

**City of Portland, Maine  
City Council Agenda Request Form**

**TO:** Sonia Bean, Senior Administrative Assistant  
**FROM:** Barbara Barhydt, Acting Planning Division Director  
**DATE:** January 23, 2013  
**Re:** **Cumberland County Civic Center Easements**

- 1) Council meeting at which action is requested:  
1<sup>st</sup> reading: \_\_\_\_\_  
Final action: February 4, 2013
- 2) Can action be taken at a later date: \_\_\_\_\_ YES  NO  
If not, why not: Applicants seek to meet site plan approval deadline of February 15, 2013
- 3) This item is sponsored by: Carol Morrissette, Chair, Portland Planning Board  
(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)
- cc:** Mark Rees, City Manager  
Mayor Brennan  
Danielle West-Chuhta, Acting Corporation Counsel  
Terry Tucker, Administrative Assistant

*If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.*

**I. SUMMARY OF ISSUE**

The Cumberland County Civic Center requests City Council approval for five easements within City right-of-ways that are necessary for the Civic Center's renovation and expansion project. The site plan for the CCCC renovation was approved by the Planning Board on July 24, 2012. Descriptions of the requested easements are included in Attachment 1.

**II. REASON FOR SUBMISSION (What issue/problem will this address?)**

The easements and right-of-way requests are intended to allow the Cumberland County Civic Center the right to install, maintain, repair, rebuild and replace the following improvements:

1. Canopy, bollards and structural slab easement in Center Street;
2. Canopy bollards and structural slab easement in Spring Street;
3. Grease trap easement in Spring Street;

4. Structural entry slab easement on westerly side of Center Street; and
5. Canopy and planter easement in Spring Street.

These easements are required to accommodate the renovation and building expansion of the Cumberland County Civic Center.

### **III. INTENDED RESULT (How does it resolve the issue/problem?)**

The intended result is to allow the Cumberland County Civic Center stewardship of the specified easement areas which allow full implementation of the redesign plans.

### **IV. FINANCIAL IMPACT**

There is no direct financial impact to the City related to this easement allotment.

### **V. STAFF ANALYSIS & RECOMMENDATION**

The Planning Board approved the site plan for the renovation and expansion of the Civic Center on July 24, 2012. One of the conditions of approval stated, "That easements depicted on the site plan within City street rights-of-way shall be reviewed and approved by the City Council prior to February 15, 2013. The attachments to this request include the proposed easements (Attachment 1), the site plan with proposed easements (Attachment 2) and the Planning Board approval letter (Attachment 3). The proposed easements have been reviewed and approved by Danielle West-Chuhta, Acting Corporation Counsel, and Larry Walden, Associate Corporation Counsel.

#### **Attachments:**

1. Proposed Easements
2. Site Plan with Easements
3. Planning Board Approval Letter

**EASEMENT DEED**

The **CITY OF PORTLAND**, a body politic and corporate with a mailing address of 389 Congress Street, Portland, Maine ("Grantor"), in consideration of One Dollar (\$1.00) and other valuable consideration paid by the **CUMBERLAND COUNTY RECREATION DISTRICT d/b/a CUMBERLAND COUNTY CIVIC CENTER**, with a mailing address of One Civic Center Square, Portland, Maine ("Grantee"), does hereby remise and release and forever quitclaim to the said Grantee, certain easements and rights of way on, over and under the real property at or near the northerly line of Spring Street, and the westerly line of Center Street, in Portland, Cumberland County, Maine, described in Exhibit A and depicted on Exhibit B, both attached hereto and hereby made a part hereof ("Easement Areas").

In addition to the rights set forth in Exhibit A, the Easements shall include the right from time to time to attach, affix and anchor any permitted installations to Grantor's adjacent property and structures, if any (as the same may be reconstructed or replaced from time to time) and to bring upon the Easement Areas and areas adjacent thereto workers, materials and machinery necessary to the use and enjoyment of each and all of the Easements. The Easements and all related rights and servitudes shall be perpetual and shall run with the land and shall inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns, as the case may be.

