



July 16, 2014

Ms. Barbara Barhydt
Development Review Services Manager
Planning and Development Department
City of Portland, Maine
389 Congress Street
Portland, Maine 04101-3509

**Subject: Mercy at the Fore
195 Fore River Parkway
Applicant: Mercy Hospital
Contract Zoning Agreement Amendment**

Dear Barbara:

As requested in your July 10, 2014 email transmission, we offer the attached Section 2 of the Site Location of Development Amendment application previously prepared on behalf of Mercy Hospital (Mercy). Section 2 provides evidence of Mercy's interest in the Fore River property; namely copies of the deeds reflecting purchase of the property from Merrill Industries and Portland Terminal Co. We trust this will satisfy your current needs for adequate Title, Right or Interest in the property.

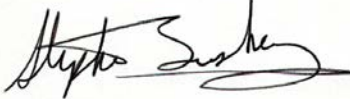
Secondly, we included a copy of the original Contract Zone Agreement and an amendment made to the CZA within our recently submitted package of materials accompanying the Contract Zone Agreement application form, for background. At this time we foresee no changes to the text of the CZA, but effectively an update of the Master Plan supporting these documents. As we have discussed, Mercy has continued to refine their planning expectations for the site, since the original Phase 1 construction and occupancy in 2008. As a result, they sought and have now been given approval by the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers for changes to the Master Plan that involve development activity within the previously protected wetland/gravel pit area in the middle of the property. As part of this current submission we have provided updated plan documents that are intended to replace and/or supplement the previous Master Plan documents. We trust that these materials are sufficient to allow the processing of the application to commence.

Ms. Barbara Barhydt
July 16, 2014
Page 2

If you require additional information, please advise this office and we will endeavor to address these needs accordingly.

Sincerely,

FAY, SPOFFORD & THORNDIKE, LLC

A handwritten signature in black ink, appearing to read "Stephen Bushey", is written over a light yellow rectangular background.

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

SRB/smk

Attachments: Attachment A – MeDEP SLDA Section 2 – Title, Right and Interest

c: Bob Nutter, Vice President and Chief Operating Officer
Mike Connolly, Facilities Manager

ATTACHMENT A

**MeDEP Site Location of Development Amendment
Section 2 – Title, Right and Interest**

SECTION 2
TITLE, RIGHT, AND INTEREST

2.0 Overview

Mercy Hospital owns the property as evidenced in the accompanying deeds. Mercy hospital currently is entered into a lease agreement with Health Care REIT, Inc. as they own the medical office building. Mercy has also recently transferred approximately 1.48 acres of land to the Maine Department of Transportation for the construction of the Fore River Parkway and the Veterans Memorial Bridge.

2.1 Deeds/Boundary Survey/Options

The purchase deeds held by Mercy Hospital are attached.

2.2 Plan Reference

ALTA/ACSM Land Title Survey Prepared for Health Care REIT, Inc.

2.3 Attachments

Attachment A Deed – Portland Terminal Co. to Mercy Hospital

Attachment B Deed – Merrill Industries to Mercy Hospital

ATTACHMENT A

Deed:

Portland Terminal Co. to Mercy Hospital

RELEASE DEED

PORTLAND TERMINAL COMPANY, a corporation duly organized and existing under the laws of the State of Maine, with offices at Iron Horse Park, North Billerica, Middlesex County, Massachusetts 01862 (the "Grantor"), for consideration paid to it by **MERCY HOSPITAL**, a Maine non-profit corporation, having a mailing address of 144 State Street, Portland, Maine 04101-3795 (the "Grantee"), hereby grants to the Grantee all the Grantor's right, title and interest, without any warranties or covenants of title whatsoever, in a certain parcel of land, and the buildings, bridges, structures, crossings, fixtures and improvements thereon, if any, situated in Portland, Cumberland County and State of Maine (the "Premises") described as follows:

See Exhibit "A" Attached Hereto and

Made a Part Hereof by Reference

This conveyance is subject to the following reservations, conditions, covenants and agreements:

