#### **LICENSE AGREEMENT**

This License Agreement ("Agreement") is entered into as of the **24th** day of October, 2014, between the **CITY OF PORTLAND**, a Maine body corporate and politic, with a mailing address of City Hall, 389 Congress Street, Portland, Maine 04101 (the "City" or "Licensor"), and **638 CONGRESS STREET PARTNERS LLC**, with a place of business in Portland, Maine and mailing address of **104 GRANT STREET PORTLAND ME 04101**, its successors and assigns (hereinafter the "Licensee"), who hereby agree as follows:

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, a revocable license is hereby granted to Licensee to occupy portions of land and portions of airspace above land owned by the City and adjacent to property of Licensee located at 638 CONGRESS STREET, described in a deed to Licensee recorded in the Cumberland County Registry of Deeds in Book 29354, Page 304 ("Licensee's Property"), for the purpose of permitting the encroachment of [footings, balconies, decks, bays and/or overhangs over the City property ("encroachments")] to be located according to, and used as described in, Exhibit A attached hereto and made a part hereof (collectively the "Licensed Areas"), together with the right from time to time to bring upon the Licensed Areas and areas adjacent thereto workers, materials and machinery necessary for the use and enjoyment of the License granted herein. Occupancy of the Licensed Areas is subject to the following conditions:

- 1. All work performed upon and use of the Licensed Areas for the purposes set forth herein shall be at Licensee's sole cost and expense (unless otherwise agreed in writing), the parties acknowledging that there may be temporary interruptions in enjoyment of the City's property adjacent to the Licensed Areas related to the conduct of any work related to this License. Licensee agrees at its sole expense to restore any portion of the Licensed Areas and adjacent City property damaged by work conducted by Licensee related to this License to substantially its condition prior to such work, or as close to that condition as is reasonably practicable. Licensee, its successors and assigns, shall defend, indemnify and hold the City, its officers, agents, and employees harmless from any and all claims, including but not limited to claims for damage to City property and reasonable attorney's fees, which arise out of Licensee's use, or the use of others, of the City's property as described above.
- 2. At all times during the Term of this License Agreement, Licensee, its agents and assigns, specifically including, but not limited to any condominium association as soon as any unit is transferred, shall exclusively be responsible for repairing, keeping and maintaining the Licensed Areas in a safe condition generally, by, among other things: ensuring prompt removal of, or otherwise eliminating snow and ice from all encroachments and in a manner that does not endanger pedestrians; preventing, by design and rules and supervision, objects stored or otherwise present on the encroachments from falling or being dropped or thrown onto the City's sidewalk; repairing, replacing or removing all encroachments as necessary for public safety; taking any and all other measures necessary to protect pedestrians in the sidewalk from injury or other harm arising out of the presence of the encroachments.

- 3. Licensee shall procure and maintain liability insurance in an amount of at least Four Hundred Thousand Dollars (\$400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage and shall either name the City of Portland as an additional insured with respect to such coverage or shall obtain a contractual liability endorsement covering the obligations of Licensee under the terms of this license. Licensee shall provide City with evidence of such insurance coverage and shall obtain an endorsement providing City with no less than ten (10) days notice prior to non-renewal or cancellation thereof. Such notice shall be sent to City of Portland, Corporation Counsel, 389 Congress Street, Portland, ME 04101. Failure of Licensee to procure or maintain such insurance coverage shall be an Event of Revocation as set forth in Section 4 below.
- 4. This license is assignable to any subsequent owners of the property and/or building located on the land described in the Cumberland County Registry of Deeds in Book 29354, Page 304 located at 638 CONGRESS STREET, Portland, Maine, to be recorded herewith in the Cumberland County Registry of Deeds; and the duties and obligations hereunder shall, in any event, run with the land and burden all subsequent owners holding rights to use any portion of the Licensed Areas
- 5. Subject to the provisions of Sections 5 and 6 hereof, this Agreement may be revoked six (6) months after receipt by the Licensee of written notice that an Event of Revocation has occurred, identifying such Event of Revocation, provided that such Event of Revocation is not cured within six (6) months after receipt of such notice by Licensee except as set forth in clause 3 below. "Event of Revocation" shall mean: 1) the building shown on the Site Plan fails to be constructed substantially in accordance with the Site Plan or any amendments thereto; 2) the building as shown on the Site Plan is destroyed, removed or otherwise thereafter ceases to exist on Licensee's Property and construction to rebuild said building has not begun within twelve (12) months of said destruction or removal, or 3) failure to maintain insurance as required under Section 2 above, and such failure is not remedied within thirty (30) days after written notice thereof. City acknowledges that Licensee may amend this Agreement, upon the written approval of the City, for the purpose of correcting and/or revising Exhibit A, to more accurately show the encroachments described above that are being licensed under this Agreement.
- 6. Any notice of an Event of Revocation delivered pursuant to Section 4 of this Agreement must be sent by certified mail, return receipt requested to the Licensee at the address for Licensee set forth above, or at such other address as the Licensee may provide to the City in writing from time to time. Copies of any notices sent to Licensee shall also be sent to:

