

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK

CITY OF PORTLAND

BUILDING INSPECTION

PERMIT

PERMIT ISSUED
Permit Number: 00310
MAY 23 2010
CITY OF PORTLAND

Please Read Application And Notes, If Any, Attached

This is to certify that Power Test Realty/n/a
has permission to Change of Use from vacant space to service repair
AT 1217 Congress St CBL 186 D001001

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of buildings and structures, and of the application on file in this department.

Apply to Public Works for street line and grade if nature of work requires such information.

Notification of inspection must be given and written permission procured before this building or part thereof is lathed or otherwise closed-in. 24 HOUR NOTICE IS REQUIRED.

A certificate of occupancy must be procured by owner before this building or part thereof is occupied.

OTHER REQUIRED APPROVALS

Fire Dept. CAPT. R. Southworth
Health Dept. _____
Appeal Board _____
Other _____
Department Name

Janine Bowke 3/23/10
Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD

City of Portland, Maine - Building or Use Permit Application

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 10-0210	Issue Date:	CBL: 186 D001001
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Location of Construction: 1217 Congress St	Owner Name: Power Test Realty	Owner Address: 1500 Hempstead Turnpike	Phone:
Business Name: D & M Automotive	Contractor Name: n/a	Contractor Address: n/a Portland	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Change of Use - Commercial	Zone: B-1

Past Use: Commercial / Vacant Space	Proposed Use: Commercial / Change of Use from vacant space to service repair. <i>Automotive</i>	Permit Fee: \$105.00	Cost of Work: \$30.00	CEO District: 3
Proposed Project Description: Change of Use from vacant space to service repair. <i>Automotive</i>		FIRE DEPT: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied <i>* See Conditions</i>	INSPECTION: Use Group <i>S-1</i> Type <i>3B</i> <i>IBC-2003</i>	

Signature: <i>(KG)</i>	Signature: <i>JMB 3/23/10</i>
PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)	
Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied	
Signature:	Date:

Permit Taken By: gg	Date Applied For: 03/05/2010	Zoning Approval	
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- This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.
- Building permits do not include plumbing, septic or electrical work.
- Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..

Special Zone or Reviews <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> Date: <i>3/9/10</i>	Zoning Appeal <input checked="" type="checkbox"/> Variance <i>use recorded - BK 27304 pg 98</i> <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied Date: <i>9/3/2009</i>	Historic Preservation <input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date: <i>[Signature]</i>
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CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE

City of Portland, Maine - Building or Use Permit

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 10-0210	Date Applied For: 03/05/2010	CBL: 186 D001001
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Location of Construction: 1217 Congress St	Owner Name: Power Test Realty	Owner Address: 1500 Hempstead Turnpike	Phone:
Business Name: D & M Automotive	Contractor Name: n/a	Contractor Address: n/a Portland	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Change of Use - Commercial	

Proposed Use: Commercial / Change of Use from vacant space to automotive service repair.	Proposed Project Description: Change of Use from vacant space to automotive service repair.
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Dept: Zoning **Status:** Approved with Conditions **Reviewer:** Marge Schmuckal **Approval Date:** 03/09/2010

Note: **Ok to Issue:**

- 1) This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that work.

Dept: Building **Status:** Approved with Conditions **Reviewer:** Jeanine Bourke **Approval Date:** 03/23/2010

Note: **Ok to Issue:**

- 1) This is a Use ONLY permit. It does NOT authorize any construction activities.
- 2) Application approval based upon information provided by applicant. Any deviation from approved plans requires separate review and approval prior to work.

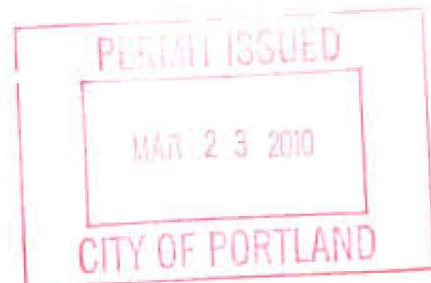
Dept: Fire **Status:** Approved with Conditions **Reviewer:** Capt Keith Gautreau **Approval Date:** 03/18/2010

Note: **Ok to Issue:**

- 1) Certificate of Occupancy will require a final inspection by Fire Dept. Also, the occupancy will require a fire permit for garage repair, cutting and welding, and possibly flammable / combustible liquids. Application must be filled out with City Clerk's office.
- 2) Fire extinguishers required. Installation per NFPA 10
- 3) This permit is for change of use only, any construction shall require additional permits. The occupancy shall meet NFPA 101 code requirements upon inspection.

