



September 30, 2015

Mr. Patrick L. Ducas  
415 Cumberland Avenue, LLC  
PO Box 402  
Portland, ME 04112

Dear Mr. Ducas:

Gorham Savings Bank (hereinafter referred to as the "Bank") is pleased to provide to 415 Cumberland Avenue, LLC (hereinafter referred to as the "Borrower") a commercial loan commitment of one million five hundred thirty four thousand two hundred seventy seven dollars (\$1,534,277.00) under the terms and conditions provided in this letter, in addition to all other requirements more fully described in the loan documents.

**Borrower:** 415 Cumberland Avenue, LLC

**Amount:** [REDACTED]

**Type:** Commercial Mortgage / Construction Loan

**Purpose:** To fund a portion of the purchase price of real estate located at 415 Cumberland Avenue in Portland, Maine and to provide funds for renovations.

**Repayment**

**Schedule:** Interest-only payments will be due monthly for two (2) years followed by principal and interest payments for eight (8) years based on a twenty five (25) year amortization.

**Maturity:** Ten (10) years

**Interest**

**Rate:** Interest accruing on the loan will fluctuate for one (1) year in accordance with the National Prime Rate as published daily in the *Wall Street Journal* (hereinafter referred to as the "Base Rate"), which is currently three and one quarter percent (3.25%). The effective rate as of today is three and one quarter percent (3.25%). The interest rate shall be adjusted daily in accordance with the Base Rate.

Thereafter for the remaining nine (9) years, interest accruing on the loan will be fixed at two and three quarters percent [REDACTED] over the PNC Swap Rate. If fixed today, the effective rate would be [REDACTED] and [REDACTED] percent [REDACTED].

Installments of principal and interest may be adjusted at any time interest rates are adjusted in accordance with the then applicable interest rate, the principal balance then due, and the standard amortization schedule in order to provide equal payments over the remaining term.

All interest hereunder shall be computed on the basis of the actual number of days elapsed over a three hundred sixty (360) day year.

**Financing**

**Fee:** As consideration for the issuance of this commitment, a one-time fee of two thousand five hundred dollars [REDACTED] will be payable at closing.

**Late**

**Charge:** The loan documents shall contain a provision under which the Borrower agrees to pay to the Bank a late charge of [REDACTED] of any scheduled payment if said payment is received by the Bank ten (10) or more days past the due date; and shall further provide that acceptance of late payments on any occasion shall not waive the Bank's right to require timely payments on any other occasion.

**Default Interest**

**Rate:** The Bank shall have the right to charge interest, payable on demand on the unpaid principal balance of the loan at an interest rate of five percent [REDACTED] per annum in excess of the rate of interest otherwise payable as provided herein for any period during which the Borrower shall be in default under any document governing or securing the loan.

**Prepayment**

**Penalty:** If the Borrower pays principal in excess of the scheduled amortization of principal during any fixed rate period, such excess payment of principal shall be subject to a prepayment premium to the Bank in an amount equal to the excess principal payment amount times 5.00% during the first year of the fixed rate period, 4.00% during the second year, 3.00% during the third year, 2.00% during the fourth year, and 1.00% during the fifth year and until maturity.

**Security:**

The loan shall be secured by:

A valid first mortgage, free of all other liens, on the real estate at 415 Cumberland Avenue in Portland, Maine (hereinafter referred to as the "Project") and all improvements thereto, including fixtures, equipment, assignment of all rents and leases, and a first security interest in any and all personal property appurtenant to and used for the operation of the Project, including without limitation cash receipts, rents, leases, and related deposit accounts.

A properly executed and a valid collateral assignment to the Bank of all contracts and agreements between the Borrower and its general contractor, subcontractors, architects, engineers, and other such contracting parties along with a consent of all contracting parties to such assignment.

A properly executed and valid collateral assignment to the Bank of all plans, specifications, documents, approvals, licenses, and permits necessary for the construction, use, and operation of the Project and any additional property which is to serve as collateral for the loan.

A properly executed and valid collateral assignment to the Bank of the State Historic Tax Credit Enhancement Agreement between the State of Maine and the Borrower dated \_\_\_\_\_, 2015. The Collateral Assignment shall include the assignment of payments and syndication proceeds.

**Guaranty:** The Bank shall require the unlimited personal guaranty of [REDACTED]

**Lease Assignment:** The Borrower shall provide any and all leases and execute lease assignments to the Bank on all existing and future leases associated with the real estate securing the loan. Said documents shall provide the Bank with the right to reassign the leases.

