <p>Lighting for the mews and new public opens spaces will be designed to compliment these standards.</p> <p>A waiver is requested for higher intensity lighting to support retail activity.</p>	<p>As <b>midtown</b> is constructed Holophane street light model for Bayside at 19' – 3" height will be used in Silver Metallic Aluminum on Somerset St and in Tribo color on Pearl, Elm and Chestnut Streets.</p> <p>A waiver is requested of the lighting intensity and spacing requirements for <b>midtown</b> in that all ground floor uses on Somerset St, the Mews, the Courtyard, much of the Bayside Trail, Chestnut and Elm Streets will be retail. Higher intensity lighting is appropriate for such retail locations and the design seeks to create a bright and uniform appearance along the ground floor retail areas of the development.</p>
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Principle C, Parking, Loading and Services Areas		midtown Development Plan	midtown Level III Design Review
Standard C-1	Parking Structures	<ul style="list-style-type: none"> <li>■ <i>Parking structures shall be compatible with adjacent uses and architecture in form, bulk, massing, articulation, and materials.</i></li> </ul> <p>The <u>Plan for midtown Development</u> will incorporate architectural design elements that provide visual interest on all sides of its two garages that are visible from public rights of way. The visual impact of parking garages along Somerset, Chestnut, the Mews and Bayside Trail will be mitigated through façade articulation and use of materials in harmony with the residential buildings.</p> <p>Internal lighting and the glare of headlights will be screened from view. Pedestrian level lighting will be provided on all public sides of the garages.</p> <p>Garages will provide facilities for Electric Vehicle recharging</p> <p>The Garages will provide space for public commercial car share services.</p>	<p>The <b>midtownTwo</b> Parking Garage will express a horizontal bay spacing of 12 ft similar to the proposed residential façades, and it will utilize a floor-to-floor dimension of 10 ft similar to the residential floors.</p> <p>Additionally, all buildings will take the form of predominant retail ground floor use with other uses on the upper floors.</p> <p>Materials for the garage will include architectural precast concrete, metal and colored accent features, all as illustrated in elevation drawings submitted.</p> <p>The Garage's internal lighting will be carefully designed to avoid spill and glare visible from public spaces, and pedestrian light levels along Somerset and Chestnut Streets, and along the Bayside Trail and the Mews, will be bright as detailed elsewhere.</p> <p>The Garage will provide 14 premium EV-ready spaces near the elevators. These spaces will include an outlet, pay station, and appropriate signage – they will be available on both short term and monthly lease basis.</p> <p>Space will be provided for public car sharing programs like ZipCar ,Enterprise, or u-car. These vehicles are provided with access key-cards to operate the garage</p>

			access and egress gates, so can be parked near the public elevator on Somerset St and available to all neighbors at any time.
Standard C-2	Parking Entrances	<p>□ <i>Parking garage automobile entrances shall respect the pedestrian realm; Pedestrian entry/exit points shall be enhanced; Visual impact shall be minimized through design elements</i></p> <p>In the <u>Plan for midtown Development</u> garages will be designed to respect the pedestrian realm and minimize the visual impact of the garage entrance and exit by collocating the garage entrance and exit. These consolidated entry/exits will provide greater uninterrupted active retail use on the ground floor and will require a waiver from the requirement for separate entry/exit.</p> <p>Entry/egress gates will be located interior to the garages to allow entrance queuing internal to the structure minimizing back up onto Somerset St.</p> <p>A waiver is requested of the requirement that entrances and exits be physically separated.</p>	<p>The <b>midtownTwo</b> Parking Garage will require entering vehicles to rise onto the sidewalk via a curb ramp, and thus the entering driver will know that the vehicle is being driven in a pedestrian realm. The exit ramp will be clearly signed and well lighted to alert the exiting driver that s/he will be crossing a sidewalk where pedestrians have the right of way.</p> <p>Entry and exit revenue control gates are located well inside the garage. Three lanes are provided with the center lane being reversible so that two entry gates can be utilized during busiest ingress times and two exit gates during the busiest egress times. In this way the queue of entering vehicles can be maintained within the garage structure.</p> <p>By its nature, the queue of exiting vehicles will be within the structure; but important to the pedestrian realm, the exiting driver will have a clear view of the sidewalk and traffic in both directions along Somerset Street, and will remain stopped without blocking the sidewalk until it is safe to exit.</p> <p>Pedestrian access/egress towers at the corners of Somerset and Chestnut, and the Mews at the Bayside</p>

				Trail will provide a lighted accent at these corners, and provide for public view of patrons in the staircases and waiting for the elevator
Standard C-3	Active Uses	<ul style="list-style-type: none"> <li>■ <i>Parking Structures shall incorporate liner buildings, or enclosed active uses on the first floor of A and B streets with a min clear ceiling height of 10 ft and a minimum depth from street front of 25 ft.</i></li> </ul> <p>The garages of the <u>Plan for midtown Development</u> will exceed this standard substantially by providing active retail uses on the ground floor with a minimum of 14 foot floor to ceiling clearance height and a column spacing that allows deep commercial uses to be developed in the structures.</p>		The <b>midtownTwo</b> Parking Garage will feature retail frontage on Somerset and Chestnut Streets and along a substantial length of the Bayside Trail. This retail accommodation is the full 120 ft depth of the building, accessible on all sides, and built with a clear height from floor to underside of structure of not less than 14 ft (for more than two thirds of the space – lower ceilings will be necessary under the access ramp)
Standard C-4	Back of Parking Structures	<ul style="list-style-type: none"> <li>□ <i>Parking Structures that have a rear or side elevation along a public right of way or ... trail... must incorporate standard E-9.</i></li> </ul> <p>The garages of the <u>Plan for midtown Development</u> will incorporate design considerations of Standard E-9</p>		<p>The <b>midtownTwo</b> Parking Garage will not have a “back side” in the traditional sense of a building which utilizes a better material in a more articulated way for a primary façade and lesser materials with no articulation for others. Since the parking structure will form a façade on the Bayside Trail, and a street front on both the Mews and Chestnut St, these façades will be as articulated and be built of the same materials as the principle Somerset façade.</p> <p>The design for the parking garage retail façade facing the trail will provide for operable building entrances.</p>

				The base building will provide clear glass at the retail frontage on the trail.
Standard C-5	Decks and Ramps	<p>□ <i>Parking structures shall have horizontal decks on all levels where decks are visible from public rights of way. Sloped ramps shall be screened from visibility from public ways.</i></p> <p>The garage decks of the <u>Plan for midtown Development</u> will be level on the Chestnut and Somerset St and the Mews façades, and will incorporate a parking ramp between parking levels along the Bayside Trail façade. The Plan seeks a waiver to allow these ramps to be expressed to the Trail and visible tangentially from streets and public rights of way.</p>		The <b>midtownTwo</b> Parking Garage has been designed with ramps at the Bayside Trail façade supported on sloping structure between horizontal end bays. The end bays will be clad in architectural precast concrete with openings similar in size and spacing to the apartment building windows. The sloped structure between these will be minimized, cable rails will provide for pedestrian and auto safety, and the interior structure will be a dark color, all to minimize visibility of the sloping ramps. The façade will be covered above the retail ground floor with a green screen.
Standard C-6	Surface Lots	na	The <u>Plan for midtown Development</u> does not incorporate surface parking	
Standard C-7	Bike Racks	<p>■ <i>Bike Racks shall be provided in a convenient location and in compliance with the City's parking standards at Chapter 14-332.1 et seq.</i></p> <p>The <u>Plan for midtown Development</u> will incorporate bike racks conveniently located in the parking garages in compliance with the City's Off-street bicycle parking standards, that is 2 bicycle spaces for each 5 dwelling units, and 10 bicycle spaces for the first 100 non-residential car parking spaces and 1 bicycle parking space for each 20 additional car parking spaces.</p>		Assuming 1.5 car parking spaces per dwelling unit and 440 dwelling units provided in the <b>midtown</b> apartment buildings, 660 of the Garage's 802 car spaces will be dedicated to residential uses and 142 spaces will be dedicated to non-residential uses. The development will therefor provide the following bike spaces: <ul style="list-style-type: none"> <li>• Residential use: <math>(440/5) \times 2 = 176</math> spaces</li> <li>• Non-residential use: <math>10 + (142/20) = 24</math> spaces</li> </ul>

			<ul style="list-style-type: none"> <li>Total: 200 bicycle spaces</li> </ul> <p>These bicycle spaces are planned at ground level beside and beneath the access ramp accessible from the Courtyard via the pedestrian lobby. Signage will indicate this location from Somerset St.</p> <p>In addition space will be provided and designated for Bicycle Sharing programs such as Zagster, Decobike, or Alta Bicycle Share. These will be located on the Bayside Trail, and will be appropriately signed from Somerset Street.</p>
Standard C-8	Service, Utility and Mechanical Infrastructure	<ul style="list-style-type: none"> <li> <p><i>Service, Utility, and Mechanical Infrastructure (when installed at ground level) shall be located at the rear or side of buildings or interior to parking garages, and all such infrastructure shall not result in adverse visual, audible, or noxious impacts.</i></p> <p>The <u>Plan for midtown Development</u> incorporates screening for infrastructure as follows:</p> <ul style="list-style-type: none"> <li>service, utility and mechanical infrastructure will be located at the rear or sides of buildings, with underground connections;</li> <li>all service, utility, and mechanical infrastructure will be visually screened;</li> <li>roof equipment will be screened from street level visibility from public rights of way and from designated view corridors by parapets, roof screens or equipment wells;</li> <li>roof equipment will be clustered to the extent practical;</li> <li>residential building loading areas will be through</li> </ul> </li> </ul>	<p>The design of the <b>midtownOne, Three, and Four</b> buildings will provide roof top screening of condensing units, ventilation fans and other rooftop equipment. A penthouse will be provided which will house elevator equipment, and electrical gear.</p> <p>As the garage will be a high-rise structure, there will be a small roof-top emergency generator sized to provide lighting, elevator, and fire pump power in the event of utility failure. This will be housed in a weather-protected acoustic enclosure to meet the city's technical requirements.</p> <p>Utility transformers to serve the <b>midtownOne and Two</b> buildings will be located in a corner of the land</p>