All work performed upon and use of the Easement Areas for the purposes set forth above shall be at Grantee's sole cost and expense (unless otherwise agreed in writing), the parties acknowledging that there may be temporary interruptions in enjoyment of the Grantor's property adjacent to the Easement Areas related to the conduct of any work related to the Easements. Grantee agrees at its sole expense to restore any portion of the Easement Areas or Grantor's property damaged by work conducted by Grantee related to this Easement to substantially its condition prior to such work, or as close to that condition as is reasonably practicable.

Subject to the limitations of liability and immunities available to the Grantee under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq., the Grantee, its successors and assigns, shall defend and indemnify the Grantor, its officers, agents, and employees from any and all claims arising out of its use, or the use of others, of the Easement Areas.

**IN WITNESS WHEREOF**, the said City of Portland has hereunto caused this instrument to be signed by Ellen Sanborn its duly authorized Finance Director, this \_\_\_\_ day of January, 2013.

**CITY OF PORTLAND**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Ellen Sanborn  
Its Finance Director

STATE OF MAINE  
CUMBERLAND, ss.

January \_\_\_\_\_, 2013

Personally appeared the above-named Ellen Sanborn in her capacity as Finance Director of the City of Portland, and acknowledged the foregoing instrument to be her free act and deed and the free act and deed of the City of Portland.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

\_\_\_\_\_  
Printed Name

**EXHIBIT A**  
**City of Portland to**  
**Cumberland County Recreation District Easement Deed**

**Canopy, Bollards & Structural Entry Slab Easement: Center Street**

A certain lot or parcel of land situated on the westerly side of Center Street, City of Portland, Cumberland County, State of Maine, bounded and described as follows:

BEGINNING on the westerly line of Center Street at a point located S24°30'03"E of and one hundred fifty-one and ninety-five hundredths (151.95) feet from the intersection of the southerly line of Free Street and the westerly line of Center Street, said point is also northerly corner of land described in a deed from the City of Portland to Cumberland County Recreation Center (CCRC), dated December 9, 1974, recorded in the Cumberland County Registry of Deeds, Book 3634, Page 82, and shown in Detail A on a Boundary and Topographic Survey of the Cumberland County Civic Center, dated February 13, 2012, prepared by Shyka, Sheppard & Garster Land Surveyors, Bangor, Maine (attached hereto as Exhibit B);

THENCE S64°30'03"E fourteen and one hundredth (14.01) feet;

THENCE S24°30'03"E nine and thirty-six hundredths (9.36) feet;

THENCE N65°29'57"E three and fifty hundredths (3.50) feet;

THENCE S24°30'03"E ten and zero hundredths (10.00) feet;

THENCE S65°29'57"W three and fifty hundredths (3.50) feet;

THENCE S24°30'03"E five and sixty-four hundredths (5.64) feet;

THENCE S20°29'57"W twelve and seventy-four hundredths (12.74) feet to the easterly side of said CCRC land at the point of curvature of a non-tangent curve to the right;

THENCE N24°30'03"W along the easterly line of said CCRC and forty-four and seventy-four hundredths (44.74) to the POINT OF BEGINNING.

Encompassing 349 square feet (the "Easement Area").

Said easement for the purpose of and conveying the right to install and perpetually inspect, maintain, repair, rebuild and replace bollards and a foundation wall and entry slab and a Filterra stormwater treatment device (or similar structure) within the Easement Area; as well as air rights to install, support and perpetually maintain a canopy in the Easement Area.

**Canopy, Bollards & Structural Entry Slab Easement: Spring Street**

A certain lot or parcel of land situated on the northerly side of Spring Street, City of Portland, Cumberland County, State of Maine, bounded and described as follows:

COMMENCING on the northerly line of Spring Street at the southerly corner of land described in a deed from the City of Portland to Cumberland County Recreation Center, dated December 9, 1974, recorded in the Cumberland County Registry of Deeds, Book 3634, Page 82 and shown in Detail A on a Boundary and Topographic Survey of the Cumberland County Civic Center, dated February 13, 2012, prepared by Shyka, Sheppard & Garster Land Surveyors, Bangor, Maine(attached hereto as Exhibit B);

THENCE N62°10'57"E, six and eighty-two hundredths (6.82) feet to an angle point in said Spring Street;