Comments:

3/9/2010-mes: Originally dropped off initial information on 1/26/10 - received the check and other info on 3/5/10 - within the appeal time frame of 6 months - Received variance for an automotive repair service use on 9/3/10 - Certificate of Variance recorded BK: 27304 PG: 98





General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>1217 Congress St, Portland</u>			MAIL	
Total Square Footage of Proposed Structure/Area: <u>1288 sq. ft.</u>		Square Footage of Lot: <u>.28 acres</u>	Number of Stories: <u>1</u>	
Tax Assessor's Chart, Block & Lot Chart# Block# Lot# <u>186 D 1</u>	Applicant 'must be owner, Lessee or Buyer' Name: <u>Richard A. Stewart Jr</u> Address: <u>81 Elderberry Dr</u> City, State & Zip: <u>So Portland, Me 04106</u>		Telephone: <u>207-767-0092</u>	
Lessee/DBA (If Applicable) <u>D+M Automotive</u> RECEIVED	Owner (if different from Applicant) Name: <u>Power Test Realty</u> Address: <u>1500 Hempstead Trpk</u> City, State & Zip: <u>East Meadow, NY 11554</u>	Cost Of Work: \$ <u>30.00</u>	C of O Fee: \$ <u>75.00</u>	
MAR - 5 2010 Current legal use (i.e. single family) <u>service repair</u> Number of Residential Units <u>change of use</u> If vacant, what was the previous use? _____ Proposed Specific Use: <u>service repair</u> Is property part of a subdivision? _____ If yes, please name _____ Project description: <u>retail auto service repair - re establish use</u> <u>space had been vacant for a year - received use variance from ZBA</u>				
Contractor's name: <u>NA</u>				
Address: _____				
City, State & Zip: _____			Telephone: _____	
Who should we contact when the permit is ready: <u>Nagui Koad</u>			Telephone: <u>767-4411</u>	
Mailing address: <u>81 Elderberry Dr, S. Portland, Me 04106</u>				

Please submit all of the information outlined on the applicable Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature: Richard A. Stewart Jr Date: Mar 2, 2010

This is not a permit; you may not commence ANY work until the permit is issue


Acct. #28032


LEASE AGREEMENT

LEASE AGREEMENT ("Agreement") made as of 4-8-08 between GETTY PETROLEUM MARKETING INC., a Maryland corporation having its principal office at 1500 Hempstead Turnpike, East Meadow, New York 11554 ("Lessor"), and Richard Allen Stewart, Jr., with his principal business residence at 81 Elderberry Dr., South Portland, ME 04106 ("Lessee").

1. Lessor hereby demises and lets to Lessee and Lessee hereby hires and leases from Lessor the premises ("Premises") located at 1217 Congress St., Portland, ME 04102, pursuant to the terms, conditions and limitations set forth herein.
2. The term of this Agreement shall be for a period of three (3) years from the date hereof contingent upon the fulfillment of the following in the sole discretion of Lessor: (i) Lessee giving the Lessor the certificates of insurance set out in Paragraph 7, (ii) making of the security deposit payment by the Lessee as set out in Paragraph 4 below, (iii) Lessee's credit approval by Lessor in Lessor's sole discretion, (iv) removal or abandonment in Lessor's discretion of USTs in accordance with Paragraph 10(b), and (v) undertaking of other acts by Lessor pursuant to Paragraph 10(b) below ("Commencement Date"), and terminating on February 28, 2011 unless further extended prior thereto as may be agreed in writing by the parties ("Term").
3. (a) Lessee shall pay the following rent for said Premises:
 For the period of _____ to April 30, 2008 - \$0.00 per month
 For the period of May 1, 2008 to February 28, 2011 - \$1,500.00 per month
4. On or prior to the Commencement Date Lessee shall make a security deposit of \$4,500.00 as security for the performance by Lessee of the provisions of this Agreement. In the event of Lessee's default or failure to comply fully with the provisions of this Agreement Lessor may use, apply or retain the whole or any part of the security deposit to the extent required for the payment of any obligation of Lessee. In the event that Lessee fully complies with the terms and conditions of this Agreement, the security deposit less any deductions shall be returned to Lessee after the end of the Term and after delivery of possession of the Premises in accordance with Paragraph 16(a) below is given to Lessor. Lessor shall pay to Lessee interest on that amount of the security deposit returned to Lessee if required by law and then at a rate as so required.
5. a) Lessee shall pay monthly, as additional rent, all increases in taxes over the sum of \$684.64 per month which shall be imposed or assessed upon the land, building and other improvements constituting the Station. Payment of the foregoing shall be made at the same time and in the same manner as rent is paid pursuant to paragraph 4 of this lease. Lessee shall pay all personal property taxes and business use taxes related to the Station and the equipment located thereon.
 (b) Lessee shall pay directly to the appropriate authority all utilities including without limitation, all sewer charges (other than assessments), electricity and telephone.