**Legal Authority:** Prior to closing, the Bank shall obtain a Certificate of Good Standing with the Maine Secretary of State. In addition, the Borrower shall provide the Bank with a Corporate Borrowing Resolution authorizing said loans in a form satisfactory to the Bank.

**Legal Opinions:** The Borrower shall provide the Bank with an opinion of counsel satisfactory to the Bank:

1. Stating that all loan documents have been duly authorized, executed, and delivered by the Borrower.
2. Indicating compliance of the real estate with all laws, ordinances, codes, rules, and regulations applicable to the use, occupancy, and operation thereof.
3. Stating that there is no action, suit, or proceeding pending or threatened against or affecting the Borrower or the assets to be pledged as collateral for the loan, before any court, administrative agency, arbitrator, or governmental authority.

**Insurance:** The Borrower shall maintain hazard insurance on the collateral property in such amounts and for such coverage as shall be satisfactory in all respects to the Bank, provided that at no time shall coverage be less than eighty percent [REDACTED] of insurable value for the term of the loan and shall provide the Bank with any policies, endorsements, and any riders thereto as the Bank may require. The Bank shall be designated as "Mortgagee" under standard Maine Mortgage Clause for all real estate and "Loss Payee" for personal property. The policy endorsement shall include a ten (10) day cancellation notice clause to the Bank. The Bank shall be listed as:

Gorham Savings Bank, (ISAOA/ATIMA)  
Attn: Business Services  
10 Wentworth Drive  
Gorham, ME 04038

Said insurance shall include, but not be limited to:

- "All Risk" Physical Damage Insurance
- General Liability Insurance
- Loss of Rents Insurance
- Builder's Risk Insurance

The Bank shall obtain satisfactory evidence prior to closing as to whether the real estate assets securing this loan are located in a flood prone area as designated by Federal Emergency Management Agency ("FEMA"). If the assets securing this loan are determined to be in flood prone area, the Bank must receive satisfactory evidence that the Borrower has purchased and agrees to maintain flood insurance in such amounts and coverage satisfactory to the Bank.

**Deposit**

**Accounts:** The Borrower and Guarantor shall establish and maintain depository accounts with the Bank for the duration of the loan.

**Financial**

**Statements:** During the term of the loan, the Borrower and the Guarantor agree to provide the following financial reports in the format and frequency as outlined below:

Annually within one hundred twenty (120) days following the end of the fiscal year:

- Complete Federal Income Tax Return from the Borrower, including all schedules.
- Complete Federal Income Tax Return from the Guarantor, including all schedules.
- Detailed Personal Financial Statement from the Guarantor completed on a form acceptable to the Bank and signed by the Guarantor.
- Detailed Rent Roll from the Borrower.

In addition, the Bank reserves the right to request complete tax returns on any partnerships, corporations, or entities in which the Borrower or the Guarantor have an interest.

The loan documents shall provide that failure to provide such information shall be a default under the loan and the Borrower shall thereupon be obligated to pay interest at the Default Interest Rate.

**Title**

**Requirements:** The Bank shall be furnished with a title insurance policy insuring the mortgage to it, issued by a title insurance company satisfactory to it, which shall be subject only to such exceptions as shall be approved by the Bank in writing. In particular, the policy will insure against mechanic's and materialman's liens. Said title insurance policy shall not contain an exception for survey coverage.

**Taxes:** At or prior to closing, the Borrower shall provide the Bank with satisfactory evidence that all real estate taxes have been paid in full.

**Appraisal:** Prior to closing, the Bank shall obtain at the Borrower's expense an "as completed" market value appraisal appraising the real estate which secures this loan in a full report format. Said appraisal shall indicate a value of not less than [REDACTED] Said appraisal shall be acceptable to the Bank in all respects.

**Construction**

**Agreement:** The loan proceeds shall be advanced under a Construction Loan Agreement to finance the construction of the Project in accordance with the plans and specifications which shall be subject to the Bank's approval. The Bank will make disbursements on account of the loan not more often than once monthly after receipt of (i) written certification by a Bank Inspector approved by the Bank that the work covered thereby was completed to his/her satisfaction and in accordance with the approved plans and specifications and (ii) evidence satisfactory to the Bank that there are no mechanic's or other liens prior to the Bank's mortgage.

The Borrower shall furnish periodic reports to the Bank on the progress of the work and in connection with requests for advances. He/she shall certify to the Bank that the work is proceeding satisfactorily and that the undisbursed amount of the loan will be sufficient to complete the work. In addition to the foregoing, all requests for disbursements shall be accompanied by the following documents and any others which the Bank may require:

1. Invoices on the Project and completed requisition forms.
2. Mechanic's lien waivers executed by contractors, subcontractors, suppliers, and suppliers of subcontractors for services and materials already provided.
3. An updated construction budget and requisition form including all change orders approved by the Bank and any bonding company.