THENCE N62°55'37"E along the northerly line of said Spring Street, three hundred eighty-one and fifty-eight hundredths (381.58) feet to THE POINT OF BEGINNING;

THENCE N62°55'37"E along the northerly line of said Spring Street, forty-nine and thirty hundredths (49.30) feet to a point of curvature of a tangent curve to the left;

THENCE easterly along the arc of said curve to the left one and zero hundredths (1.00) feet, said curve having a radius of 10.00 feet and a chord bearing and distance of N60°03'27"E and one and zero hundredths (1.00) feet;

THENCE S27°04'23"E four and eighty hundredths (4.80) feet;

THENCE S 62°55'37"W nine and fifty hundredths (9.50) feet;

THENCE S17°55'37"W eight and seventy hundredths (8.70) feet;

THENCE S62°55'37"W twenty-five and fifty hundredths (25.50) feet;

THENCE N67°04'23"W fourteen and twenty-three hundredths (14.23) to the POINT OF BEGINNING.

Encompassing 421 square feet (the "Easement Area").

Said easement for the purpose of and conveying the right to install and perpetually inspect, maintain, repair, rebuild and replace bollards and a foundation wall and entry slab within the Easement Area; as well as air rights to install, support and perpetually maintain a canopy in the Easement Area.

**Grease Trap Easement**

A certain lot or parcel of land situated on the northerly side of Spring Street, City of Portland, Cumberland County, State of Maine, bounded and described as follows:

COMMENCING on the northerly line of Spring Street at the southerly corner of land described in a deed from the City of Portland to Cumberland County Recreation Center, dated December 9, 1974, recorded in the Cumberland County Registry of Deeds, Book 3634, Page 82 and shown in Detail C on a Boundary and Topographic Survey of the Cumberland County Civic Center, dated February 13, 2012, prepared by Shyka, Sheppard & Garster Land Surveyors, Bangor, Maine (attached hereto as Exhibit B);

THENCE N62°10'57"E, six and eighty-two hundredths (6.82) feet to an angle point in said Spring Street;

THENCE N62°55'37"E along the northerly line of said Spring Street, two hundred ninety-four and ninety hundredths (294.90) feet to THE POINT OF BEGINNING;

THENCE N62°55'37"E along the northerly line of said Spring Street, nineteen and twenty-five hundredths (19.25) feet;

THENCE S27°04'23"E, nine and zero hundredths (9.00) feet;

THENCE S62°55'37"W, nineteen and twenty-five hundredths (19.25) feet;

THENCE N27°04'23"W, nine and zero hundredths (9.00) feet to THE POINT OF BEGINNING.

Encompassing 173 square feet (the "Easement Area").

Said easement for the purpose of and conveying the right to install and perpetually inspect, maintain, repair, clean, rebuild and replace underground grease trap improvements and installations through, under and across the Easement Area.

**Structural Entry Slab Easement**

A certain lot or parcel of land situated on the westerly side of Center Street, City of Portland, Cumberland County, State of Maine, bounded and described as follows:

BEGINNING on the westerly line of Center Street at a point located  $S24^{\circ}30'03''E$  of and one hundred thirty-three and seventy hundredths (133.70) feet from the intersection of the southerly line of Free Street and the westerly line of Center Street, said point is also northerly corner of land described in a deed from the City of Portland to Cumberland County Recreation Center (CCRC), dated December 9, 1974, recorded in the Cumberland County Registry of Deeds, Book 3634, Page 82, and shown Detail B on a Boundary and Topographic Survey of the Cumberland County Civic Center, dated February 13, 2012, prepared by Shyka, Sheppard & Garster Land Surveyors, Bangor, Maine (attached hereto as Exhibit B);

THENCE  $N65^{\circ}29'57''E$ , five and zero hundredths (5.00) feet;

THENCE  $S24^{\circ}30'03''E$ , ten and zero hundredths (10.00) feet;

THENCE  $S65^{\circ}29'57''W$ , five and zero hundredths (5.00) feet to the westerly line of said Center Street;

THENCE  $N24^{\circ}30'03''W$  along the westerly line of said Center Street, ten and zero hundredths (10.00) feet to THE POINT OF BEGINNING.