INITIALS:

LESSOR 

LESSEE 

(c) The Lessor shall not be liable to Lessee or any other person or persons, firms, associations, corporations or entities for any failure of the water supply, electricity, gas or any other service in and about the Premises nor for injury or damages to persons or property caused by any such failure or caused by the elements or by any other person in and about the Premises, or which might result from leakage or flow of any system, gas, electricity, water, rain, ice or snow from any part of the Premises or portion thereof or from the streets adjacent thereto, nor shall Lessor be liable for any latent defects in or on the Premises, buildings and appurtenances thereto, including without limitation the sidewalks adjacent to the Premises.

(d) Lessor shall be liable for any charges under Paragraphs 5(a), 5(b) and 5(c) accrued prior to the Commencement Date.

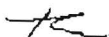
6. (a) Lessor shall have no liability or responsibility for any contamination whatsoever caused by Lessee, its agents, representatives, employees, successors or assigns or any party whatsoever if at any time during the Term any spill, release or discharge of any hazardous or toxic substance or other contamination occurs. Lessee shall notify Lessor in writing of each such event, and Lessee shall assume responsibility for all costs, fines, payments and expenses associated with such contamination and any additional expenses which Lessor may incur as a result of such contamination. For the avoidance of doubt, in respect of Lessee, Lessor is responsible for any environmental contamination existing before the Commencement Date.

(b) Notwithstanding Paragraph 6(a) above, if contamination due to a spill, release or discharge occurs Lessee shall pay for all such costs, fines, payments and expenses or for the costs, fines, payments and expenses to comply with applicable legal requirements including, without limitation any directive or order of any government agency. In the event Lessee shall fail, refuse or neglect to remediate the contamination in order to comply timely with all legal requirements, Lessor may remediate the contamination at Lessee's sole cost and expense. Irrespective of whether Lessor or Lessee undertakes any remediation, Lessee covenants and agrees to reimburse and promptly pay to Lessor all costs associated with any discharge, release, or other contamination and remediation together with interest thereon at the lesser of eighteen percent (18%) per annum or the maximum rate permitted by law. If Lessee fails to reimburse Lessor within thirty (30) days of demand therefor, such unpaid amount with interest as accrued above shall become additional rent due hereunder.

(c) Lessor shall defend, indemnify and hold harmless Lessee from any action, claim, notice, penalty, damages, costs, fines, fees, payments or expenses whatsoever related to any discharge, release or for any form of contamination occurring before the Commencement Date

(d) Lessee shall defend, indemnify and hold harmless Lessor, its parent and subsidiary companies and affiliates, and each of their respective directors, shareholders, officers, employees, agents and representatives, from any action, claim, notice, penalty, damages, costs, fines, fees, payments or expenses whatsoever related to any discharge, release or for any form of contamination occurring on or after the Commencement Date. The foregoing indemnification obligations of Lessee shall survive in perpetuity any expiration or termination of this Agreement.

INITIALS:

LESSOR 

LESSEE



(c) Lessor hereby reserves for itself an easement and right of way on the Premises to allow Lessor and its contractors to undertake any required environmental clean-up, remediation or testing of any kind whatsoever in respect of any environmental violation or discharge or other occurrence of hazardous substances which arose prior to the Commencement Date ("Environmental Work"). Lessor shall attempt to undertake the Environmental Work in such a manner as to minimize disruption to Lessee's business on the Premises, however Lessee hereby acknowledges that such Environmental Work may negatively impact such business and hereby irrevocably consents to the same.

(f) This indemnification provision shall survive in perpetuity any expiration or termination of this Agreement.

