

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this 19th day of Oct., 2017 by and between the CITY OF PORTLAND, a body politic and corporate located in Cumberland County, Maine, (hereinafter referred to as "Seller" or "City"), and BARRETT MADE, a Maine business corporation having a mailing address of 48 Union Wharf, Portland, ME 04101 (hereinafter referred to as "Buyer").

RECITALS

WHEREAS, the CITY is the owner of approximately 0.46 acres of land with buildings thereon at 65 Hanover Street and 52 Alder Street, Portland, Maine as generally depicted on the plan attached hereto as Exhibit A (the "Premises") and incorporated herein; and

WHEREAS, Buyer desires to purchase the Premises, and the City desires to convey the Premises to Buyer, subject to all easements of record and any other existing easements burdening the Premises.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. **SALE.** City agrees to sell the Premises to Buyer, and Buyer agrees to purchase the Premises in accordance with the terms and conditions set forth in this Agreement.
2. **CONSIDERATION.** The purchase price for the Premises shall be One Million One Hundred Thousand Dollars (\$1,100,000) (the "Purchase Price"), subject to the following cost adjustments and conditions:
 - a. Buyer shall deposit in the sum of Ten Thousand Dollars (\$10,000.00) (the "Deposit") within 3 business days after the full execution of this Agreement that the parties agree will be held in escrow as of the date of this Agreement, in a non-interest bearing account with CBRE | The Boulos Company; the Deposit shall be fully refundable until the end of the Due Diligence Period and the Financing Period as both are described herein; after both such Periods, the Deposit shall be non-refundable; and
 - b. The Buyer shall pay the remainder of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.
3. **TITLE AND DUE DILIGENCE.**
 - a. **Due Diligence Period.** Buyer will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is forty-five (45) days after the date of this Agreement (the "Due Diligence Period"), unless otherwise provided herein, to complete any survey, environmental review and title examinations.

- b. Property Description. The property description contained in the deed will be a survey description based upon a survey plan (the “Premises”), to be provided by the City, that will more specifically describe the property shown on Exhibit A hereto. The Premises will be distributed to the parties hereto prior to expiration of the Due Diligence Period and the parties will agree on the property description prior to closing. The Due Diligence Period shall be extended in the event that the survey plan is not completed by the end of the Due Diligence Period and Buyer is afforded reasonable time to review the plan and make any title objections as provided below.
- c. Financing Contingency. Buyer shall have forty-five (45) days after the end of the Due Diligence Period (the “Financing Period”) to obtain commercially reasonable financing, and shall take timely and commercially reasonable steps to secure such financing.
- d. Title and Survey Objections. Buyer will have until the end of the Due Diligence Period, unless otherwise extended as provided for herein, to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified herein) that materially affect marketability or use. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing. City shall provide a copy of a Phase II environmental study completed on the Property and should the results of any such study be provided on or after the Due Diligence Period, Buyer shall be afforded reasonable time to review the results and make any objections as provided for herein.
- e. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have sixty (60) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer’s reasonable satisfaction, Buyer will have the option to (1) terminate this Agreement and obtain a refund of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement), (2) waive the objection and close, or (3) undertake the cure of such objection at its own expense (in which case it shall have 60 days to do so).
- f. Deed. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good and insurable title, free and clear of all encumbrances except (i) easements described herein; (ii) easements for utilities servicing the property, (ii) City ordinances, and (iii) real estate taxes not yet due and payable. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property

situated on the Premises had such property remained taxable. Such 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. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such 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.

4. BUYER'S INSPECTIONS.

- a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, in its sole discretion, to be required to determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.
- b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.
- c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.
- d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and general public liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.

- e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.
- f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then the City shall refund to Buyer the Deposit, if previously paid, without interest, within thirty (30) days after receipt of Buyer's termination notice, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Property is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.
6. **DEFAULT AND REMEDIES.** In the event that Buyer defaults hereunder for a reason other than the default of the City, City shall retain the deposit as its sole remedy. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance, but at all times may elect in substitution therefor, as its sole remedy, the right to a return of its deposit.
7. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement and receive a refund of the Deposit without interest, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.
8. **PROPERTY SOLD "AS IS, WHERE IS."** Buyer acknowledges that Buyer has had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents,

make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the Deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.