		<p>overhead doors, in colors and finish consistent with the exterior elevations of the overall building;</p> <ul style="list-style-type: none"> <li>• no exposed to view loading docks or ramps are anticipated; and,</li> <li>• no outdoor storage and trash collection or compaction is anticipated that would require screening.</li> <li>• As the buildings have no "sides" or "backs" a waiver is sought of requirement to have service access at side or back and to allow entrance from the public way</li> </ul>	<p>dedicated to the Bayside Trail; transformers to serve <b>midtownThree and Four</b> will be located on the proponent's land north of the <b>midtownFour</b> building, all as shown on site plan. Transformers will be appropriately fenced for safety and screened with plant materials.</p> <p>Trash and recycling handling and storage at the <b>midtown</b> buildings will be entirely inside the buildings.</p>
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Principle D, Open Spaces and the Public Realm		midtown Master Development Plan	midtown One Building Design
Standard D-1	Open Space Design	<ul style="list-style-type: none"> <li>■ <i>New publicly-accessible open spaces shall be designed to allow views from the sidewalk, street, and surrounding buildings and shall provide views into the open space as well as outward from within the space.</i></li> </ul> <p>New public open space meeting these criteria will be provided in the <u>Plan for midtown Development</u></p>	<p>The Mews and the Courtyard of <b>midtownTwo and Three</b> are visible from Somerset St and the Bayside Trail and provide views outward to these public rights of way.</p> <p>The open spaces provided adjacent to <b>midtownThree and Four</b> buildings widen and enhance the trailhead at Elm Street.</p> <p>Importantly, the development of continuous low-rise residential frontage along both Somerset Street and the Bayside Trail provide “eyes-on-the-street” a component of making public spaces feel safe and welcoming at all hours of day and night.</p> <p>All open spaces have been designed with a view to enhance pedestrian comfort while providing a variety of sunny and shaded areas.</p>
Standard D-2	Bayside Trail	<ul style="list-style-type: none"> <li>□ <i>Buildings adjacent to the Bayside Trail shall be designed so that the façades along the trail incorporate design elements that enhance the trail use such as active doors into the building, plazas, outdoor seating, and food service.</i></li> </ul> <p>The <u>Plan for midtown Development</u> incorporates provisions to enhance the Trail by incorporating design elements that include:</p>	<p>All the <b>midtown</b> buildings are designed façade elements adjacent to the Bayside Trail that enhance the trail experience. As noted above, these façades are not</p>



		<ul style="list-style-type: none"> <li>• new/enhanced lighting, hardscape and landscaping;</li> <li>• active uses/doors into the buildings,</li> <li>• new public spaces;</li> <li>• opportunities for outdoor active uses and seating; and,</li> <li>• new public accesses to the trail from Somerset Street via Pearl Street, the Mews, enhanced Chestnut St, and Elm St.</li> <li>• A partial waiver is sought on the requirement of having “active building ingress and egress” on the portion of <b>midtownThree</b> facing the trail due to natural changes in grade.</li> </ul>	<p>designed as “backs”, and they provide the important element of residential windows overlooking the trail. Food service establishments are the planned as part of the retail leasing program for the ground floors of the all buildings. This may provide some entrances and egresses facing the trail.</p>
Standard D-3	Landscaping and Street Furniture	<ul style="list-style-type: none"> <li>□ <i>The design shall incorporate provisions for Landscaping and Street Furniture for public and private property that is compatible with the provisions set-forth in the City's Technical and Design Standards and Guidelines. Submissions shall be reviewed by the City Arborist.</i></li> <li>• The <u>Plan for midtown Development</u> will incorporate landscape improvements that will enhance the visual quality of the street presence and pedestrian activity zones including enhancement of the Bayside Trail that include urban compatible canopy trees, low maintenance shrub, perennials, grasses and ground cover plantings.</li> <li>• Plant selection will include native material where practical and appropriate and will include hardy urban material in response to the environmental conditions prevalent to the Bayside area, that include zone hardiness, soil conditions, potential tidal ground water influence, road salt conditions, low maintenance and drought tolerance</li> </ul>	<p>The <b>midtown</b> buildings and their site development will be designed to meet all the commitments of the approved Preliminary Site Plan</p>

		<ul style="list-style-type: none"> <li>• Currently there is no plant palate for urban street trees in the project area, placement of street trees follow the recommendations of the Technical and Design Standards and Guidelines; planters will be incorporated where grading requirements have provided the opportunity to enhance the public activity zone and incorporate trees typical of other city streets; the new planting will establish a palate for subsequent street improvements by others.</li> <li>• Street planting will incorporate the city standard tree grate within the public sidewalk and along portions of the trail; this enhancement will provide for extended pedestrian circulation; planters will be raised to address the grade changes that occur in response to street improvements and will be detailed to provide visual enhancement; planted areas, including street tree plantings, will incorporate methods to provide for adequate water and air to support a healthy growing condition, and will include alternative soil mixture and or structural units to enhance root zone development; plant material will be selected in response to urban conditions that include drought tolerance</li> <li>• No irrigation system is proposed: however, during the period of establishment watering will be incorporated as part of the required maintenance plan. Drainage is not anticipated to be an issue with the proposed plantings</li> <li>• No accent lighting is being proposed for plantings in the public space or private space.</li> </ul>	
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		<ul style="list-style-type: none"> <li>• A maintenance plan will be provided that will establish a program for feeding, watering, pruning, damage repair, pest and weed control, and replacement of declining plant material.</li> </ul>	
Standard D-4	Pedestrian Amenities	<ul style="list-style-type: none"> <li>□ <i>Pedestrian amenities shall comply with the City's Technical and Design Standards and Guidelines at a minimum, and also with the streetscape standards selected for Bayside.</i></li> <li>• Seating will be provided where appropriate in response to the provisions requiring one linear foot of seating for each 30 feet of street frontage;</li> <li>• Space has been allocated for a bus shelter within the <u>Plan for midtown Development</u>;</li> <li>• Trash receptacles and bicycle hitches will be located to maintain an unobstructed pedestrian route; at this time there are no plans to provide for mail boxes or newspaper boxes;</li> <li>• Following completion of the City's <i>Way finding Study</i> directional signage in compliance with the study's recommendations will be incorporated into the <u>Plan for midtown Development</u>, however pending completion of the study, the proponent requests a waiver of this provision; other signage shall conform with guidelines set-forth in Standard E-16,</li> </ul>	<p>Permanent seating will be provided along Somerset St; Additional loose seating will be provided controlled by the retailer at the Courtyard.</p> <p>Bicycle hitches will be provided along Somerset street for patrons of the retail merchants and undercover at the <b>midtownTwo</b> garage for visitors to the apartment tenants. Secure bicycle storage for employees of retailers and apartment tenants is provided in the garage (see Standard C-7 above)</p> <p>At a minimum <b>midtown</b> will provide street name signs at all intersections, and Bayside Neighborhood maps will be located at the Courtyard, at Chestnut Street, and along the Bayside Trail opposite the Garage building.</p>

Standard D-5	Public Art and other special features	<ul style="list-style-type: none"> <li>■ <i>Public Art shall be designed and implemented in accordance with the Guidelines for the City of Portland Public Art Program, shall complement the character of surrounding buildings, streets, and open spaces, and shall not obstruct pedestrian circulation.</i></li> </ul> <p>The <u>Plan for <b>midtown</b> Development</u> will incorporate this requirement and identify locations for public art by others.</p>	<p>The <b>midtown</b> development incorporates locations for provision of public art in several locations: sculpture space in the courtyard, potential for Mural development on the Garage façades facing the Mews and the Bayside Trail, in the Chestnut Street Island and at the space to the west of <b>midtownFour</b> along Elm St.</p> <p>It is anticipated that the public art will be designed and implemented by others in a manner that will complement the character of the buildings, streets and open space. The proponent will actively solicit appropriate public art as the project nears completion.</p>
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Principle E, Architectural Design		midtown Development Plan	midtown Level III Design Review
Standard E-1	Architectural Design	<ul style="list-style-type: none"> <li>■ <i>New development shall create a mixed-use, pedestrian-friendly setting that contributes to the neighborhood context of the surrounding urban fabric, contributes positively to a new identity for Bayside, and provides a sensitive transition to the adjacent residential community.</i></li> </ul> <p>As noted above the <u>Plan for midtown Development</u> incorporates mixed residential and retail uses forming one side of what will eventually become a pedestrian oriented retail street linking Trader Joe's to Whole Foods. The residential density associated with this plan will assure success of the retail development, bring active life to the streets evenings and weekends, and provide added variety to residential offerings by providing for a contemporary urban lifestyle.</p> <p>Architectural design of all buildings will be "modern industrial" incorporating twentieth and twenty-first century materials and sensibilities derived from industrialized production and building techniques. The building designs are intended to be both of their time and timeless – to bridge the century from the neighborhood's railroad/industrial past to its mixed residential future.</p>	<p>The buildings of <b>midtown</b> are unambiguously modern buildings with an economy of expressive means using unadorned industrial materials to achieve great effect through judicious use of accent colors. These buildings, while be designed with a modern architectural vocabulary, and reflect their obligation to be 'citizens of their own time and place.' They are designed to be good neighbors, deferring to local vernacular architecture and, where appropriate, borrowing and taking fundamental design lessons in form, proportion, and fenestration rhythms.</p>
Standard E-2	Height	<ul style="list-style-type: none"> <li>■ <i>Building heights shall meet those approved in the Bayside Height Overlay Map as amended by any later regulations. Street wall heights shall be stepped back 15 feet above 4</i></li> </ul>	

		<p><i>stories. Roofline shall create visual interest on the skyline.</i></p> <p>The buildings of <u>midtown Development Plan</u> will conform to the heights noted on the Bayside Height Overlay Map of 4/09/2006 (105 and 125 feet). The street wall on Somerset Street will be characterized by façades creating visual interest at the skyline. The low-rise buildings (<b>midtownOne, Three, and Four</b>) will not have upper level façade setbacks, however the ground floor façades of buildings One and Four will be inset slightly to provide wider sidewalks required by the grade changes to elevate Somerset Street between Pearl and Elm Streets. The <b>midtownTwo</b> garage building will not feature setbacks.</p>	<p>The buildings of <b>midtown</b> follow the development plan intentions directly. Both the apartment buildings and the garage will be articulated with vertical elements which will terminate at the roofline to provide interest at the skyline.</p>
Standard E-3	Massing	<p>□ <i>The composition of proposed building façades shall be defined by horizontal and vertical articulation with the vertical predominating; large expanses of undifferentiated uniform cladding are not allowed along public rights of way.</i></p> <p>The residential buildings within the <u>Plan for midtown Development</u> along Somerset Street will feature a prominent, transparent, brightly lit retail use at ground level and cornice and parapet articulation at the roof line. Collectively these use differentiations, setbacks, and roofline articulations will support a reading of the massing as to having a base, middle and top.</p>	<p>The <b>midtown</b> buildings are characterized by not having “backs” – that is they will be seen equally from all directions. As such, careful attention has been paid to the composition of each façade to minimize or eliminate undifferentiated expanses of façade and to provide a degree of articulation in all façades. The organization of residential scale windows is presented in multiple ways reflecting the building orientation. For instance, views in the direction of the White Mountains can be captured by increasing the glass-to-wall ratio to greater than 50%</p> <p>The garage design supports a reading of the massing as to having a base (retail development) and top (through articulation of cornice elements). A waiver is sought for</p>