1. This conveyance is made without granting any right of way, either by necessity or otherwise, over any remaining land or location of the Grantor, except as provided in Exhibit A.
2. Intentionally Omitted.
3. Intentionally Omitted.
4. Intentionally Omitted.
5. By the acceptance of this deed and as part consideration therefor, the Grantee hereby assumes any and all agreements, covenants, obligations and liabilities of the Grantor in respect to any underground facilities, drainage culverts, walls, crossings and/or other structures of any nature and description located in whole or in part within the Premises.
6. By the acceptance of this deed and as part consideration therefor, the Grantee agrees to irrevocably waive, give up and renounce any and all claims or causes of action against

MAINE REAL ESTATE TAX PAID

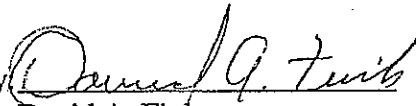
the Grantor in respect of claims, suits and/or enforcement actions (including any administrative or judicial proceedings and any remedial, removal or response actions) ever asserted, threatened, instituted or requested by any person and/or governmental agency on account of: (a) any release of oil or hazardous materials or substances of any description on, upon or into the Premises in contravention of any ordinance, law or statute (including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, et seq., as amended)); and (b) any and all damage to real or personal property, natural resources and/or harm or injury to persons alleged to have resulted from such release of oil or hazardous materials or substances.

7. By the acceptance of this deed and as part consideration therefor, the Grantee hereby agrees to build and forever maintain fences (together with any necessary gates), suitable to the Principal Engineering Office of the Grantor, along the boundaries of the Premises which are common to remaining land or location of the Grantor (the "Fences"), if Fences are ever required in the sole and reasonable opinion of said Principal Engineering Officer.
8. This conveyance is subject to the following restriction for the benefit of other land or location of the Grantor, to wit: that from the date of delivery of this deed, the Grantor shall not be liable to the Grantee or any lessee or user of the Premises (or any part thereof) for any damage to any buildings or property upon them caused by fire, whether communicated directly or indirectly by or from locomotive engines of any description upon the railroad operated by the Grantor, or otherwise. The aforementioned restriction shall not apply to wanton, willful or intentional acts of the Grantor.
9. By acceptance of this deed and as part consideration therefor, the Grantee hereby agrees to make no use of the Premises which, in the sole and reasonable opinion of the Principal Engineering Officer of the Grantor, materially adversely affects, materially increases or decreases drainage to, from, upon or in any remaining land or location of the Grantor. The Grantee agrees to indemnify and save the Grantor harmless from and against any and all loss, cost, damage or expense including, but not limited to, the cost of defending all claims and/or suits for property damage, personal injury or death arising out of or in any way attributable to any breach of the foregoing covenant.
10. The Grantor excepts from this conveyance any and all overhead, surface or underground signal and communication line facilities of the Grantor located within the limits of the Premises and this conveyance is subject to the Grantor's use of any such facilities in their present locations and entry upon the Premises from time to time to maintain, repair, replace, renew, relay or remove such facilities.
11. Whenever used in this deed, the term "Grantor" shall not only refer to the Portland Terminal Company, but also its successors, assigns and affiliates and the term "Grantee" shall not only refer to the above named Grantee, but also the Grantee's successors, assigns and grantees, as the case may be.

12. The several exceptions, reservations, conditions, covenants and agreements contained in this deed shall be deemed to run with the land and be binding upon the Grantee forever. In addition to the acceptance and recording of this deed, the Grantee hereby signifies assent to the said several exceptions, reservations, conditions, covenants and agreements, by joining its execution.

IN WITNESS WHEREOF, the said Portland Terminal Company, has caused this Release Deed to be executed in its name and its corporate seal to be hereto affixed by David A. Fink, its Chief Executive Officer, thereunto duly authorized this 26th day of June, 2002.

GRANTOR: PORTLAND TERMINAL COMPANY, a Maine corporation

By 
David A. Fink
Its Chief Executive Officer

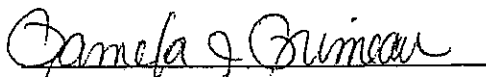
SEAL

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX , ss.

On June 26, 2002, personally appeared the above-named David A. Fink, Chief Executive Officer of said Portland Terminal Company in his said capacity, and acknowledged the foregoing to be his free act and deed and the free act and deed of said Corporation.