- 9. ENVIRONMENTAL INDEMNIFICATION.** Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.
- 10. CLOSING.** Time is of the essence in the performance of this agreement. The closing shall be held at the offices of Buyer's counsel at a time agreeable to the parties on or before the day that is five months after the date of this Agreement (the "Closing Date"). At the Closing:
- a. City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and insurable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein.
 - b. Buyer shall deliver the balance of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City); and
 - c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.
 - d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals acting to Closing and executing documents on behalf of Buyer are authorized to do so.

11. BUYER'S POST CLOSING OBLIGATIONS; ESCROW AGREEMENT.

Buyer agrees as follows:

- a. Buyer agrees at Closing to deposit \$50,000 to be held in escrow pursuant to an escrow agreement in form mutually acceptable to Buyer and City with a mutually acceptable escrow agent.
- b. Buyer agrees to commence development of the residential project described as "Phase 2" and generally depicted in the plans that are attached hereto as Exhibit B and incorporated herein by reference, and which project was presented to the City's Economic Development Committee on July 19, 2017, and which shall specifically include at least twenty-five dwelling units affordable to low and moderate income households (the "Residential Project") within twelve (12) months after closing, unless the Buyer and City agree upon a revised plan due to unknown factors and economic feasibility. Buyer's commencement of Residential Project development shall be effected by Buyer or its successors, assigns, or transferees submitting a site plan review application (an "Application") for the Project within 12 months after the Closing under this Agreement.
- c. Buyer agrees to commence development of a commercial project at the Premises in substantially the form depicted on the plans that are attached hereto as Exhibit B and incorporated herein by reference, and which project was presented to the City's Economic Development Committee on July 19, 2017 (the "Commercial Project"), within twelve (12) months after closing. Buyer's commencement of the Commercial Project shall be effected by Buyer or its successors, assigns, or transferees submitting an Application for the Commercial Project within 12 months after the Closing under this Agreement.
- d. If Buyer does not submit Applications for the Commercial Project and the Residential Project (including any modifications as described above) within one (1) year of Closing under this Agreement, then \$10,000.00 shall be released from escrow to the City's Housing Trust Fund, and until both Applications have been filed, an additional \$10,000.00 shall be released from escrow to the City's Housing Trust Fund each ninety (90) days thereafter.
 - a. Additionally, Buyer shall commence construction of the Residential Project and the Commercial Project by the later of the date that is thirty-six (36) months after Closing under this Agreement or one hundred eighty (180) days after final approval of the Projects (including, without limitation, final decisions in all applicable municipal or judicial proceedings) and the expiration of all applicable appeal periods (the "Construction Start Date"). Buyer agrees to diligently pursue all approvals for both Projects. If Buyer fails to commence construction of the Residential Project and the Commercial Project by the later of the Construction Start Date, then \$10,000 shall be released from escrow and to the City's Housing Trust Fund, and until construction on both Projects is commenced, an additional \$10,000 each ninety (90) days thereafter. If no Closing takes place under this Agreement, the Buyer shall not be required to fund the escrow account nor make any payment. Within 30 days after the commencement of construction of both Projects, the remaining balance of the Escrow

Account shall be released to Buyer. Notwithstanding anything to the contrary above, in the event that Buyer fails to commence construction of both Projects within 5 years from the Closing Date, the entire remaining balance of the Escrow Account shall be released to the City's Housing Trust Fund.

- b. The provisions of this section shall survive closing.

- 12. **ENTIRE AGREEMENT.** This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.
- 13. **NON-WAIVER.** No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.
- 14. **HEADINGS AND CAPTIONS.** The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.
- 15. **BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.
- 16. **TIME.** The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.
- 17. **GOVERNING LAW.** This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.
- 18. **NOTICE.** All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR THE City: City of Portland
ATTN: City MANAGER
389 Congress Street
Portland, ME 04101

With a copy to: The Office of the Corporation Counsel at the same address.