			<p>the garage to accept this definition.</p> <p>At the pedestrian level the garage is characterized as not having a back. The rhythm of retail use and its storefront will create a sense of vitality facing the Bayside Trail. The garage upper levels will be minimally articulated, including green screening, but using the logic of its structural system to express its quiet honesty in the use of architectural precast concrete.</p>
Standard E-4	Articulation	<p>□ <i>Façades visible from public rights of way shall incorporate design elements that break the façades into components scaled to the pedestrian, and shall not be blank, flat, unadorned, or repetitive.</i></p> <p>Per Standards E-2 and E-3 above the building massing of the <b>midtown Development</b> will break down the scale into base, middle, and top by articulation of window detailing, wall color and material, and changes in pattern and texture. Reveals, expansion joints, trim and permanent artwork by others will contribute as well.</p> <p>The base of the buildings will be commercial retail use and will exhibit materials durable in nature and of high quality. Storefronts and weather protection for pedestrians will further accentuate these façades and reinforce the pedestrian scale.</p> <p>Transparent display windows will be used at the retail façades at the pedestrian level. Effort will be made to encourage retailers to maintain transparency inside the glass.</p>	<p>As designed, none of the façades of the <b>midtown</b> buildings can be characterized as “blank, flat, unadorned, or repetitive.”</p>
Standard E-5	Flexibility of	<p>■ <i>The first 40 feet of depth of floor area along street</i></p>	

	Interior Layout	<p><i>frontages shall be laid out to accommodate retail uses. Placement of permanent building elements at the ground level shall be designed to accommodate the broadest possible variety of layouts.</i></p> <p>The <u>Plan for midtown Development</u> anticipates buildings that will have tall largely open retail spaces facing all public streets and the Bayside Trail. Access to upper levels (residential service, elevator, and lobby spaces, and garage entrance/exit gates and ramps) will be concentrated or clustered to provide the maximum of open leasable space within. Egress stairs from upper levels will be driven to non-storefront façades to the extent feasible.</p>	<p><b>midtown</b> offers commercial interior layouts that are flexible and oriented to the sidewalk, mews courtyard, and trail. The residential buildings provide a retail storefront rhythm of 24 feet at its base allowing retailers a flexible module to merchandise their frontage.</p> <p>The garage has a structural bay spacing of 48 feet by 60 feet making it a unique high quality offering for commercial tenants. The vertical floor to floor dimension of the first floor of all buildings will 18 feet, a dimension matching and exceeding commercial market expectations.</p>
Standard E-6	Entrances	<ul style="list-style-type: none"> <li>■ <i>Buildings along public streets shall have their primary entrances oriented to the street.</i></li> </ul> <p>Primary public entrances to the buildings proposed in the <u>Plan for midtown Development</u> will be on Somerset, Pearl, Chestnut, and Elm Streets. A second entrance to the garage will be located nearer the Bayside Trail open spaces.</p>	<p>The primary resident entrance to the <b>midtownOne</b> apartment building will be along the extension of Pearl Street, undercover, near the intersection of the Bayside Trail. A secondary key access entry will be located nearer to Somerset St for resident convenience.</p> <p>The primary resident entrance to the <b>midtownThree</b> apartment building will be along Chestnut Street and the resident entry to the <b>midtownFour</b> apartment building will be along Elm Street.</p> <p>The primary public egress from and access back to the parking levels of the <b>midtownTwo</b> parking garage will</p>



			<p>be at the corner of Chestnut and Somerset Streets.</p> <p>Secondary entrances to both garage and apartment buildings will be located at the Courtyard and along the trail.</p>
Standard E-7	Windows	<ul style="list-style-type: none"> <li>■ <i>Windows appropriate to the overall building style and scaled to overall massing shall be located on all façades visible from public rights of way. First floor visible light transmittance shall not be less than 0.7 and vision glass shall occupy at least 50% of the street frontage from 2 to 9 feet above the sidewalk. Upper floor windows shall likewise transmit at least 0.7 of visible light, and shall constitute 15 to 40 percent of façade surface area.</i></li> </ul> <p>The retail frontage of all buildings in the <u>midtown Development</u> will comply with this requirement. The upper levels of the residential buildings will similarly comply. The garages will not have windows, but will be articulated with a window-like pattern of openings and screening designed to compliment the adjacent residential buildings.</p>	<p>The <b>midtown</b> apartment buildings have windows located on all façades with a ratio of 40% vision glass area. The retail frontage of the buildings between 2 and 9 feet above the floor is 80% vision glass. All vision glass facing public ways and the trail will be clear un-tinted non-reflective low-e coated insulating glass units with a visible light transmittance of over 70%</p>
Standard E-8	Storefronts	<ul style="list-style-type: none"> <li>■ <i>Storefronts shall be designed to accommodate doors at regular intervals to allow for flexibility over time.</i></li> </ul> <p>The retail storefronts of the buildings in the <u>midtown Development</u> will have regularly spaced access door panels at each side of the columns along public streets.</p>	<p>The <b>midtownOne</b> building may have overhead glass doors along Somerset Street, the Mews, and the Courtyard to allow the space to open up when feasible in good weather. Regular side hinged doors will be provided beside each overhead door to allow access and egress when the larger doors are closed.</p> <p>Details of storefronts in the other three buildings are yet</p>

				to be decided, but will feature wide clear storefront glazing and regularly spaced doorways.
Standard E-9	Back Sides of Buildings	<p>□ <i>The back sides of buildings ... along the trail shall incorporate high quality materials, transparency, operable building entrances, and other design features consistent with the primary façades.</i></p> <p>As noted elsewhere, the buildings constituting the <b>midtown Development</b> do not have “back sides” in the traditional sense; all sides of all buildings will be formed of the same palette of high quality materials incorporating a similar range of details and style.</p> <p>A partial waiver is sought on the requirement of having “operable building entrances” on the back portion of the <b>midtownThree</b> due to natural changes in grade and safety concerns.</p>		<b>midtown</b> is characterized as a design without a back. Elevations not facing the street or other public ways or trail are designed to the same high quality standards as those facing streets. Utility meters, exhaust vents and other mechanical appurtenances will be screened from view.
Standard E-10	Rooftop Appurtenances	<p>■ <i>Rooftop appurtenances shall not be visible along or block view corridors or views to specific landmarks.</i></p> <p>Mechanical and other equipment on the residential building roofs in the <b>midtown Development</b> will be screened from view. Screens will be formed of the same palette of materials forming the primary façades of the buildings. Garage rooftop decks will be used for parking and will generally have no roof top appurtenances.</p>		The roof top screen material for the three <b>midtown</b> apartment buildings follows the design logic of each building as a whole with the goal of presenting the “top” of the building as a unified design. The exterior appearance, scale, shape and material choice conforms and is consistent with the rest of the building.
Standard E-11	Fences and Walls	<p>■ <i>Fences and walls along public ways shall be designed of high quality materials appropriate for the locations in which they are shown. Chain-link fences, plastic fences or fences rural in character are not allowed.</i></p> <p>No fences are planned in the <b>midtown Development</b> area.</p>		Walls at changes of grade at the public areas of

		<p>Walls at changes of grade at the public areas will be of durable masonry materials. The required fence at the north side of the raised trail will not be chain link</p>	<p><b>midtown</b> will be of durable masonry materials.</p>
Standard E-12	Materials	<p>□ <i>Façades visible from public rights of way shall consist of natural and authentic building materials that are expected to last 50 years.</i></p> <p>The buildings in the <b>midtown Development</b> will be clad in precast concrete, cement fibre board, patterned and textured architectural metals, and enameled aluminum and glass window and louver systems. All materials will be chosen for durability and long service life.</p> <p>A partial waiver is being sought of Standard E-12 for the use of fiber cement panels for equipment screens above roofs. Fiber cement technology has evolved in recent years with offerings of higher strengths, color and pattern choices that have a handsome, elegant appearance which will compliment the precast and metal façades of the main buildings.</p>	<p>The four buildings of <b>midtown</b> are decidedly modern, expressive of the aspirations and ambitions of today's urban citizen. The material choices are important, and sustain a cohesive, integrated image of the buildings while providing intrinsic differences between each.</p> <p>The <b>midtown</b> apartment buildings have been designed using high quality, durable materials that age and perform well and that are appropriate for a buildings of this low-rise scale.</p> <p>The <b>midtownTwo</b> garage building has been designed to be built of precast concrete structural and architectural cladding elements with detailing and accents in architectural metals consistent with the materials used elsewhere in the development and in the district.</p>
Standard E-13	Transparency	<p>■ <i>Windows shall use untinted or lightly tinted glass.</i></p> <p>The buildings in the <b>midtown Development</b> will use clear vision glass with high visible light transmittance for windows facing the street, trail, and other public ways.</p>	<p>As noted in standard E-7, the <b>midtown</b> apartment buildings will comply in that all windows facing public ways will be clear glass. The <b>midtownTwo</b> garage building has windows only in the retail storefront. These will also be clear glass. However, there are areas of storefront, particularly where the garage ramp rises along the Bayside Trail façade, in which opaque spandrel</p>

			glass will be employed to hide the sloped structure behind while maintaining the orthogonal fenestration pattern.
Standard E-14	Illumination	<ul style="list-style-type: none"> <li>■ <i>Prominent façades shall be lit by carefully designed downwash systems consistent with the City's Revised Lighting Standards for Architectural Up-lighting and Standard B-12</i></li> </ul> <p>The <u>Plan for midtown Development</u> may incorporate carefully designed façade lighting of appropriate color and intensity consistent with garage and residential buildings.</p>	Architectural façade lighting at <b>midtown</b> will be confined to the garage façades, the retail façades, and the top unoccupied portion of the apartment buildings.
Standard E-15	Weather Protection	<ul style="list-style-type: none"> <li>■ <i>Pedestrian sidewalks and walkways shall include weather protection at entrances appropriate for retail environment use.</i></li> </ul> <p>The <u>Plan for midtown Development</u> will provide awnings along retail frontages and entrances on Somerset, Chestnut, Pearl, and Elm Streets.</p>	<p>The Somerset Street frontage of the <b>midtownOne, Two and Three</b> buildings will have awnings at the storefronts to provide weather protection.</p> <p>The apartment entrances on Pearl, Chestnut, and Elm Streets will be provided with a glass and aluminum canopies for protection.</p> <p>As there will be no doors to the open stairways, the garage auto entries will have small glass and aluminum canopies more to mark the entry point on the façade and support signage than to provide weather protection.</p>
Standard E-16	Signage	<ul style="list-style-type: none"> <li>■ <i>Signage should be related to and an integral part of the design of a building, composed of new materials; lighting techniques, and graphic images shall be allowed where it will not have a detrimental effect on the pedestrian</i></li> </ul>	