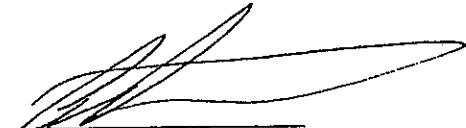
Before me,


Notary Public
Printed Name: Pamela J. Primeau
My Commission Expires March 28, 2003

SEAL

The Grantee hereby accepts and agrees to become bound by the several reservations, conditions, covenants and agreements contained in this deed.

GRANTEE: MERCY HOSPITAL, a Maine non-profit corporation


Witness

By: HOWARD R. BUCKLEY
Name: HR Buckley
Title: President

STATE OF MAINE
CUMBERLAND, ss.

June 25, 2002

Then personally appeared HOWARD R. BUCKLEY the PRESIDENT of Mercy Hospital and acknowledged the foregoing Deed of Easement to be his/her free act and deed in his/her said capacity and the free act and deed of the said Mercy Hospital, before me.

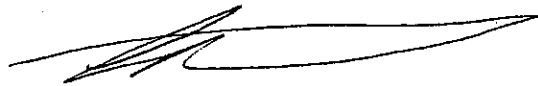

~~Notary Public~~: Attorney At Law
My Commission Expires:
Ande A. Smith, Esq.

EXHIBIT A
to
RELEASE DEED

GIVEN BY PORTLAND TERMINAL COMPANY TO MERCY HOSPITAL

LEGAL DESCRIPTION OF THE PREMISES

That certain parcel of land described as follows is released to Grantee:

A certain lot or parcel of land with buildings thereon situated on the northerly side of the Blue Star Memorial Highway (Route #1) at the Veteran's Memorial Bridge on the Fore River in the City of Portland, County of Cumberland and State of Maine as shown on a plan entitled "Land in Portland, ME. Portland Terminal Company to Mercy Hospital", Sale: 1: = 100', dated June 29, 2001, as amended to date, by Owen Haskell, Inc., which plan is being recorded herewith (the "Conveyancing Plan"), which lot or parcel of land is bounded and described as follows:

Commencing at a rod marking a point 50.00' westerly of and at right angles to the center line of the main track marking a P.C. Station of 23 + 11.35 as shown on right of way and track map Portland Terminal Company dated June 30, 1916 revised March 1938 filed in the Portland Terminal Company in V1-D over 1-A; Said rod being approximately 675' northerly of the northerly right of way line of said Route #1;

Thence northerly along land of Portland Terminal Company and being 50.00' westerly of the centerline of said main track, N 10° 46' 19" W a distance of 482.85' to a rod opposite station 18 + 28.50;

Thence continuing along land of Portland Terminal Company and being 50.00' westerly of the centerline of said main track N 10° 57' 07" W a distance of 290.08' to a rod opposite station 15 + 38.42;

Thence continuing along land of Portland Terminal Company N 9° 29' 00" W a distance of 197.09' to a rod marking the westerly right of way line for the existing spur track and being 33.00' westerly and opposite P.C. Station 2 + 00.64' as shown on said railroad plan;

Thence continuing along land of Portland Terminal Company and being along said right of way line of said spur track along a curve to the left whose radius is 922.37', an arc distance of 185.63' to a rod on the westerly edge of a paved drive, said rod being found on a chord of N 22° 33' 26" W a distance of 185.32' and said rod being the Point of Beginning;

Thence continuing along land of Portland Terminal Company and following the westerly edge of said paved drive S 9° 2' 42" W a distance 110.67' to a rod';

Thence continuing along land of Portland Terminal Company on the following courses:

N 78° 59' 25" W a distance of 42.80' to a rod;

S 10° 55' 38" E a distance of 580.68' to a rod, said rod being 160.00' westerly of and at right angles to the centerline of the main track opposite said Station 18 + 28.50';

S 78° 59' 25" W a distance of 446.63 feet to a tie point;

Continuing S 78° 59' 25" W a distance of 133' ± to the easterly bank of the Fore River and continuing to the approximate low water line a total distance of 1165' ±;

Thence northerly, northwesterly, westerly, northeasterly and southwesterly following the approximate low water line a distance of 2550' ± to the easterly right of way line of Route 295;

Thence N 17° 19' 15" E along said right of way line 760' ±;

Thence N 50° 25' 55" E along said right of way line 176.00 feet;