FOR Buyer: Barrett Made
ATTN: Rob Barrett
48 Union Wharf
Portland, ME 0410

With a copy to: Adam S. Taylor, Esq.
30 Milk Street, 5th Floor
Portland, ME 04101

19. SIGNATURES; MULTIPLE COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

20. BROKERS. City shall pay CBRE | The Boulos Company at closing a brokerage commission equal to five percent (5%) of the Purchase Price at closing to be split evenly with Porta & Company (Buyers broker). The CITY and Buyer each represent and warrant that they have not dealt with a real estate broker in connection with this transaction other than CBRE | The Boulos Company and Porta & Company. Buyer agrees to indemnify and hold harmless City from any claims made by any broker should Buyer's representation in this paragraph be false. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to indemnify and hold harmless Buyer from any claims made by any broker should City's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

21. RECITALS INCORPORATED BY REFERENCE. The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

(Signature page follows.)

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on their behalf by their duly authorized officers or representatives as of the day and year first written above.

Sonia Barron
WITNESS

[Signature]
WITNESS

City OF PORTLAND

J.P.J. - J
Jon P. Jennings
Its City Manager

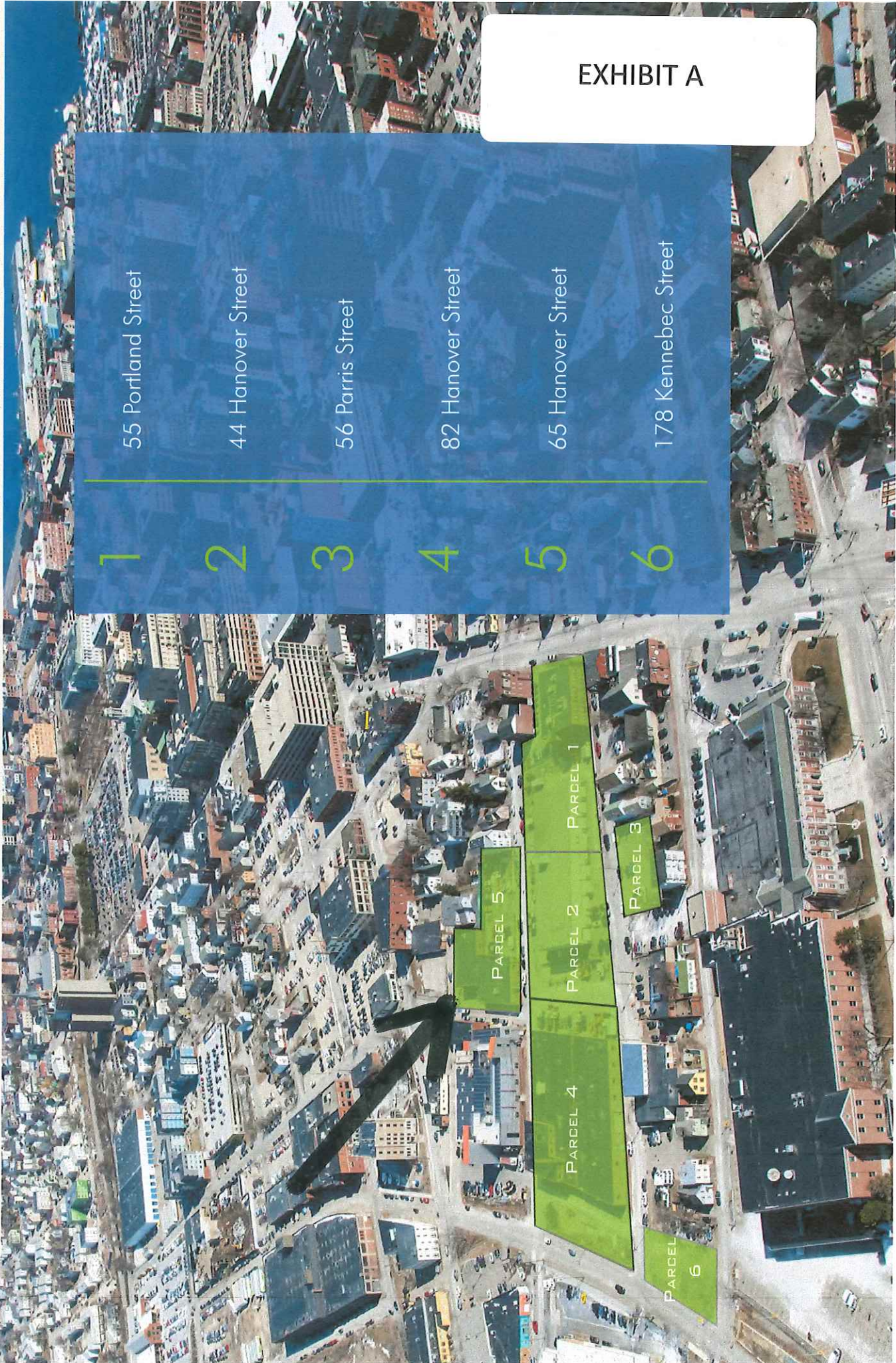
BARRETT MADE

[Signature]
Printed Name: Rob Barrett
Its President

Approved as to Form:

[Signature]
Corporation Counsel's Office

Parcel Map



1

55 Portland Street

2

44 Hanover Street

3

56 Parris Street

4

82 Hanover Street

5

65 Hanover Street

6

178 Kennebec Street

EXHIBIT A

EXHIBIT B



65 HANOVER STREET PORTLAND, MAINE
PROPOSAL

PREPARED 2017.5.12

PROPOSAL FOR 65 HANOVER STREET

May 12, 2017

Re: Offer and Proposed use for 65 Hanover St. in Portland.

Barrett Made was founded in 2015 by Rob Barrett, a Portland native who grew up in Portland's East Deering neighborhood, attended Portland Public Schools and received a bachelors degree from USM. Rob started Barrett Made to provide a customer focused approach to building and design. With a diverse business model catering to a range of clients and projects, strong local ties, connections and a talented staff, Barrett Made has quickly become a household name in Greater Portland. Our current office on Union Wharf in Portland's Old Port was leased because of its central location and authentic feel, but after a year the space is too small to accommodate a rapidly growing company. Rob has been searching for a Portland location to move his business, build equity in and enact plans that will create a lasting and positive impact on the Portland community. The building at 65 Hanover Street is the perfect fit.