			<p><i>environment and character of surrounding buildings.</i></p> <p>The Final Level III Site Plan for the <b>midtown Development</b> will contain a master signage plan submitted with the site plan approval package. Signage on buildings will be related to and be an integral part of the design they are part of.</p>	<p>The apartment Buildings and the garage of <b>midtown</b> will have building-integrated sign features incorporating graphics, color, and subtle lighting.</p> <p>A Sign Plan will be submitted showing and describing the location of building identity and address signs, and tenant signage. Limits on number and size of individual signs and total area per façade will be noted.</p>
Standard E-17	Historic Buildings	na		
Standard E-18	Sustainable Design	<ul style="list-style-type: none"> <li>■ <i>Property that is conveyed by the City shall be developed in a manner that is certifiable according to the current relevant standards for building and neighborhood development of the USGBC's LEED program.</i></li> </ul> <p>The <b>midtown Development</b> will consist of buildings designed to meet LEED-NC requirements. These buildings, if registered, supervised, inspected, and administered correctly, and if built according to design, should be able to achieve certification.</p>	<p>A LEED checklist will be provided for each <b>midtown</b> apartment building showing how it would be able to achieve the necessary prerequisites and credits to achieve Certification</p>	
Standard E-19	Shadows	<ul style="list-style-type: none"> <li>□ <i>New development shall not increase the area of the Bayside trail in shadow by more than ten percent during the period from March 21 to September 21</i></li> </ul> <p>A waiver is sought on this Standard E-19 for the buildings of the <b>midtown Development</b>. No buildings currently shade the Trail which lies to the north of the proposed buildings, therefore any building would cast shadow substantially in excess of the area currently shadowed.</p>	<p>An analysis showing the shadows at 9:00, 12:00 and 3:00 on the solstices and equinoxes will be prepared for <b>midtown</b> to show the extent and duration of shadows on the Bayside Trail and indicate the shadow in each instance which is in excess of a building 65 ft tall built at the property line. This analysis will provide commentary</p>	

		<p>The B-7 Zone is exempt from the requirements of Section 11 of the city's technical manual.</p>	<p>on any change to the usefulness of the Trail as a result of the new shade.</p>
Standard E-20	Wind	<ul style="list-style-type: none"> <li>■ <i>Consideration of wind impact relating to new construction shall establish and maintain a comfortable pedestrian environment.</i></li> </ul> <p>As the buildings are all substantially lower than the limits of height prescribed for the project area, and are consistent with the height of other recent developments in the district that have not experienced uncomfortable winds, the proponent seeks clarification that a detailed professional wind study will not be required for Final Level III Site Plan review</p>	<p>Initial assessment of windroses and anecdotal reports suggest that winter winds from the North and Northwest might cause probable discomfort for sitting activities in the Courtyard if <b>midtownOne</b> were built to 165 feet tall. The building is proposed at 72 feet however, and the effects of wind would be attenuated substantially. It is therefore highly probable that users seated in the courtyard would find these winter winds uncomfortable.</p> <p>Summer winds from the South will be tempered by topography and existing construction south of the project site. The tendency for the south wind to concentrate in the Mews will be mitigated by the openness of the garage.</p> <p>Other uncomfortable winds previously predicted for walking at the Elm St end of the trail, predicated on a pair of 165 ft high buildings, would be similarly attenuated in the proponent's current proposal to build <b>midtownThree</b> and <b>midtownFour</b> as substantially lower 72 ft high buildings. It is highly improbable that pedestrians on the trail, Elm St, or Somerset St in this vicinity would experience any discomfort due to wind while sitting, standing still, walking, or jogging.</p>

## **ATTACHMENT E**

### **SUMMARY OF PROPOSED EASEMENTS, COVENANTS, PUBLIC OR PRIVATE RIGHTS OF WAY, OR OTHER BURDENS ON THE SITE**

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The project site is bisected by the Portland Trail and Chestnut Street. There are numerous easements required for the project. These are depicted graphically on Drawing C-1.2 which is included in the plan set with this Level III Preliminary Site Plan Application. The applicant has the benefit of having recently examined the necessary easements required for a mixed-use project at this site. Although this is a preliminary application, the City and the applicant are well versed in the easements necessary to integrate this project into the fabric of the trail and the public streets in this portion of the Bayside area of Portland.

## ATTACHMENT F

### TECHNICAL CAPACITY AND FINANCIAL CAPACITY

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The applicant has assembled a highly qualified team of professionals to plan, permit, and develop construction documents for the project. The Team is working under the direction of Mr. Jonathan Cox, The Federated Companies as Project Developer.

The Team services will be provided by the following companies and their respective team leaders:

#### CONSULTANT TEAM

<i>Agent</i>	Greg Shinberg, Shinberg Consulting, Inc. 477 Congress Street, Suite 102 Portland, ME 04101 (207) 772-7070 – Work (207) 653-7510 – Cell <a href="mailto:gls@shinbergconsulting.com">gls@shinbergconsulting.com</a>
<i>Civil Engineer</i>	William G. Hoffman, P.E. Fay, Spofford & Thorndike 778 Main Street, Suite 8 South Portland, ME 04106 (207) 775-1121 – Work (207) 879-0896 – Fax (207) 329-9810 – Cell <a href="mailto:whoffman@fstinc.com">whoffman@fstinc.com</a>
<i>Architect</i>	David Hancock AIA LEED CBT Architects 110 Canal Street Boston, MA 02114 (617) 646-5353– Work <a href="mailto:Hancock@cbtarchitects.com">Hancock@cbtarchitects.com</a>
<i>Surveyor</i>	Ellen Brewer Owen Haskell, Inc. 390 US Route 1, Unit 10 Falmouth, Maine 04105 (207) 774-0424 – Work (207) 774-0511 – Fax <a href="mailto:ebrewer@owenhaskell.com">ebrewer@owenhaskell.com</a>
<i>Landscape Architect</i>	Robert Metcalf, RLA Mitchell & Associates 70 Center Street Portland, Maine 04101 (207) 774-4421 <a href="mailto:rmetcalf@mitchellassociates.biz">rmetcalf@mitchellassociates.biz</a>



### **EXPERIENCE OF PROJECT TEAM**

The team of consultants retained by developer has expertise and experience in the design of similar commercial projects. Resumes of key personnel for development team can be provided upon request.

The applicant also has significant experience in the development and management of large commercial projects as evidenced by information provided in this submission's cover letter. A listing of the additional real estate projects for which the Applicant's development team has been involved can be provided upon request.

### **FINANCIAL CAPACITY**

The applicant has the means at its disposal for financing the proposed midtown project. A Financial Capacity letter is included at the end of this attachment.

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# HFF

City of Portland Maine  
City Planning Department  
389 Congress Street  
Portland, ME 04101

May 21, 2013

Re: The Federated Companies LLC financial capacity

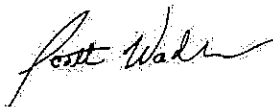
To the representatives of the City Planning Department,

The following memorandum confirms HFF's long standing relationship with The Federated Companies LLC. HFF confirms that The Federated Companies has the financial capacity and relevant experience to acquire financing for Phase I of the 'midtown' project in Portland, ME, the estimated cost of which is +/- \$45M. Our firm has worked closely with The Federated Companies on a number of recent transactions including arranging financing for a variety of multi-housing and retail properties.

HFF is a leading mortgage banker in the U.S. whose extraordinary transaction volume provides the unparalleled capital markets knowledge necessary to develop the creative financing strategies, meeting and exceeding client expectations. Our long established relationships with insurance companies, investment banks, foreign and domestic banks, a Fannie Mae lender, Freddie Mac, and pension funds have allowed us to provide our clients with the most competitive terms and most reliable executions in the market.

Should you have any questions please feel welcome to contact us using the contact information provided below.

Sincerely,



Scott Wadler

HFF | 1450 Brickell Avenue, Suite 2950 | Miami, FL 33131  
tel 305.448.1333 | fax 305.448.9499 | [www.hfflp.com](http://www.hfflp.com)  
[swadler@hfflp.com](mailto:swadler@hfflp.com)

## ATTACHMENT G

### STATE AND FEDERAL PERMIT REQUIREMENTS

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Work in the project area will proceed after the City of Portland confirms environmental remediation plan conducted under the auspices of the State of Maine's Voluntary Remedial Action Plan (VRAP) is complete. The project will need to conform to the VRAP or modify it and secure regulation approval for any deviations.

The project will require an Amended Maine Department of Transportation Traffic Permit and a MeDEP Site Location of Development Permit (including the Stormwater Permit, and Maine General Construction Permit). The City of Portland has delegated review authority for projects which require Site Location of Development Permits from the MeDEP and the Traffic Permit from MDOT.

The project may also require a MeDEP Air Emissions Permit. The Owner's mechanical engineers have not yet developed the projection of BTU's which will be required to support the energy needs of this project. Once the projection of BTU's is made, the need for an air emissions permit can be assessed.

There are no federal permits identified by the City of Portland, the project team, or the owner as being required for the project. Copies of permits from State officials not issued under delegated review will be provided to the City Planning Staff upon receipt.

# ATTACHMENT H

## TRAFFIC ANALYSIS

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A previous traffic study for the property was prepared by The Louis Berger Group, Inc. on April 22, 2013. This traffic study was based upon the proposed use of the site which included:

- 100,000 SF of Retail
- 560 Apartments
- 160 Condominiums

The trip generation for the previous project was estimated to be:

<b>Table 1 – Trip Generation – Previous Traffic Study</b>			
	<b>Entering</b>	<b>Exiting</b>	<b>Total</b>
Weekday AM Peak (7:00 – 9:00 a.m.)	108	208	316
Weekday PM Peak (4:00 – 6:00 p.m.)	209	183	392

For the smaller project associated with this application, the use has been reduced to:

- 87,200 SF of Retail Space
- 440 Apartments

The trip generation for the new project has been computed as follows:

<b>Table 2 – Trip Generation – Current Development</b>			
	<b>Entering</b>	<b>Exiting</b>	<b>Total</b>
Weekday AM Peak (7:00 – 9:00 a.m.)	80	123	203
Weekday PM Peak (4:00 – 6:00 p.m.)	140	135	276

Comparing the uses and the traffic generation show the association with the site plan developed will be less than was previously permitted for the project. The retail will be reduced by about 12,800 SF; the number of apartments will be reduced by 120, and the 160 condominiums will not be part of the new project. Peak hour trip ends generated by this project will be 113 fewer in the AM and 116 fewer in the PM.

A new traffic study will be provided with the Final Level III Site Plan Application and Traffic Permit Amendment Application. The primary purpose of the Traffic Study update will be to determine if the offsite improvements, which must be constructed by Federated, or the financial contribution for future traffic improvements in the Bayside area can be reduced to what is necessary to support the reduced traffic levels. The occupancy of the project will be adjusted in the new traffic study to reflect the later completion of this project as compared to the completion dates contemplated when the April 2013 Traffic Study was completed.

For this initial Level III Preliminary Application, FST recommends the City use the prior study on file at the City of Portland's Planning Office. As noted, a new study will be submitted with the Final Level III Site Plan Application submission.

# ATTACHMENT I

## STORMWATER SUMMARY

---

The new application for the midtown project will use the same water quality treatment and management systems as previously contemplated and approved by the City of Portland except for changes in the midtownThree block that affect stormwater. This narrative discusses the changes to the midtownThree block.