Encompassing 50 square feet (the "Easement Area").

Said easement for the purpose of and conveying the right to install and perpetually inspect, maintain, repair, rebuild and replace a foundation wall and entry slab within the Easement Area.

**Canopy & Planter Easement**

A certain lot or parcel of land situated on the northerly side of Spring Street, City of Portland, Cumberland County, State of Maine, bounded and described as follows:

BEGINNING at a point on the westerly line of land described in a deed from the City of Portland to Cumberland County Recreation Center (CCRC), dated December 9, 1974, recorded in the Cumberland County Registry of Deeds, Book 3634, Page 82, and shown in Detail D on a Boundary and Topographic Survey of the Cumberland County Civic Center, dated February 13, 2012, prepared by Shyka, Sheppard & Garster Land Surveyors, Bangor, Maine (attached hereto as Exhibit B), said point is located N21°37'03"W of and six and twenty-five hundredths (6.25) feet from the southerly corner of land described in said deed to CCRC;

THENCE S68°22'57"W, seven and zero hundredths (7.00) feet to the easterly wall of the Municipal Parking Garage;

THENCE N21°37'03"W along said Garage wall twenty-seven and zero hundredths (27.00) feet;

THENCE N68°22'57"E seven and zero hundredths (7.00) feet to the westerly line of said CCRC land;

THENCE S21°37'03"E along the westerly line of said CCRC land, twenty-seven and zero hundredths (27.00) feet to THE POINT OF BEGINNING.

Encompassing 189 square feet (the "Easement Area").

Said easement for the purpose of and conveying the right to install and perpetually inspect, maintain, repair, rebuild and replace, within the Easement Area, a permanent planting structure or structures between the Cumberland County Civic Center and the adjacent parking garage; as well as air rights to install, support and perpetually maintain a canopy in the Easement Area Along with rights to maintain plantings therein and to attach, affix and anchor such installations to the walls and structure of Grantor's adjacent parking garage property (as the same may be reconstructed or replaced from time to time).

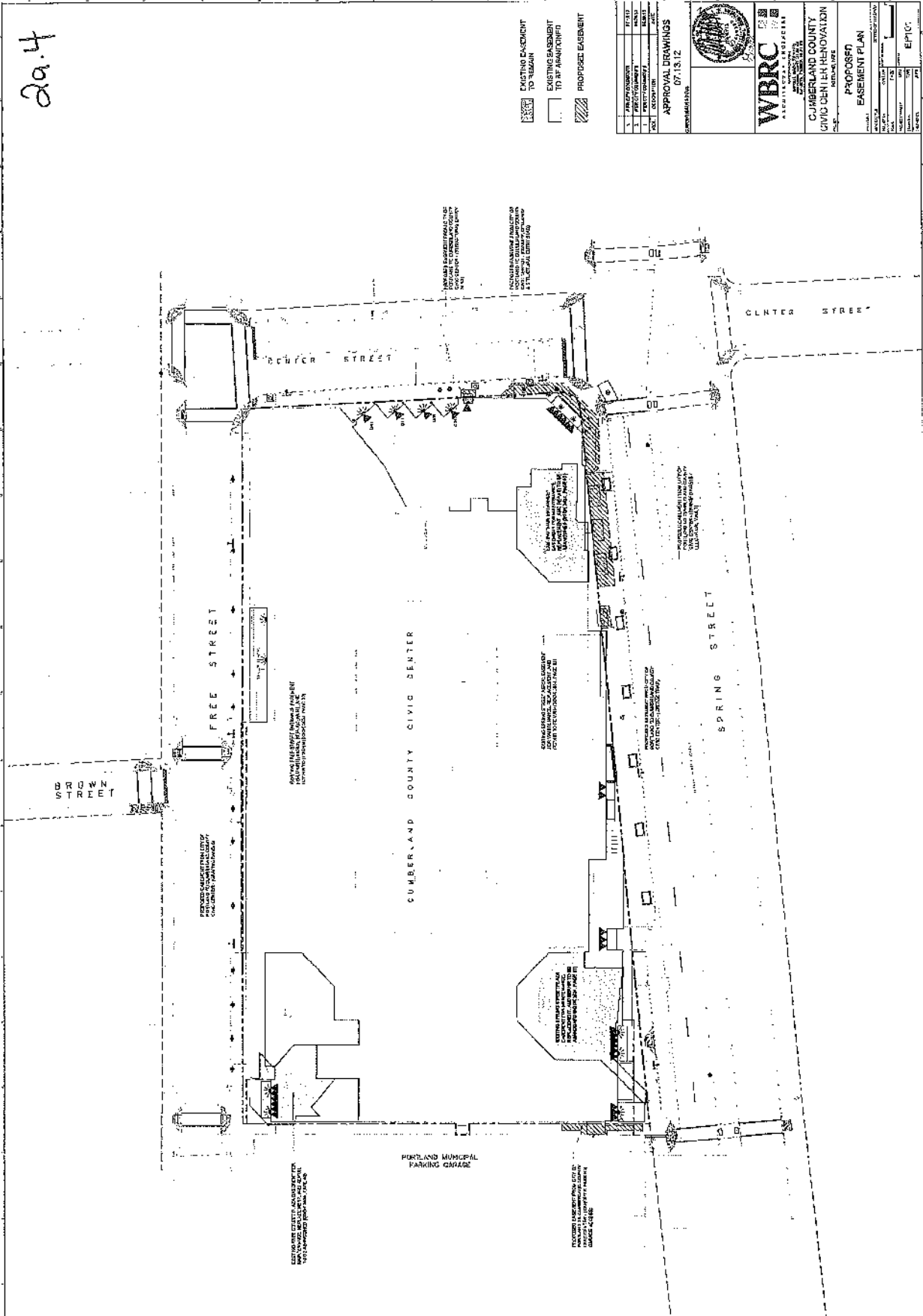
The five (5) above descriptions were prepared by Shyka, Sheppard, and Garster, Land Surveyors, Bangor, Maine, and are based on a Boundary and Topographic Survey of the Cumberland County Civic Center, dated February 13, 2012. Bearings reference North as shown on said plan.