Below is a brief description of our proposed use of the building and phases for the renovations. There is also an attached floor plan and renderings for reference:

Phase 1

Barrett Made Offices and Work Shop - At Barrett Made we pride ourselves on collaborating with local businesses and crafts people. Our office and workshop will expand on this and be an accessible and inspiring place for us to work and for local schools (future builders!) and groups to visit.

4 City Shop Spaces - Full workshop and office combination spaces for people looking to grow their business and be located near creative like minded people. We envision metal workers, potters, painters and others.

1 Maker's Space A 20-bench open space for people who are looking to start something new or explore a hobby further in a more professional studio-like setting. This will have 24hr access through a check-in area and space to display ideas and products.

Improve the exterior of the Building Add green space and solar panels for a net zero building which will help offset utility costs for the tenants and makers.

Phase 2

25 Unit Apartment Building - We all know there is a housing shortage in Portland and my aim is to provide affordable, modern, and central housing for lower to middle income people. We see this is being a vibrant and "cool" place to live.

My goal is to make this a creative hub and an exciting addition to the City. It will provide a place for a community of people to expand on their interests, learn from their peers, and be exposed to opportunities all under the same roof. This would be a highly beneficial and positive endeavor for myself, my business, many Portlanders and the City of Portland.

Thank You For Your Consideration,

Rob Barrett
Owner, Barrett Made



EXISTING VIEW FROM ALDER STREET



PROPOSED VIEW FROM ALDER STREET



PROPOSED AERIAL VIEW FROM ALDER STREET

PROPOSED FLOOR PLAN DIAGRAM



| | |
|-----------------------------|-----------------|
| EXISTING PARKING AREA | 14,100 SF |
| MAKER SPACE | 1,250 SF |
| 'CITY SHOP' SPACES | 875 SF/PER UNIT |
| BARRETT MADE SHOP SPACE | 4,300 SF |
| BARRETT MADE OFFICES/STUDIO | 2,950 SF |



PROPOSED AERIAL VIEW FROM ALDER STREET | PHASE 2