### **PRIOR APPROVALS**

The midtown building roofs in the area between Chestnut Street and Elm Street were split into four quadrants of similar size. Two of the quadrants were from the top parking deck with runoff directed to two courtyards at the rear of the site. Water quality treatment was provided for the parking deck runoff directed to each courtyard as well as the courtyard surface. The other two quadrants made up the midtownTwo and Three building roofs. The roof drains serving these areas were discharged to the drainage system in Somerset Street without treatment. A simple schematic of the quadrants and the treatment strategy in this area is included as one of the figures provided at the end of this narrative.

Quadrants 2 and 3 of the parking deck (representing approximately 50 percent of the area) were to have water quality treatment under the prior design strategy. Quadrants 1 and 4 (the remaining 50± percent of the lot area) were not treated prior to discharge to the existing stormwater infrastructure.

Small areas of the rooftop associated with building step backs along the right of way (see footnote 1 at the end of this narrative) were directed to stormwater treatment systems on Somerset Street.

### **NEW APPLICATION**

The new application will add rooftop surfaces where the two courtyards at the back of the building were located on the previous plan. Quadrants 1 and 4 will receive treatment in areas fronting Somerset Street. Quadrants 2 and 3 will not receive treatment. A schematic shows the new stormwater treatment plan for the midtownThree area and is provided at the end of this narrative.

- The four discharge locations will not change. The difference will be that the area which discharges to the rear of midtownThree (the trailside) will be untreated. Rooftops and the flows from midtownThree that discharge to Somerset Street will receive treatment.
- The rooftop area will be modified such that the physical area tributary to each of the four discharge locations will not change.
- New areas of water quality treatment will be provided to mitigate the loss of the rooftop areas associated with the “step backs” (see footnote 1 at end of narrative).

## FST FINDINGS

- The amended water quality plan for the overall midtown project will treat the same physical area (3.5 acres) as approved for the prior midtown project using the same type and size of water quality treatment systems.
- The discharges from midtownThree will be located at the same four locations and each serve an area sized to exactly match what was previously approved for midtownTwo, parking garage 2, midtownThree, and the two courtyards (these are now consolidated to midtownThree).
- The area receiving water quality treatment will be identical.
- The two treatment systems (Systems B & C) that were in the courtyards will be moved to two locations in front of midtownThree.
- The loss of treatment previously provided to the building step back areas along the public streets will be mitigated (see footnote 1 at the end of this narrative).

## IMPORTANT CONTEXT OF THE REGULATIONS

There have been no changes to the regulatory standards since the prior midtown approvals.

## FST CONCLUSIONS

The modifications outlined above will be implemented in the project to maintain the stormwater provisions and exactly mimic the area which received water quality treatment for the former project (3.50 acres).

The hydrologic flow rates to each of the four discharge locations from midtownThree will be unchanged.

A comparative table is provided below:

<b>SUMMARY OF CHANGES IN WATER QUALITY TREATMENT midtownThree Area</b>				
<b>Quadrant</b>	<b>Previous Area (SF)</b>	<b>Previously Treated Area (SF)</b>	<b>New Area (SF)</b>	<b>New Treated Area</b>
1	16,181.00	0	13,068.00	13,068.00
2	13,068.00	13,068.00	14,630.50	0
3	13,068.00	13,068.00	14,630.50	0
4	14,861.00	0	13,068.00	13,068.00
<b>TOTALS</b>	<b>57,178.00</b>	<b>26,136.00</b>	<b>55,397.00</b>	<b>26,136.00</b>

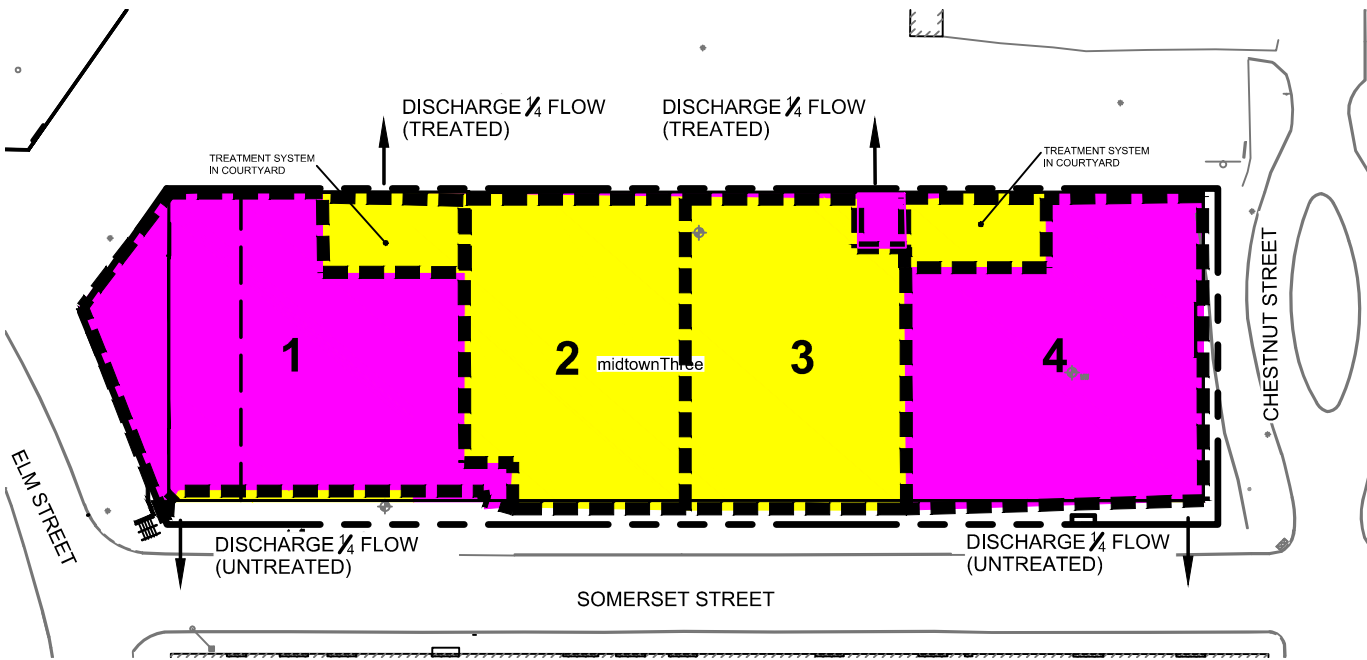


**Footnote 1**

*The previous midtown plan also provided treatment for the step back roofs of the building using systems along Somerset Street. The step back and areas treated were as follows:*

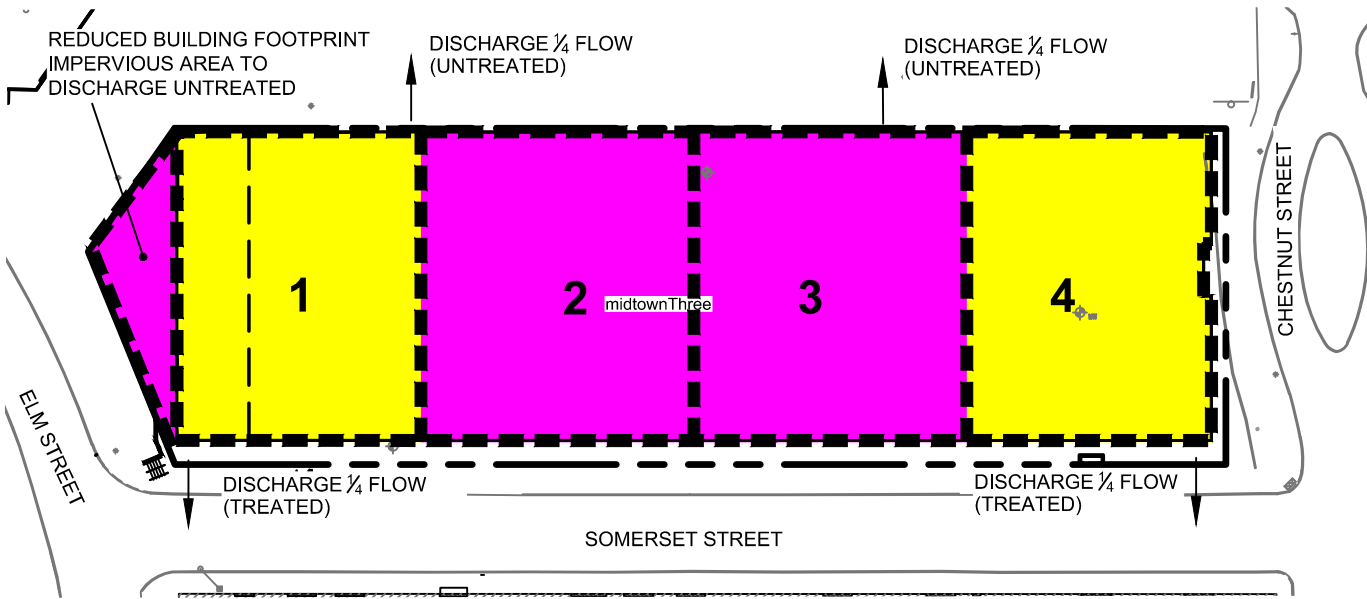
<i>midtown</i>	<i>Approximate Step Back Area Treated (SF)</i>
<i>1</i>	<i>1,700±</i>
<i>2</i>	<i>2,250±</i>
<i>3</i>	<i>1,250</i>
<i>4</i>	<i>0</i>
<i>Parking Garage 1</i>	<i>4,000±</i>
<i>Parking Garage 2</i>	<i>1,600±</i>
<b><i>Total</i></b>	<b><i>10,800</i></b>

*The revised plan will not have the building step backs; these areas were previously treated. To mitigate this loss of treated area, the applicant will increase the area being treated by slightly increasing the size of the rooftop area's drainage to Treatment Systems B & C or by surface grading adjustments to increase areas receiving water quality treatment. The hydrologic shift of drainage area is not anticipated to be significant. This adjustment will be fully vetted before the final Level III Site Plan submission is made.*



**PREVIOUS STRATEGY**

SCALE: 1" = 80'



**REVISED STRATEGY**

SCALE: 1" = 80'

-  TREATED AREA
-  UNTREATED AREA

midtown  
PORTLAND, MAINE

**STORMWATER MANAGEMENT STRATEGY**



**FAY, SPOFFORD & THORNDIKE**  
ENGINEERS • PLANNERS • SCIENTISTS  
778 MAIN ST, SUITE 8, SOUTH PORTLAND, ME 04106

DRAWN: PBF	DATE: 10.17.14
DESIGNED: JP	SCALE: 1" = 80'
CHECKED: WGH	JOB NO. 3062B
FILE NAME: TREATED WATER EXHIBIT	

FIGURE

1

## ATTACHMENT J

### WRITTEN REQUESTS FOR WAIVERS FROM SITE PLAN OR TECHNICAL STANDARDS

---

#### PART 1 –WAIVER REQUEST FOR BUILDING AND B-7 STANDARDS PREPARED BY CBT ARCHITECTS

1. Proponent requests waiver from Standard B-3 requirement to provide mid-block permeability through **midtownThree** block between Chestnut and Elm Streets, connecting Somerset Street to the Bayside Trail.

