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

August 13, 2013

Mr. William Needelman, AICP
Senior Planner
Planning and Development Department
City of Portland, Maine
389 Congress Street
Portland, Maine 04101-3509

**Subject: Canal Landing New Yard – Phase 1
40 West Commercial Street
Applicant: New Yard, LLC
Condition Compliance Letter #2**

Dear Mr. Needelman:

On behalf of New Yard, LLC, (New Yard) we are pleased to provide the accompanying Performance Guarantee information and seven copies of the approved plan set for the City's records. Per our February 15, 2013 Condition Compliance Letter #1 we previously addressed the Portland Planning Board's Conditions of Approval #4, 6 and 8. The applicant is now moving forward with a limited amount of site activities that will enable them to partially occupy the site. As you may know, New Yard completed the property closings with Unitil and Portland Terminal in late July. New Yard is now proposing to perform the following activities within the next 4 to 6 weeks with the intent of occupying the site on a limited basis. They do not foresee executing the full phase 1 development plan as approved at least until the spring/summer 2014. As you know the West Commercial street property is currently under consideration for expansion activities related to the International Marine Terminal (IMT). For this reason New Yard does not want to commence the Full phase 1 development program, since there are uncertainties as to what may ultimately occur within the easterly portions of the New Yard development site. However, New Yard is also interested in immediate limited site use. This will include limited out of water vessel placement, and boat repair activities. They propose to complete the following in the upcoming weeks:

- Grassing cutting and general site clean up;
- Select Brush and tree removal with observance of the tree save plan originally approved;
- Removal of a portion of the abandoned rail tracks east of the NGL driveway;
- Removal and resetting of a chain link fence along the Commercial Street frontage. The fence is intended to provide improved security around the site and will simply place a fence line closer to the street line along much of the site frontage from the NGL driveway, east to the existing shared driveway with the MDOT;
- Processing of salvaged concrete that will be crushed and reinforcement removed for general use as inert site fill. This quantity of material is generally less than 3,000 CY;

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- Placement of a small portable temporary construction trailer with power service;
- Pile removal and/or cutting at the mudline within most of the remnant pier limits across the site waterfront. The piles will likely be stockpiled on the site for future reuse, or disposed off if unsuitable for reuse;
- Ground stabilization and restoration to the existing shorefront granite revetment west of the Unitil frontage. Numerous granite blocks need to be reset along the top of the wall and ground area behind the wall that has been eroded due to ongoing water exposure will be repaired. The plan includes minor subgrade preparation behind the wall and the placement of geotextile material followed by the restoration of granular backfill to the top of wall grade;
- Installation of the westerly boat ramp and floats for vessel staging and extraction. This will include CIP or precast planks and slope stabilization in the vicinity of the ramp and pile reuse or replacement;
- Installation of a temporary tension fabric structure that can be relocated. New Yard's objective is to install the fabric building within the existing footprint of the existing concrete pad, located at the west side of the site. The concrete pad was formerly a clay storage site, thus it is hoped that the pad can be beneficially reused for these temporary conditions. New Yard does not desire to place the structure at the originally designed location until issues including Unitil's completion of VRAP clean up and the IMT expansion are more fully resolved.

In addition, the following will continue to occur:

- New Yard will continue to use the existing shared easterly entrance off Commercial Street for site access.
- Energy East/NGL will continue to operate the existing propane distribution facility and access drive opposite Beach Street;
- Pan Am will continue to use the tracks into the Energy East/NGL site;
- Unitil will continue remediation activities on their lands, including box waste removal and granular fill placement;

Work not currently contemplated until more definitive direction on the IMT expansion is determined includes:

- No significant earthmoving activities;
- No permanent underground utilities will be installed;
- No permanent buildings including the Operations and Maintenance building or Yacht Sales building will be constructed;
- The permanent boat yard surface will not be placed until at least the summer 2014;
- The travel lift basin will not be constructed;
- The easterly boat ramp will not be constructed.

On the basis of these initial phase activities, New Yard is seeking to post a performance guarantee reflective of a limited work scope, at least until such time that more definitive plans

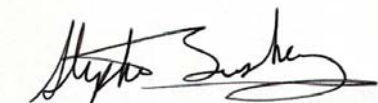
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for the IMT expansion are developed. New Yard fully expects and agrees to post a more expansive performance guarantee for the work not currently contemplated, once the IMT expansion is more fully understood. The accompanying performance guarantee covers those items outlined above as the initial activities that New Yard is proposing to complete. We recognize the original conditions of approval include several items linked to the issuance of a building permit and it is New Yard's intent to satisfy these items in advance or part of any building permit submission. We also recognize that the original approved development plans did not contemplate this phased approach to the work. However, this is now crucial, as New Yard needs to initiate limited site use based on their business needs and operations. Pending your review of these materials, New Yard will be initiating one or more site meetings with involved utilities, contractors and City representatives to discuss work scheduling, timelines and other construction administration over the next few days. Currently, New Yard has commenced onsite activity this week and they expect to aggressively prepare the site for limited upcoming use this fall.

If you have any questions or require any additional information, please contact our office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



Stephen Bushey, P.E., C.P.E.S.C.
Senior Engineer

SRB/smk

Enclosures: Performance Guarantee forms
Seven complete plan sets

c: Phin Sprague, New Yard LLC
Bob Flight, New Yard LLC