**Inspection**

**Fees:**

The Bank shall be paid an inspection fee of [REDACTED] for each inspection made by the Bank's inspection staff or an independent inspector. The Bank, any of its officers or employees, or any inspector retained by the Bank will not assume any obligations to the Borrower or any other party concerning the quality of the construction of the Project as a result of any such inspection activities.

**Other**

**Documents:**

At least ten (10) days prior to the loan closing, the Borrower will provide the following to the Bank for its review and approval:

1. A detailed budget for the cost of constructing the Project, together with copies of executed bids and contracts with the general contractor and any subcontractors or suppliers which must be approved by the Bank.
2. One complete set of the final plans and specifications for the construction of the Project, together with a certificate from a qualified architect that the final plans and specifications were prepared in accordance with good architectural and engineering practices and comply with all applicable federal, state, and local laws, ordinances, codes, rules, and regulations, including but not limited to those relating to zoning, building, fire prevention, health, safety, handicap access, historic preservation, wetlands, and flood control.
3. Evidence satisfactory to the Bank and the Bank's counsel that all permits, licenses, and approvals required for the construction and use of the Project under applicable laws, ordinances, codes, rules, and regulations and under the terms of any restriction, easement, or covenant affecting the land have been obtained, together with a legal opinion to such effect from the Borrower's counsel in form and substance satisfactory to the Bank and the Bank's counsel.

**Guaranty of**

**Completion:**

The Guarantor shall execute and deliver to the Bank an unconditional Guaranty of Completion for the construction of the Project in accordance with the plans and specifications for the Project.

**Signage:**

If requested by the Bank, the Bank will be allowed to erect and maintain at its cost and expense at a suitable location on the land a sign indicating that construction financing for the Project is being provided by the Bank.

**Hazardous**

**Waste:**

Prior to closing, the Borrower will provide all available environmental reports in its possession on the collateral property. At the Borrower's expense, the Bank will obtain an environmental public records and location screening, and in its sole discretion, determine if unsatisfactory conditions exist. The Bank shall have the right to require additional environmental investigation at the Borrower's expense, in its sole discretion, based upon the environmental information considered. The Bank shall have the right to terminate this commitment and have no obligation to make the loan if the Bank determines unsatisfactory conditions exist.

The Borrower agrees to comply with all local, state, and federal environmental regulations during the term of the loan.

**Conditions:**

This commitment is conditional on the Bank's satisfaction with the status of the Borrower receiving State of Maine approval of the proposed State Historic Tax Credit Enhancement Agreement and status and timing of the sale of the tax credits. In the event the tax credits are not sold to generate [REDACTED] [REDACTED] anticipated by the earlier of six (6) months or the date the funds are needed to cover construction costs, the Borrower and/or the Guarantor will fund a construction reserve account with said amount.

The Borrower shall maintain a minimum post-distribution debt service coverage ratio of at least [REDACTED] beginning with the end of its third year. The ratio is defined as Net Income + Depreciation Expense + Interest Expense + Amortization Expense - Distributions / Sum of All Debt Service Payments.

The Borrower shall establish a debt service coverage escrow account of at least [REDACTED] [REDACTED] with the Bank at or prior to closing.

The Borrower shall fund a two and one half percent [REDACTED] replacement reserve monthly.

**Miscellaneous:**

Acceptance of this letter shall constitute the Borrower's agreement to pay all fees, commissions, costs, charges, taxes, and other expenses incurred by the Bank in connection with this commitment and the making of the loan, whether or not the loan closes, including but not limited to fees and disbursements for the Bank's counsel, appraisal fees, fees and charges for surveys, examination of title to the real estate, mortgage title insurance premiums and charges, transfer taxes, and all recording fees and charges.

The Bank shall not be required to pay any brokerage fees or commissions arising from the issuance of this letter or the making of the loan and the Borrower agrees to defend, indemnify, and hold the Bank harmless from and against any and all cost, claim, liability, damage, or expense (including but not limited to reasonable attorney's fees) in connection therewith.

All real estate, and the use thereof, in which the Bank obtains a security interest shall be, as of the closing and thereafter, in full compliance with applicable federal, state, and local ordinances, laws, enactments, or regulations with respect to the protection of the environment or the presence, storage, or release of toxic or hazardous pollutants or environmental contaminants including asbestos.