**midtownThree** provides retail space fronting on Somerset Street which is designed as “through space”, that is, allowing a visual connection through to the Bayside Trail beyond. It is noted that the building opposite this building on Somerset Street has no mid-block connector and the trail adjacent to the building’s north facade is defined by a berm containing stabilized contaminated soil which rises 6 feet above the floor level of the retail space. In addition, there is a fenced parking lot on the north side of the trail. A mid-block connector in this instance would serve no real purpose as there would be no matching connector on the other side of Somerset Street and no pedestrian connection to the trail or properties to the north – that is a connector by itself (even if it could overcome the topographic problem of the berm, would generate no foot traffic as it would not be part of a larger pattern of pedestrian movement.

At such time in the future as these adjacent properties are redeveloped and a strong pedestrian desire to move north-south is established, the retail leasing may respond with a public passage providing additional store frontage – without such strong pedestrian movement, such additional frontage is of no value, and such a passage would be empty, uninviting, and potentially dangerous.

The building design does, however, hold back from the property line at its west end allowing an expanded trail connection to Somerset and Elm Streets with easy and inviting access from Somerset Street.

2. Proponent requests waiver from Standard B-7 requirement to provide continuity of street level uses along Somerset, Chestnut, and Pearl Streets.

A service entrance for the **midtownOne** apartment building and its ground floor retail use is provided on Pearl Street; service entrance for **midtownTwo** retail space is provided adjacent to the garage entrance; service entrance for **midtownThree** retail and residences is provided on Somerset Street, and the service entrance for **midtownFour** is provided on Elm Street.

These service entrance doors will be about seven feet wide, will be designed as an integral part of the modern industrial aesthetic of the buildings, and will be opened only to remove trash and recycling to vehicles parked in designated service spaces.

Service for the ground floor retail use in the Garage building will be provided through the front door(s) of the retail spaces from loading zones along Somerset Street.

Loading dock or service vehicle facilities are not planned for these retail spaces; tenants will provide for trash and recycling facilities within their leased premises.

Retail and apartment lobbies will form more than 90% of street frontages thus assuring the maximum frontage along Somerset, Chestnut, and Pearl Streets. Elm Street is planned to have continuous retail frontage.

3. Proponent requests waiver from Standard B-11 requirement to comply with City's Technical and Design standards for street lighting along Elm, Somerset, Chestnut, and Pearl Streets.

The Plan for **midtown** Development will utilize the standard type fixture for Somerset Street, Elm, Chestnut Street, and Pearl Extension. Location and spacing may need a waiver. As well, higher intensity lighting is appropriate for the retail locations especially along Somerset Street and to create a uniform appearance along the ground floor retail areas of the development which may require a waiver of some requirements.

Pedestrian lighting will be provided by the streetscape lighting noted above together with 'spill' lighting from retail store fronts.

Lighting for the mews and new public opens spaces will be designed to complement these standards.

4. Proponent requests waiver from Standard C-2 requirement to separate vehicular entrance and exit from parking garage.

In the Plan for **midtown** Development, garages will be designed to respect the pedestrian realm and minimize the visual impact of the garage entrance and exit by collocating the garage entrance and exit. These consolidated entry/exits will provide greater uninterrupted active retail use on the ground floor and will require a waiver from the requirement for separate entry/exit.

Entry/egress gates will be located interior to the garages to allow entrance queuing internal to the structure minimizing back up onto Somerset Street.

5. Proponent requests waiver from Standard C-5 requirement that garage decks shall be horizontal where visible from public ways.

The garage decks of the Plan for midtown Development will be level on the Chestnut and Somerset Street and the Mews facades, and will incorporate a parking ramp between parking levels along the Bayside Trail façade. The Plan seeks a waiver to allow these ramps to be expressed to the Trail and visible tangentially from streets and public rights of way.

The **midtownTwo** Parking Garage has been designed with ramps at the Bayside Trail façade supported on sloping structure between horizontal end bays. The end bays will be clad in architectural precast concrete with openings similar in size and spacing to the apartment building windows. The sloped structure between these will be minimized, cable rails will provide for pedestrian and auto safety, and the interior structure will be a dark color, all to minimize visibility of the sloping ramps. The façade will be covered above the retail ground floor with a green screen.

6. Proponent requests a partial waiver from Standard D-2 requirement that buildings adjacent to the trail have active doors into the building on facades facing the trail.

All the **midtown** buildings are designed with façade elements adjacent to the Bayside Trail that enhance the trail experience. As noted above, these facades are not designed as "backs", and they provide the important element of residential windows overlooking the trail. Food service establishments are the planned as part of the retail leasing program for the ground floors of the all buildings. This may provide some entrances and egresses facing the trail.

The partial waiver is sought on the requirement of having “active building ingress and egress” on the portion of **midtownThree** facing the trail because of natural changes in grade. The trail adjacent to the building’s north facade is defined by a berm containing stabilized contaminated soil which rises 6 feet above the floor level of the retail space. It would be impractical to create entrances from the berm, and a hardship to remove it.

7. Proponent requests a waiver from Standard E-19 requirement that proposed buildings not increase shadow more than 10% on the trail.

There are no existing buildings on the site of midtown now, therefore zero shadow. Any building will cast some shadow, any amount divided by zero is infinity and more than 10%. Alternatively, the Proponent will perform a shadow study showing that in aggregate the proposed buildings will not increase shadow more than ten percent when compared to buildings built to 65 ft. at the property line of the site.

8. Proponent requests clarification that a wind study will not be required under Standard E-20, or if required a waiver from such study.

As the buildings are all substantially lower than the limits of height prescribed for the project area, and are consistent with the height of other recent developments in the district that have not experienced uncomfortable winds, the proponent seeks clarification that a detailed professional wind study will not be required for Final Level III Site Plan review

Initial assessment of wind roses and anecdotal reports suggest that winter winds from the North and Northwest might cause probable discomfort for sitting activities in the Courtyard if midtownOne were built to 165 feet tall. The building is proposed at 72 feet however, and the effects of wind would be attenuated substantially. It is therefore highly probable that users seated in the courtyard would find these winter winds uncomfortable.

Summer winds from the South will be tempered by topography and existing construction south of the project site. The tendency for the south wind to concentrate in the Mews will be mitigated by the openness of the garage.

Other uncomfortable winds previously predicted for walking at the Elm Street end of the trail, predicated on a pair of 165 ft. high buildings, would be similarly attenuated in the proponent’s current proposal to build midtownThree and midtownFour as substantially lower 72 ft. high buildings. It is highly improbable that pedestrians on the trail, Elm Street, or Somerset Street in this vicinity would experience any discomfort due to wind while sitting, standing still, walking, or jogging.

## **PART 2 – WAIVER REQUEST FOR CIVIL DESIGN PREPARED BY FST ENGINEERS**

### **9. 1.4 Street Grades (reference page 3 of Technical Standards)**

- *The cross slope for local streets shall be 0.03. The cross slope for other street classifications shall be 0.02.*

The project will require the reconstruction of Somerset Street. The building will be set at elevation 12.0 to be 2 feet above the higher flood hazards anticipated to increase over time. There are existing buildings with finish floors, entrances, and exits at lower elevations. The Federated plan for the midtown project has extensive ground floor retail which requires flush accessible entrances. On the other hand, there are existing buildings across the street (most notably the “Noyes” property with existing floors and entrance elevations which will not be change. Because the buildings on either side of the street are near or on the right of way, some variation from transverse slopes and location of the street crown from the City’s typical cross section within the street right of way will be required.

**10. 1.5 Vertical Alignment: Parabolas at grade changes (K values) (Reference Pages 3 & 4 of the Technical Standards)**

The profiles for the reconstruction of Chestnut, Somerset, Elm and Pearl Streets will be provided with the final application. Minor variations from the City Standards for the “K” values (30 and 40 for crests and sags) will be requested.

It is anticipated, the variation of the K value for the sags on Chestnut Street is expected to have a “K” value of 37.50 and Elm Street is expected to have a value of 39.89.

**11. Section 2 – Sanitary Sewer and Storm Drain Design Standards**

*2.7.8. No storm drain lines, with the exception of field inlets and underdrains, shall be connected into a catch basin structure (Reference Page 82 of the Technical Standards)*

Representatives from the City of Portland have indicated the technical standards are being revised and will remove this restriction. If the standards are revised soon, this waiver will not be required. The waiver is very important to avoid excessive piping and appurtenances in the public streets.

**12. Section 5**

*Portland Stormwater Management Standards and MaineDEP Chapter 500 Stormwater Management (Reference Page 149; Section E. 2 6 of this Chapter of the Technical Standards)*

The requirements include stormwater detention for flood control. The applicant is requesting a waiver to the requirement for detention as part of the Stormwater Management Plan. The location of the site within the watershed results in a condition where passing flow from this area as soon as possible allows capacity to free up to receive and convey flows from upstream areas.

**13. Section 7**

*Soil Survey Standards (Reference Page 209 of the Technical Standards)*

The applicant is requesting a waiver from the City of Portland’s requirement to provide a high intensity soil survey. This request is made after considering that the site is on fill land, the site has been heavily disturbed as part of environmental cleanup measures over the past several years, the site will be nearly impervious after development such that hydrologic soils rating is not a significant issue.

**PART 3 – WAIVER REQUEST FOR LANDSCAPING AND LANDSCAPE PRESERVATION  
PREPARED BY MITCHELL & ASSOCIATES**

**14. 4.6 Street Trees:**

*The applicant is requesting a waiver of the requirement for providing one street tree per residential unit. The maximum number of units proposed for “midtown One” three and four is 440 units. A total of 100 trees are being provided along Elm Street, Chestnut Street, Somerset Street, Pearl Street and along the Bayside Trail. The request is based upon the enhanced planting method that includes 4 FT x 8 FT raised (granite curb) planting beds and a structural planting system below grade that provides for an expanded root zone that is approximately 60 % larger than typical street tree planting area. There will be 30 locations where this condition occurs.*

## **B7 MIXED USE URBAN DISTRICT DESIGN PRINCIPALS AND STANDARDS**

### **PRINCIPAL D OPEN SPACE AND PUBLIC REALM**

#### **15. Standard D-3 Landscaping and Street Furniture:**

***Planters, wells and tree grates:** The applicant is requesting a waiver for raised planting beds associated with the ramp system located within the right of way that occur along the Somerset Street sidewalk adjacent to Pearl Street extension and Elm Street as designed.*

***Irrigation and Drainage:** The applicant is requesting a waiver of the requirement for an irrigation system. All plant material selected shall conform the city standards, be selected for drought tolerance in addition, will be located in larger raised planting areas.*

## ATTACHMENT K

### PRELIMINARY BUILDING CODE REVIEW

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The proposed project consists of 4 buildings: a seven story parking garage consisting of six tiers of parking above a one story retail use, and 3 apartment buildings consisting of five stories or residential development over one story retail use. The buildings do not have basements.