Thence easterly along said right of way line and along a curve to the left whose radius is 375.00', an arc distance of 7.14' to a point and the southwesterly right of way line for the existing spur track and land of Portland Terminal Company, said point being found on a chord of S 84° 55' 24" E a distance of 7.14';

Thence S 54° 28' 52" E along land of Portland Terminal Company 116.36';

Thence southeasterly along said land and a curve to the left whose radius is 988.44' an arc distance of 283.21' to a tie point, said tie point being located the following courses and distance from the aforementioned tie point:

N 36° 35' 47" W 23.62';

N 36° 20' 10" W 1202.64';

N 41° 38' 20" W 452.20 and said tie point being found on a chord of S 62° 42' 17" E a distance of 282.24';

Thence continuing southeasterly and easterly along said land and a curve to the left whose radius is 988.37' an arc distance of 247.17' to a point said point being found on a chord of S 78° 04' 38" E a distance of 246.53';

Thence S 85° 15' 29" E along said land 439.84';

Thence continuing southeasterly along said land and a curve whose radius is 922.37', an arc distance of 1102.20' to the Point of Beginning, said point being found on a chord of S 51° 01' 30" E, 1037.78'.

Above courses are grid north.

Meaning and intending to release that certain parcel of land identified as the "Portland Terminal Parcel" on the Conveyancing Plan.

TOGETHER WITH all of Grantor's rights and interests in and to the easements and rights of way reserved by Grantor in its deed to Merrill Terminal, Inc. ("Merrill") dated July 27, 1998 and recorded in the Cumberland County Registry of Deeds at Book 14022 Page 302 (the "Merrill Deed"). Such easements are described as follows:

(a) A permanent non-exclusive easement and right of way over the "Reserved Right of Way", being a fifty (50') foot right of way or so much land as required to establish a public way in accordance with all governmental specifications and requirements, over, upon, across, under and through the portion of the land conveyed to Merrill in the Merrill Deed (the "Merrill Parcel") to the boundary of the Merrill Parcel, more particularly identified as the "APPROXIMATE LOCATION OF 50' WIDE 'RESERVED RIGHT OF WAY' AND UTILITY EASEMENT" (the "Reserved Right of Way") on an unrecorded survey plan of the Merrill Parcel entitled "Standard Boundary Survey, Route 1 Blue Star Memorial Highway: Portland Terminal Company to Merrill Industries, Inc." prepared for Merrill Industries, Inc. by Owen Haskell, Inc. and dated May 19, 1998, Job No. 97109P, (hereinafter referred to as the "Merrill Plan"), for all purposes of access of any description necessary and convenient, including, but not limited to, pass and repass on foot and with vehicles, machinery, utilities and drainage of every nature and description.

(b) A permanent non-exclusive easement over, under, across, upon and through the Reserved Right of Way, as shown on the aforementioned Merrill Plan, for utility purposes, including for the purpose of accessing, constructing, installing, operating, maintaining, modifying, repairing, replacing, relocating and removing pipes, conduits and other utility facilities and equipment. Said easement shall be located in a manner as not to interfere unreasonably with Merrill's use of the Merrill Parcel.

(c) The right to access and/or tap into any existing or future utilities located within the Reserved Right of Way as shown on the Merrill Plan; subject, however, to the right reserved by Grantor to access and/or tap into electrical distribution facilities located on the Merrill Parcel for purposes of obtaining electrical power suitable for the use and operation of its railroad signaling and communications equipment or for any other railroad purpose.

Grantor agrees that, if the Grantee herein should acquire some or all of the Merrill Parcel, then upon the occurrence of such acquisition or acquisitions, Grantor shall allow for the

relocation of its interconnection to said electrical distribution facilities at Grantee's cost and in such a fashion as to not unreasonably or unsafely interfere with Grantor's railroad operations.