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[Solid Line] EXISTING CONCRET TO REMAIN  
 [Dashed Line] EXISTING BASEMENT TO REMAIN  
 [Hatched] PROPOSED BASEMENT

1. PRELIMINARY	7/1/12
2. PERMITTING	
3. EXISTING	
4. AS-BUILT	

APPROVAL DRAWINGS  
 07.13.12  
 WBRC ARCHITECTURAL SERVICES  
 CUMBERLAND COUNTY CIVIC CENTER RENOVATION  
 PROPOSED BASEMENT PLAN

DATE	BY	CHK	APP

EXISTING CONCRET TO REMAIN  
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**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

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Carol Morrisette, Chair  
Stuart O'Brien, Vice Chair  
Timothy Dean  
Bill Hall  
Joe Lewis  
David Silk  
Patrick Venne

August 17, 2012

Mr. Steven Crane  
Cumberland County Civic Center  
One Civic Center Square  
Portland, Maine 04101

Mr. Ray Bolduc  
WBRC Architects  
44 Central Street  
Bangor, Maine 04401

Project Name: Cumberland County Civic Center                      Project ID: #2012-505  
Address: One Civic Center Square                                      CBL: 38-D-15 and 39-C-3  
Applicant: Cumberland County Recreation Center (Attn. Steven Crane)  
Planner: Richard Knowland, Senior Planner

Dear Mr. Crane,

On August 14, 2012, the Planning Board voted 4-0 (O'Brien, Lewis and Venne absent) to reconsider a portion of the Cumberland County Civic Center site plan approval related to traffic circulation to ascertain the length of trucks and the turning diagrams based upon truck length.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the original decision of the Planning Board and the reconsideration of application #2012-505 (Attachment 3) relevant to the Site Plan Ordinance and other regulations, and the testimony presented at the Planning Board hearings, the Planning Board voted 4-0 (O'Brien, Lewis and Venne absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions of approval:

1. That easements depicted on the site plan within City street rights-of-way shall be reviewed and approved by the City Council prior to February 15, 2013.