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<sup>7.</sup> Notwithstanding any other provision herein, in the event that a notice of an Event of Revocation is delivered pursuant to Section 4 hereof, any mortgagee of Licensee's Property shall be entitled to cure the matter set forth in such notice within the time frames set forth in Section 4 hereof, and the City agrees to accept such performance by any such mortgagee of Licensee's obligations hereunder. In addition, the City agrees to accept any cure of any Event of Revocation by any of Licensee's members.

IN WITNESS WHEREOF, the City of Portland has caused this Revocable License to be executed by Mark H. Rees, its City Manager thereunto duly authorized, as of the day and year first written above.

#### **CITY OF PORTLAND**

	By:
	Sheila Hill-Christian, its Acting City Manager thereunto duly authorized
TATE OF MAINE CUMBERLAND, ss	October <b>24</b> , 2014
	D the above-named Mark H. Rees, City Manager of the City wledged the foregoing instrument to be his free act and deed and deed of said City of Portland.
Before me,	
	Notary Public/Attorney at Law
	Print name:
	Print name:
een and Agreed to:	
Y: Mh(	
Tom Watson, its Manuning Member	

# EXHIBIT A

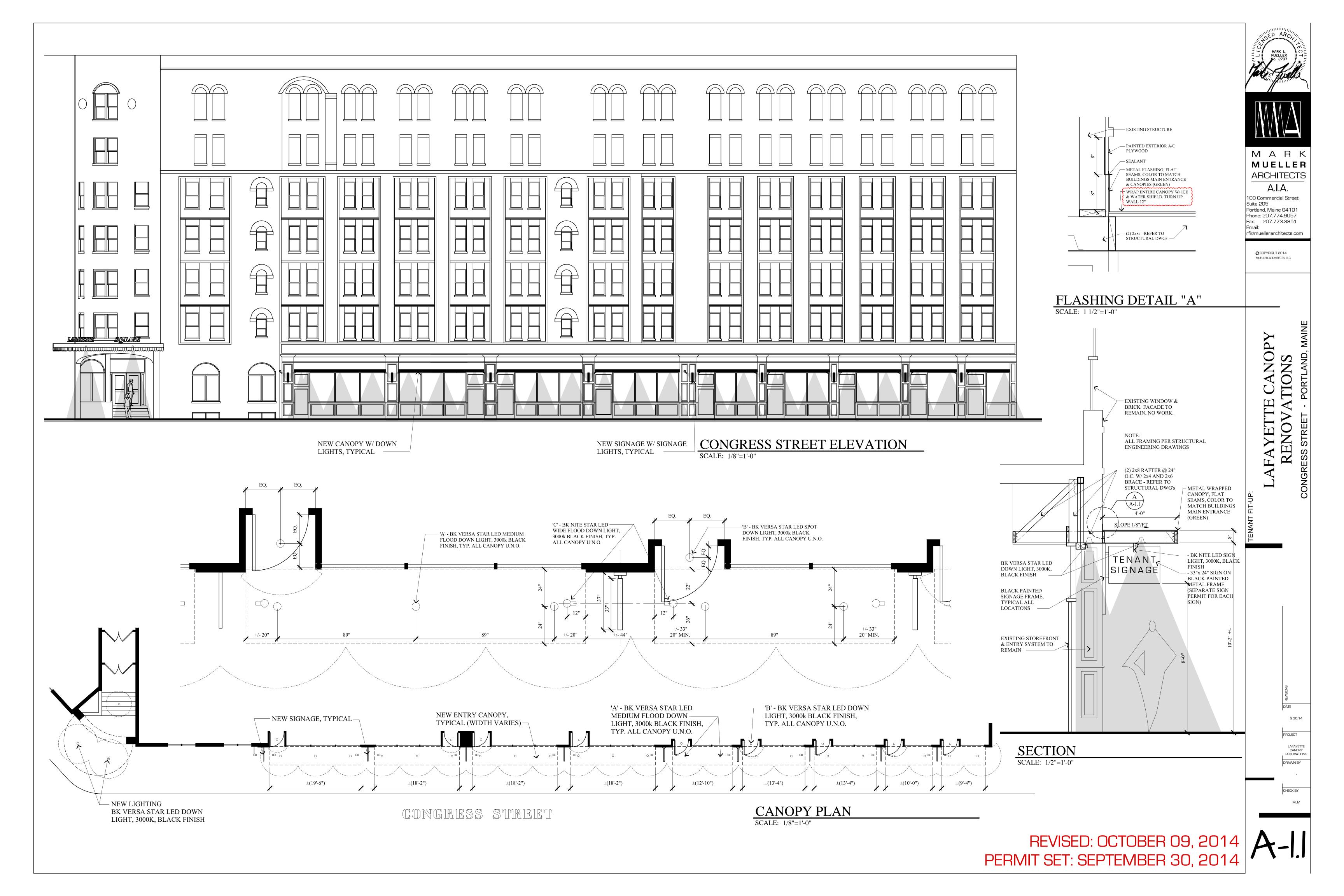
<u>TO</u>

# LICENSE AGREEMENT

# City of Portland to

### **Licensed Areas**

1. Architectural Sheet 'A-1.1 - Proposed Plans'



LAFASQU-01

**BGILBERT** 



#### **CERTIFICATE OF LIABILITY INSURANCE**

10/10/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

certificate floraer in fled of such chaorsement(s).				
PRODUCER	CONTACT NAME:			
Norton Insurance Agency 275 US Route 1	PHONE (A/C, No, Ext): (207) 829-3450 FAX (A/C, No): (207)			
Cumberland Foreside, ME 04110	Ë-MAIL ADDRESS:			
	INSURER(S) AFFORDING COVERAGE	NAIC #		
	INSURER A: Vermont Mutual	26018		
INSURED	INSURER B:			
638 Congress Street Partners, LLC	INSURER C:			