No commitment to lend given by the Bank to the Borrower shall be assignable by the Borrower.

All documentation for this loan transaction shall be acceptable to the Bank and its counsel in all respects. The Borrower shall execute such documents to close this loan as the Bank's counsel shall determine necessary or advisable in the interest of the Bank, consistent with the terms of this commitment.

**No Oral**

**Promises:**

Under Maine law, no promise, contract, or agreement to lend money, extend credit, forebear from collection of a debt, or make any other accommodation for the repayment of a debt for more than two hundred fifty thousand dollars (\$250,000.00) may be enforced in court against the Bank unless the promise, contract, or agreement is in writing and signed by the Bank. Accordingly, the Borrower cannot enforce any oral promise unless it is contained in loan documents signed by the Bank, nor can any change, forbearance, or other accommodation relating to the obligations, the notes, or any other of the loan documents be enforced, unless it is in writing and signed by the Bank. The Borrower also understands and agrees that all future promises, contracts, or agreements of the Bank relating to any other transaction between it and the Bank cannot be enforced in court unless they are in writing and signed by the Bank. By execution of this agreement and the notes, the Borrower hereby acknowledges and agrees that the requirement of a writing described in this paragraph shall apply to this note, the obligations, the loan documents, any extension, modification, renewal, forbearance, or other accommodation relating hereto or thereto and to any other credit relationship between the Borrower and the Bank (whether now existing or created in the future), whether or not the amount involved exceeds two hundred fifty thousand dollars (\$250,000.00).

**Alienation**

**Clause:**

It shall be a default under the loan documents if there shall occur, whether voluntarily, by operation of law, or otherwise without the specific prior written consent of the Bank, any sale, assignment, transfer, conveyance, mortgage, hypothecation, or other encumbrance of all or any portion of the assets to be pledged as collateral for the loan or any interest therein, or of any legal or beneficial interest in the Borrower, or upon the making of any agreement to do any of the foregoing.

**Expiration:**

This commitment given by the Bank to the Borrower shall expire if not accepted by the Borrower in writing within ten (10) business days of the date of this letter and the loan is not closed within sixty (60) business days of the date of this letter. Any extension to the above time frames must be agreed to in writing by the Bank.

**Survival:**

The parties herein agree that this commitment shall survive the loan closing contemplated hereby and that each of the obligations and undertakings of the Borrower hereunder shall be continuing and shall not cease until the entire loan, together with interest and fees, is paid in full. The provisions of this commitment cannot be waived or modified unless such waiver or modification is issued in writing and signed by the parties to this agreement.

**Termination:**

This commitment may be terminated by the Bank any time prior to closing if (a) the Borrower fails or refuses to comply with any of the terms and conditions set forth herein, (b) any adverse change in the opinion of the Bank shall occur with respect to the Project, the Borrower, or any other person or entity (including tenants) connected with the loan or

any collateral for the loan or other source of repayment of the loan at any time prior to the loan closing, (c) any part of the Project shall have been taken in condemnation or other like proceeding, or any such proceeding is pending or threatened at any time of the loan closing, or (d) the Borrower, or any other person or entity (including tenants) connected with the loan or any collateral for the loan or other source of repayment shall be insolvent or involved as the Borrower in any arrangement, bankruptcy, reorganization, or insolvency proceeding. Such termination shall become effective upon the mailing of notice of termination by the Bank by certified first class mail to the Borrower at the address shown on this commitment.

**Jury  
Waiver:**

The Borrower hereby irrevocably and unconditionally waives any and all rights, whether arising under the Constitution of the United States or of any State, any rules of civil procedure, common or statutory law, or otherwise, to demand trial by jury in any action, suit, proceeding, or counterclaim involving the Bank arising out of or in any way connected with this commitment letter or any of the loan documents.

**Acceptance:**

If this commitment is acceptable, please sign and return this letter by October 14, 2015. The undertakings made by the Bank in this commitment cannot be accepted conditionally and any such conditional acceptance will terminate absolutely the undertakings made herein.

The Bank is pleased to have the opportunity to assist you with this financing. If you have any questions, please contact me by email me at [rlevesque@gorhamsavingsbank.com](mailto:rlevesque@gorhamsavingsbank.com) or by phone at (207) 222-1491.

Sincerely,



Roger C. Levesque  
Executive Vice President

Borrower Accepted and Acknowledged: 415 Cumberland Avenue, LLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
By: Patrick L. Ducas  
Its: Sole Member

Guarantor Accepted and Acknowledged:

\_\_\_\_\_  
Date

\_\_\_\_\_  
By: Patrick L. Ducas, Individually