2. That the applicant shall submit a revised site plan addressing the review comments of Tom Errico (Traffic Review Consultant), memo dated July 19, 2012, for review and approval prior to February 15, 2013. The applicant shall provide flaggers for all truck movements at Center and Free Streets and at Free and Temple Streets. If, however, the applicant submits evidence to Thomas Errico, P.E. that the flaggers are not needed at Temple and Free Streets, then the requirement for flaggers can be released by the Planning Authority. 1
3. That the applicant and all assigns, must comply with the conditions of Chapter 32 Storm Water including Article III. Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the construction storm water management plan and sediment and erosion control plan based on City of Portland standards and state guidelines.
4. That the applicant shall submit a revised site plan addressing the review comments of David Margolis-Pineo (Department of Public Services Engineer) memo dated July 19, 2012 for review and approval and submission of a letter from the City of Portland confirming sewer capacity for the project prior to issuance of a building permit.
5. That the applicant shall submit an implementation plan to the Planning Authority for the public art murals depicted along the Free Street façade of the Civic Center. The plan shall consist of such elements as implementation measures and management of the murals subject to the review and approval of the Planning Authority prior to the issuance of a certificate of occupancy.
6. That the applicant shall submit to the Planning Authority for review and approval, a signage master plan for all exterior signs including electronic message signs prior to the issuance of a certificate of occupancy.
7. The landscaping plan shall be subject to the review and approval of the City Arborist prior to February 15, 2013.
8. Upon completion of the Spring Street Free Street Area Streetscape Plan, the Planning Authority will review the Civic Center site plan to determine if further adjustments (if any) should be made to the streetscape improvements shown on the Civic Center site plan prior to February 15, 2013 unless extended by the Planning Authority.

The waivers granted for the Cumberland County Civic Center application at the July 24, 2012 meeting remain valid and the approval letter is included as Attachment 1.

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1 Condition amended at the reconsideration of the Civic Center site plan held on August 14, 2012.  
 O:\PLAN\Dev Rev\Civic Center Square - One (Renovations to Civic Center)\Approval Letter 8-14-12.doc

**STANDARD CONDITIONS OF APPROVAL**

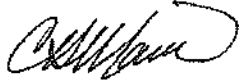
Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
5. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
6. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.

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

If there are any questions, please contact Richard Knowland at (207) 874-8725.

Sincerely,



Carol Morrissette, Chair  
Portland Planning Board

Attachments:

1. July 24, 2012 Approval letter, dated August 2, 2012
2. Staff Review Memos of Tom Errico, David Senus and David Margolis-Pineo
3. Planning Board Report
4. Portland City Code: Chapter 32
5. Performance Guarantee Packet

Electronic Distribution:

- cc: Jeff Levia, Director of Planning and Urban Development  
 Alexander Jaegerman, Planning Division Director  
 Barbara Barhydt, Development Review Services Manager  
 Richard Knowland, Senior Planner  
 Philip DiPierro, Development Review Coordinator, Planning  
 Marge Schmuckal, Zoning Administrator, Inspections Division  
 Tammy Munson, Inspection Division Director  
 Lannie Dobson, Administration, Inspections Division  
 Gayle Guertin, Administration, Inspections Division  
 Michael Bobinsky, Public Services Director  
 Katherine Earley, Engineering Services Manager, Public Services  
 Bill Clark, Project Engineer, Public Services  
 David Margolis-Pineo, Deputy City Engineer, Public Services  
 Doug Roncarati, Stormwater Coordinator, Public Services  
 Greg Vining, Associate Engineer, Public Services  
 Michelle Sweeney, Associate Engineer  
 John Low, Associate Engineer, Public Services  
 Rhonda Zazzara, Field Inspection Coordinator, Public Services  
 Mike Farmer, Project Engineer, Public Services  
 Jane Ward, Administration, Public Services  
 Jeff Tarling, City Arborist, Public Services  
 Captain Chris Pirone, Fire Department  
 Thomas Erriso, P.E., TY Lin Associates  
 David Senus, P.E., Woodard and Curran  
 Rick Blackburn, Assessor's Department  
 Anita LaChance, Assistant City Manager  
 John Kenny, WBRC Architects, 44 Central Street, Bangor, ME 04401  
 Approval Letter File