The Garage will be a high-rise structure approximately 92 feet high to top parking tier, “Open Parking Garage” (S-2 per IBC, and Storage Use per NFPA); it will be naturally ventilated, unheated, and provided with standpipes in its two open stairwells. The ground floor level will be “Mercantile” use per both IBC and NFPA; the retail space will be provided with an NFPA 13 wet sprinkler system. Building will be designed as type IIB construction; the garage is allowed to be eight tiers in height.

The Apartment buildings will be low-rise structures “Multi-family Residential” and “Mercantile” (R-2 and M per IBC) and “Apartment Building” and “Mercantile” per NFPA. They will be enclosed, heated, and mechanically ventilated. These buildings will be designed as type IIIB construction for the apartment floors and type 1A for the ground floors. Height and area are modified by the following IBC code sections:

Section 504.2 allows one additional floor and 20 ft. height addition where the structure is protected throughout with an NFPA sprinkler and standpipe system; and

Section 509.2 allows treatment of a structure as two buildings where a vertical separation between the buildings has a three hour rating, the lower building is a mercantile use in type 1A construction, the upper use is residential, the structure is protected throughout with an NFPA 13 compliant sprinkler and standpipe system, and the total height is not greater than the height of the most restrictive use/construction type combination.

These residential buildings are therefore allowed to be six stories high (one retail plus five residential levels) and 75 feet high (55 plus 20 feet).

All buildings will have fire department hose connections located and sized as required by NFPA. A more detailed code analysis will be provided with the Final Site Plan Application.

PREPARED BY CBT ARCHITECTS



## ATTACHMENT L

### ARCHITECTURAL GRAPHICS

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- A 1 Site Perspective View
- A 2 midtownOne Ground Floor Plan
- A 3 midtownOne Typical Floor Plan
- A 4 midtownOne North Elevation
- A 5 midtownOne South Elevation
- A 6 midtownOne East Elevation
- A 7 midtownOne West Elevation
- A 8 midtownOne Perspective View
- A 9 midtownTwo Ground Floor Plan
- A 10 midtownTwo Typical Floor Plan
- A 11 midtownTwo North Elevation
- A 12 midtownTwo South Elevation
- A 13 midtownTwo East Elevation
- A 14 midtownTwo West Elevation
- A 15 midtownTwo Perspective View
- A 16 midtownThree ground Floor Plan
- A 17 midtownThree Typical Floor Plan
- A 18 midtownThree North Elevation
- A 19 midtownThree South Elevation
- A 20 midtownThree East Elevation
- A 21 midtownThree West Elevation
- A 22 midtownThree Perspective View
- A 23 midtown Four Ground Floor Plan
- A 24 midtown Four Typical Floor Plan
- A 25 midtown Four North Elevation
- A 26 midtown Four South Elevation
- A 27 midtown Four East Elevation
- A 28 midtown Four West Elevation
- A 29 midtown Four Perspective View