c/o Port Property Management 104-114 Grant Street	INSURER D:			
Portland, ME 04101	INSURER E:			
	INSURER F:			
COVERAGES CERTIFICATE NUMBER:	REVISION NUMBER:			

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

	CLC	SIGNO AND CONDITIONS OF SOCIE		, ,						
INSR LTR		TYPE OF INSURANCE	ADDL INSD	SUBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	S	
Α	X	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	\$ 1,000,	000
		CLAIMS-MADE X OCCUR	X	л	BP11033668	02/14/2014	02/14/2015	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,	000
								MED EXP (Any one person)	\$ 5,	000
				$\neg$				PERSONAL & ADV INJURY	\$ 1,000,	000
	GEN	I'L AGGREGATE LIMIT APPLIES PER:		_				GENERAL AGGREGATE	\$ 2,000,	000
		POLICY PRO- JECT LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,	000
		OTHER:							\$	
	AUT	OMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$	
		ANY AUTO	í					BODILY INJURY (Per person)	\$	
		ALL OWNED SCHEDULED AUTOS		h				BODILY INJURY (Per accident)	\$	
		HIRED AUTOS NON-OWNED AUTOS	7					PROPERTY DAMAGE (Per accident)	\$	
									\$	
	X	UMBRELLA LIAB X OCCUR	,					EACH OCCURRENCE	\$ 4,000,	000
Α		EXCESS LIAB CLAIMS-MADE			CU11001924	02/14/2014	02/14/2015	AGGREGATE	\$ 4,000,	000
		DED   X   RETENTION \$ 10,000		4					\$	
		KERS COMPENSATION EMPLOYERS' LIABILITY	,					PER OTH- STATUTE ER		
		PROPRIETOR/PARTNER/EXECUTIVE // N						E.L. EACH ACCIDENT	\$	
		CER/MEMBER EXCLUDED? datory in NH)	N/A	7				E.L. DISEASE - EA EMPLOYEE	\$	
	If yes	, describe under CRIPTION OF OPERATIONS below	·					E.L. DISEASE - POLICY LIMIT	\$	
	DEG	SKII HON OF EIGHTONO BEIOW	7				4	CLICATION OF THE PROPERTY OF THE PROPERT	·	
			1				- V			
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)										

CERTIFICATE HOLDER	CANCELLATION
City of Portland 389 Congress Street Portland. ME 04101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
1 Statuta, in 2 State	Buttary Wint