7. (a) Lessee shall pay the premiums for and deliver to Lessor the following policies of insurance valid continuously for the Term, with reputable and economically sound insurance carriers authorized to do business in the State of Maine, which shall name Lessor, its designees, and the owners of the property as additional insureds as follows:

(i) Property insurance policy insuring the building and all improvements now or hereafter erected on the Premises against loss or damage by fire or casualty (with all risk coverage including vandalism and malicious mischief) for the full replacement value thereof (but in no event less than One Hundred Twenty Five Thousand (\$125,000.00) Dollars), policies of which shall provide that loss, if any, shall be adjusted with and payable to Lessor, or at Lessor's request, to Lessor and/or any mortgagee, as their respective interests may appear; and

(ii) General accident, public liability policy in a combined single limit of Two Million Dollars (\$2,000,000.00) for bodily injury and property (without care, custody and control exclusion) damage liability covering the Premises and the sidewalks adjacent thereto. The policies should be written as an "occurrence" type of policy; and

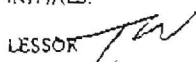
(iii) Rental value insurance (with extended coverage) in a sum equal to the rent reserved herein and the amount of real estate taxes which Lessee is obligated to pay as provided in this Agreement.

(b) Lessee shall obtain a worker's compensation insurance policy at required statutory limits.

(c) Lessee shall provide Lessor with certificates of insurance as a condition precedent to the start of the Commencement Date. Such certificates shall name Getty Petroleum Marketing Inc., Getty Properties Corp., Getty Realty Corp., Power Test Realty Company Limited Partnership and any owner or lessee of the Premises and each of their respective parent and subsidiary companies and affiliates ("Additional Indemnitees") as additional insureds and/or loss payees and shall contain the following endorsement "Cancellation: In the event of policy cancellation or material change, the Certificate Holder will be notified in writing at the address indicated, of such cancellation or material change, such cancellation or change to be effective not less than sixty (60) days after notice of such cancellation or change."

INITIALS.

LESSOR



LESSEE



8. (a) Subject to such uses being lawful, Lessee shall use and occupy the Premises for automotive repair by Lessee in its normal course of business. Lessee must obtain, at its own expense, all government licenses or permits required for the lawful conduct of Lessee's business on the Premises and Lessee will, at all times, comply with the terms of such licenses or permits. Lessee shall keep all such licenses and permits in full force and effect for the use of the Premises permitted under this Agreement. Lessee shall not sell or distribute petroleum product and lubricating oils.

(b) Lessee shall be allowed to use the Premises for any other lawful use only after prior written approval from Lessor which approval shall not be unreasonably withheld. Lessee acknowledges and agrees that Lessor will have the right to condition its approval of any other uses not stated in Paragraph 8(a) above upon amendment of this Agreement with additional terms and conditions.

9. Lessee shall not permit or keep any dogs or other dangerous animals at the Premises and Lessee shall be solely liable and responsible and indemnify Lessor and Additional Indemnitees for any such dogs and animals which may be at the Premises from time to time hereunder.

10. (a) Lessee, at its expense, shall maintain and make all repairs necessary to keep the building and entire Premises in good and safe operating condition, without any abatement of rent for the interruption caused thereby. Lessee shall promptly make all such repairs including without limitation replacements which repairs including without limitation replacements shall be in quality and class equal to or better than the work or installations existing at the time that the damage or injury occurred.

(b) Prior to the Commencement Date Lessor shall remove or abandon in its sole discretion all underground storage tanks and related piping ("UST's") in accordance with all applicable laws and regulations, and remove all above ground petroleum marketing equipment except the canopy and the pole signs, all plastic fascias and identifying letters, and all debris from the exterior of the building on the Premises.

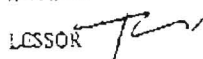
(c) Lessee shall keep adjacent sidewalks, curbs and driveways in good and safe condition and free from snow, ice and obstructions; keep the yard area free of trash, junk and debris; and replace damaged glass. Lessee shall be responsible for snow removal and trash removal at the Premises. Lessee shall commit no act of waste to the Premises or improvements.

11. (a) Lessor shall not be required to render any services to Lessee or to make any repairs or replacements to the Premises except those specifically described in this Agreement.

(b) Lessor, for itself and its agents, reserves the right to enter the Premises for the purposes of examining and inspecting said Premises and any property of Lessor thereon and to make any necessary repairs thereto which are required pursuant to Paragraph 10 above and Lessee has failed to undertake upon reasonable notice to Lessee and during regular business hours unless otherwise agreed to by Lessee or unless in the event of an emergency in which event no notice is necessary. Lessor shall not be liable in any manner to Lessee by reason of such entry or the performance of repair work on the Premises and the obligations of Lessee hereunder shall not be thereby affected. Lessor shall charge the cost of repair to Lessee whether as additional rent due with Lessee's next monthly installment of fixed rent or otherwise. In addition, Lessee's failure to pay such charges may in the discretion of Lessor be treated as a failure to pay rent when due and subject to the same remedies.