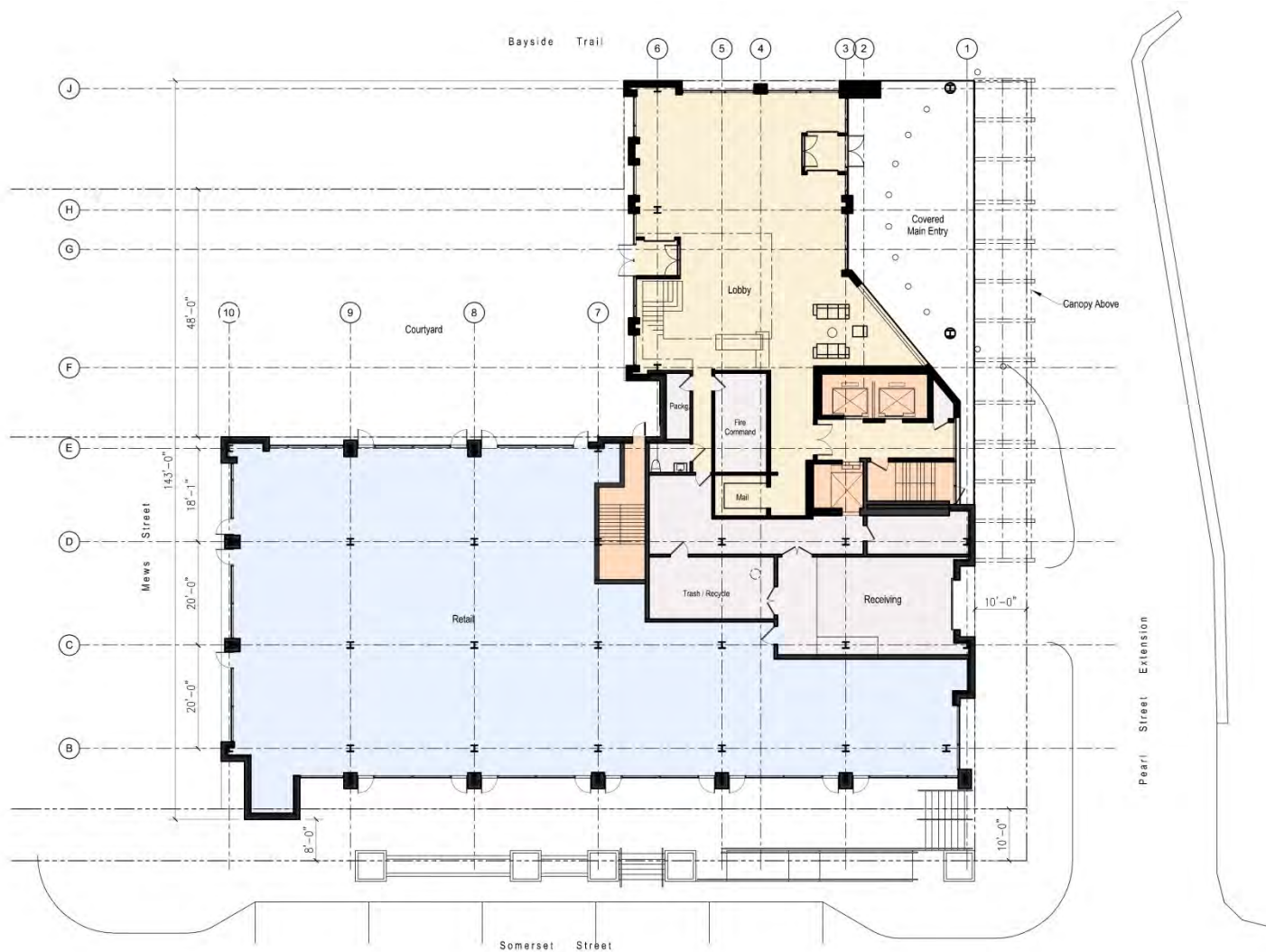


**midtown**  
Portland, ME

Site perspective view

**A1** 16 October 2014 cbt







**midtown**  
Portland, ME

midtown One typical floor plan

**A3** 16 October 2014 cbt





**midtown**  
Portland, ME

midtown One south elevation

A4 16 October 2014 cbt





**midtown**  
Portland, ME

midtown One north elevation

**A5** 16 October 2014 cbt





**midtown**  
Portland, ME

midtown One east elevation

**A6** 16 October 2014 cbt





**midtown**  
Portland, ME

midtown One west elevation

**A7** 16 October 2014 cbt





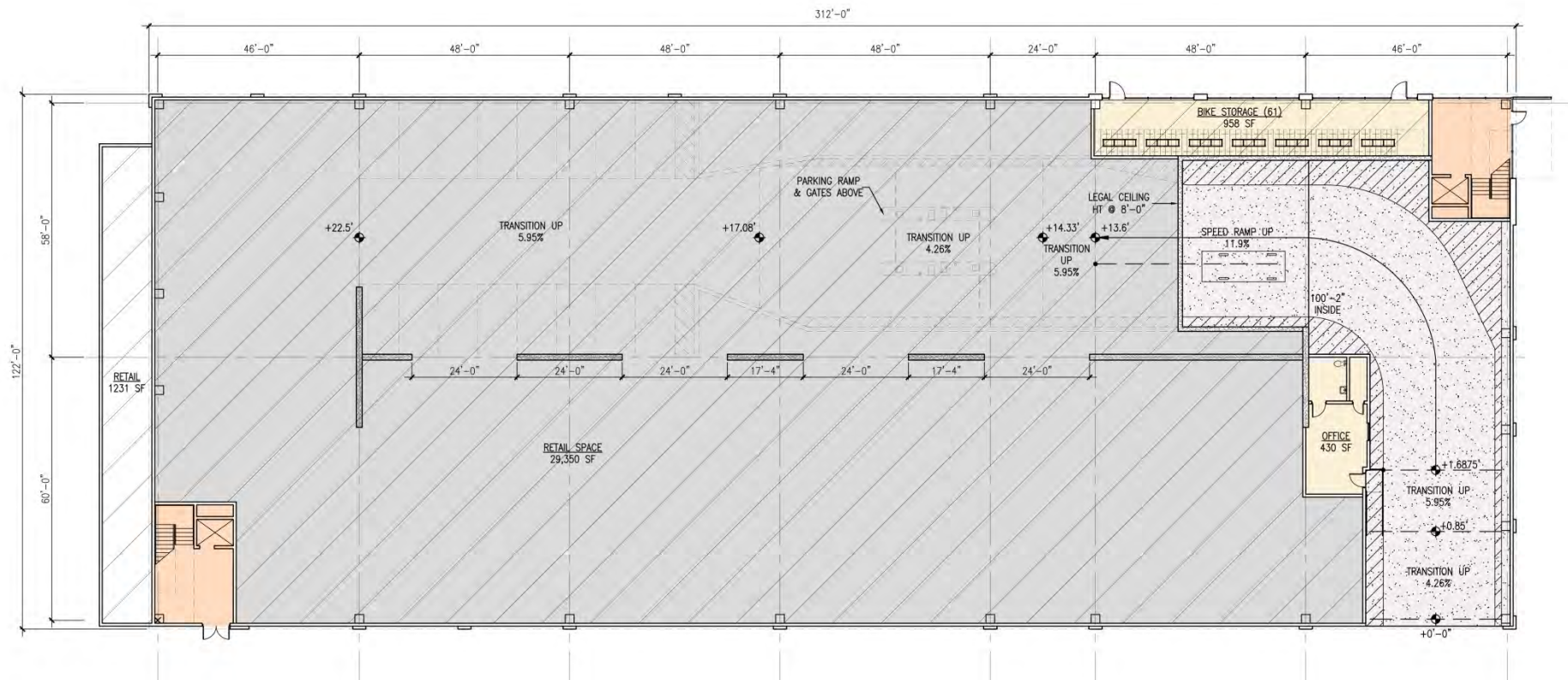


**midtown**  
Portland, ME

midtown One perspective view

**A8** 16 October 2014 cbt







**midtown**  
Portland, ME

midtown Two south elevation

**A10** 16 October 2014 cbt





**midtown**  
Portland, ME

midtown Two north elevation

**A11** 16 October 2014 cbt





**midtown**  
Portland, ME

midtown Two east elevation

**A12** 16 October 2014 cbt





**midtown**  
Portland, ME

midtown Two west elevation

**A13**

16 October 2014 cbt



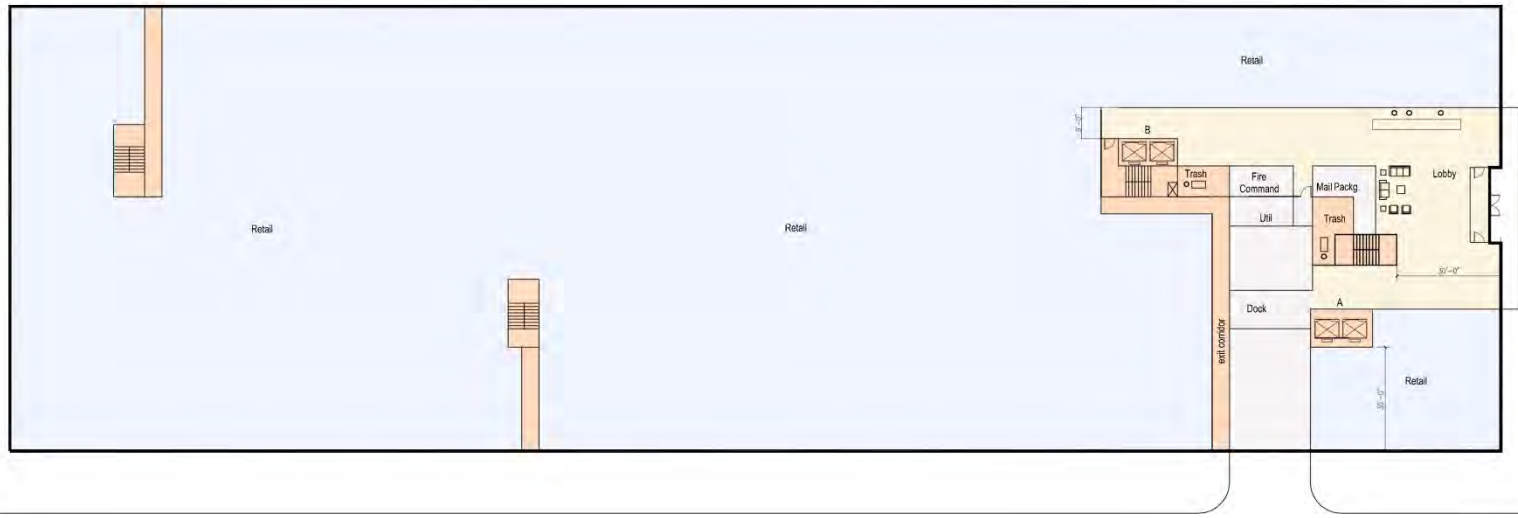


**midtown**  
Portland, ME

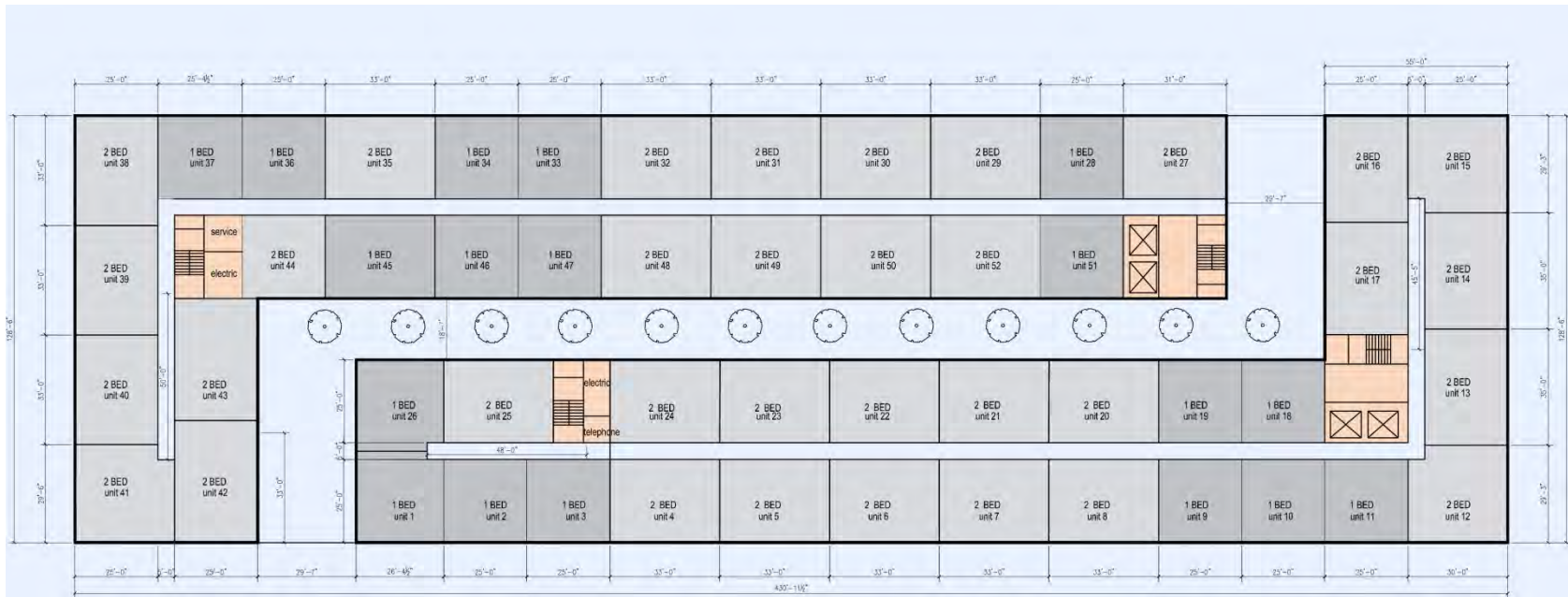
midtown Two perspective view

**A14** 16 October 2014 cbt











**midtown**  
Portland, ME

midtown Three south elevation

**A17**

16 October 2014 **cbt**





**midtown**  
Portland, ME

midtown Three north elevation

**A18** 16 October 2014 cbt





**midtown**  
Portland, ME

midtown Three east elevation

**A19**

16 October 2014 **cbt**





**midtown**  
Portland, ME

midtown Three west elevation

**A20**

16 October 2014 **cbt**





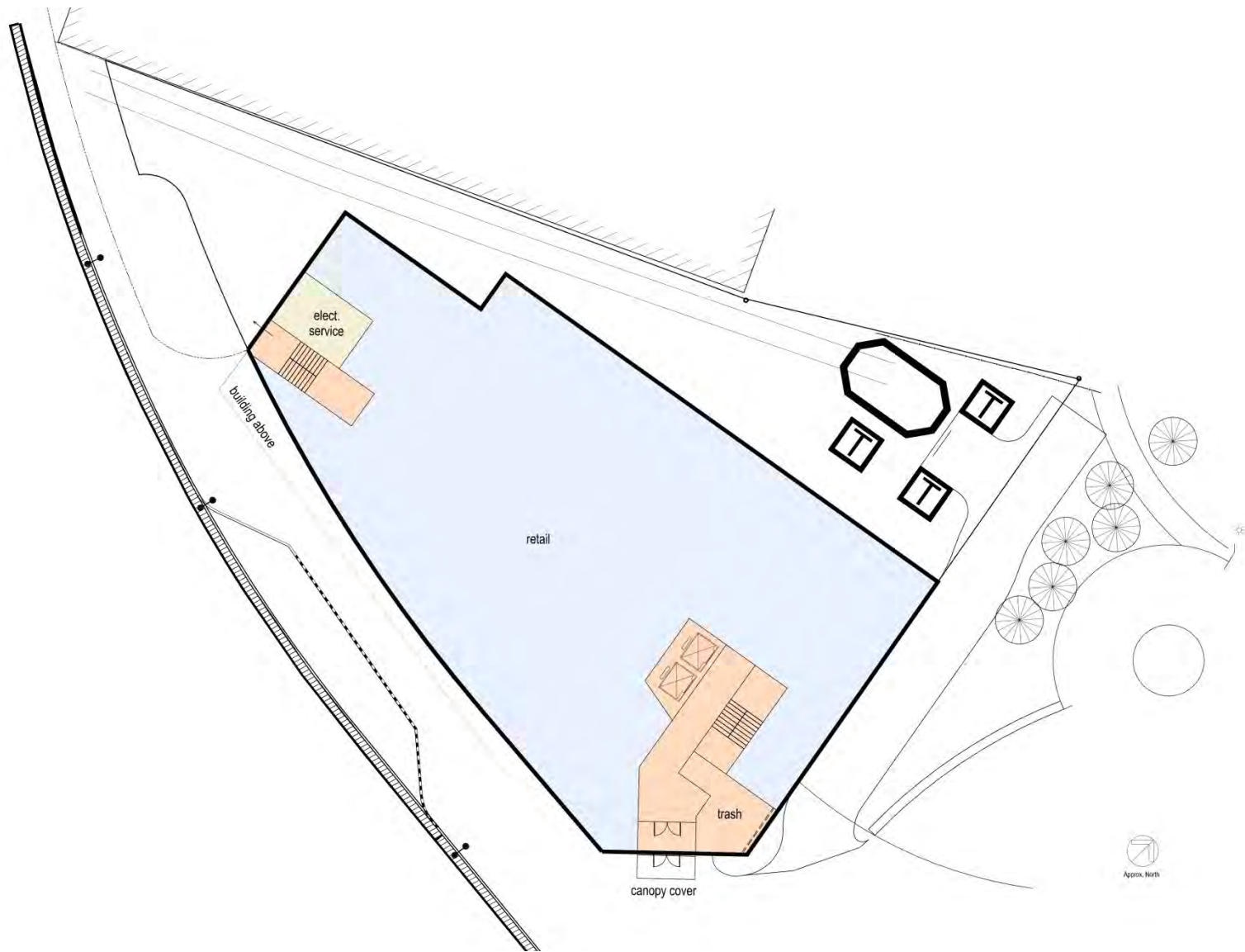
**midtown**  
Portland, ME

midtown Three perspective view

**A21**

16 October 2014 cbt











**midtown**  
Portland, ME

midtown Four south elevation

**A24**

16 October 2014 cbt





**midtown**  
Portland, ME

midtown Four north elevation

**A25**

16 October 2014 cbt





**midtown**  
Portland, ME

midtown Four east elevation

**A26**

16 October 2014 cbt





**midtown**  
Portland, ME

midtown Four west elevation

**A27**

16 October 2014 cbt





**midtown**  
Portland, ME

midtown Four perspective view

**A28** 16 October 2014 cbt