TOGETHER WITH the same easements and rights of way granted to Merrill in the Merrill Deed over, upon, across, under and through the "50' WIDE 'GRANTED RIGHT OF WAY' AND UTILITY EASEMENT" depicted on the Merrill Plan (the "Granted Right of Way"), to the extent such Granted Right of Way is located on other land owned by Grantor and not on the land conveyed herein. Such easements and rights of way are described as follows:

(a) the permanent non-exclusive easement and right of way over the adjacent land of Grantor, being a permanent non-exclusive fifty (50') foot easement and right of way, or so much land as required to establish a public way in accordance with all governmental specifications and requirements, over, upon, across, under and through the retained land of Grantor, which is shown and included in the "50' WIDE 'GRANTED RIGHT OF WAY' AND UTILITY EASEMENT" on the Merrill Plan, for all purposes of access of any description necessary and convenient, including, but not limited to, pass and repass on foot and with vehicles, machinery, utilities and drainage of every nature and description;

(b) the permanent non-exclusive easement over, under, across, upon and through said "50' WIDE 'GRANTED RIGHT OF WAY' AND UTILITY EASEMENT", over Grantor's retained land, for utility purposes, including for the purpose of accessing, constructing, installing, operating, maintaining, modifying, repairing, replacing, relocating and removing pipes, conduits and other utility facilities and equipment, together with the right to access and/or tap into any existing or future utilities located within the said "50' WIDE 'GRANTED RIGHT OF WAY' AND UTILITY EASEMENT",.

The Grantor may relocate such portion of the said Granted Right of Way that is located on other land owned by Grantor and not on the land conveyed herein, provided that Grantor (1) gives reasonable notice of the intended relocation, (2) pays all costs of relocating any improvements or facilities located within the right of way, (3) carries out such relocation in a manner that does not materially interfere with the uninterrupted passage on foot and with vehicles and machinery or with the uninterrupted provision of utility services through such right of way, and (4) records a plan or plans showing the relocated boundaries of such right of way.

TOGETHER WITH, the non-exclusive right, in common with others, including without limitation, Grantor and its successors and assigns, for access and egress and the right to install utilities over, in, and under that certain right-of-way in common with Cumberland County, Maine pursuant to the reservation of rights and easements set forth in the deed from Grantor to the Inhabitants of the County of Cumberland, State of Maine dated

November 9, 1990 and recorded in the Cumberland County Registry of Deeds at Book 9382, Page 61.

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RECEIVED
RECORDED REGISTRY OF DEEDS

2002 JUN 27 PM 1:12

CUMBERLAND COUNTY

John B O'Brien

ATTACHMENT B

Deed:

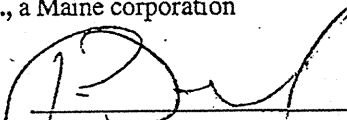
Merrill Industries to Mercy Hospital

QUITCLAIM DEED WITH COVENANT

MERRILL INDUSTRIES, INC., a corporation duly organized and existing under the laws of the State of Maine, with offices in Portland, Maine (hereinafter "Merrill" or the "Grantor"), for consideration paid to it, grants to MERCY HOSPITAL, a Maine non-profit corporation, having a mailing address of 144 State Street, Portland, Maine 04101-3795 (the "Grantee"), with Quitclaim Covenant, the land, buildings, and the fixtures in the City of Portland, Cumberland County, Maine, described more particularly in EXHIBIT A, attached hereto and made part hereof by reference.

IN WITNESS WHEREOF, the said Merrill Industries, Inc., has caused this Quitclaim Deed to be executed in its name and its corporate seal to be hereto affixed by P.D. Merrill, its President, thereunto duly authorized this 9th day of October, 2002.

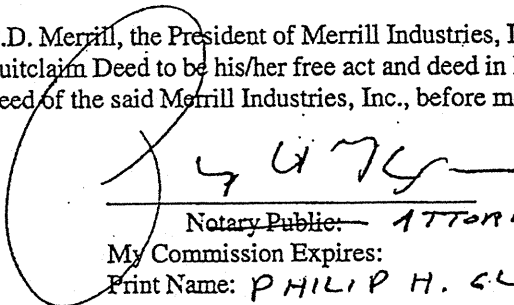
GRANTOR: MERRILL INDUSTRIES, INC., a Maine corporation

By: 
Name: P.D. Merrill
Its: President

STATE OF MAINE
CUMBERLAND, ss.

October 9, 2002

Then personally appeared P.D. Merrill, the President of Merrill Industries, Inc. and acknowledged the foregoing Quitclaim Deed to be his/her free act and deed in his/her said capacity and the free act and deed of the said Merrill Industries, Inc., before me,


Notary Public: ~~ATTORNEY AT LAW~~
My Commission Expires:
Print Name: PHILIP H. CLEASON

MAINE REAL ESTATE TAX PAID