INITIALS

LESSOR



LESSEE



12. The Lessee agrees to permit the Lessor or the Lessor's agents to show the Premises to persons wishing to hire or purchase the same; and the Lessee further agrees that on and after the sixth month preceding the expiration of the Term hereby granted, the Lessor or their agents shall have the right to place notices on the front of said Premises, or any part thereof, offering the Premises "To Let" or "For Sale", and the Lessee hereby agrees to permit the same to remain thereon without hindrance or molestation.
13. This Agreement is subject and subordinate to that certain Amended and Restated Master Lease Agreement dated as of November 2, 2000 between Lessor and Getty Properties Corp. ("Master Lease") in respect to the Premises and all mortgages or other security instruments which may now or hereafter affect this Agreement or the Premises, and to all renewals, modifications, consolidations, replacements, extensions, substitutions or assignments thereof. This Paragraph shall be self-operative and no further instrument of subordination shall be required in order to effect same, however, in confirmation of such subordination, Lessee shall execute promptly any certificate that Lessor may request. In the event that the Master Lease terminates for any reason under the Master Lease, this Agreement shall terminate with immediate effect and Lessor shall have no obligation or liability to Lessee hereunder.
14. Lessee shall comply promptly with all present and future laws, codes and ordinances and other notices, requirements, orders, regulations and recommendations (whatever the nature thereof) of all governmental authorities and recommendations of the board of fire underwriters or any insurance organizations, associations or companies in the respect to the Premises, and Lessee will not knowingly do or commit, or suffer to be done or committed anywhere in the Premises, any act or thing contrary to any of the laws, ordinances, notices, requirements, orders, regulations and recommendations referred to herein.

Lessee shall place no signs on the Premises, which do not relate to Lessee's business without first obtaining Lessor's prior written consent. All signs shall be in compliance with all applicable laws. Lessee shall pay the charges, if any, for all sign permits.

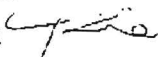
16. (a) Lessee shall quit and surrender peaceably and quietly, to Lessor, its agent or attorney, possession of the Premises at the expiration or other termination of this Agreement, vacant (free of all occupants), broom clean and in good condition, except for ordinary wear and tear. Lessee's failure to so vacate shall subject Lessee to liability and Lessee agrees to pay Lessor's damages, costs and counsel fees resulting therefrom. If upon termination of this Agreement or abandonment of the Premises by Lessee, Lessee abandons or leaves any personal property or equipment at the Premises, such equipment or property shall be conclusively deemed abandoned and Lessor shall have the right, without notice to Lessee, to store or otherwise dispose of the property or equipment at Lessee's sole cost, expense and risk, without being liable in any respect to Lessee. Lessee agrees that any such disposition by Lessor shall be conclusively deemed to be commercially reasonable.

(b) If Lessee holds over or remains in possession of the Premises after the expiration of the Term, or after any prior termination thereof, without any written agreement being made or entered into between Lessor and Lessee, such holding over or continued possession shall be deemed to be a tenancy from month to month at a monthly rent equal to two (2) times the previous month's rent, and otherwise upon the terms and conditions of this Agreement, and such tenancy shall be terminable at the end of any month by either party upon written notice delivered to the other party at least thirty (30) day's prior to the end of such month.


INITIALS:

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LESSOR



LESSEE



- 17. Lessee shall not do any act, or make any contract, which may create or be a foundation for any lien (including mechanics' or materialman's liens) or other encumbrance upon any interest of Lessor in the Premises. If any such lien be filed, Lessee, within fifteen (15) days or as soon as reasonably possible after notice of filing shall cause any such lien or encumbrance to be discharged of record.
- 18. (a) Lessor, at its expense and without any abatement or rent for the interruption caused thereby, shall make structural repairs deemed necessary by it to keep the building in good operating condition, provided that repairs are due to ordinary wear and tear or damage by the elements.

 (b) Lessee shall make no additions, changes, alterations or improvements to the Premises without first submitting detailed plans and specifications and obtaining Lessor's prior written consent. Any alterations or additions to any buildings or permanent improvements authorized by Lessor shall be made in a good, workmanlike manner, in compliance with all applicable laws, rules and regulations and at Lessor's option shall upon installation become the property of Lessor and Lessee shall have no right or interest therein except to continue to use same during the remainder of the Term. At the request of Lessor, Lessee shall forthwith at its own cost and expense remove all alterations, improvements, and additions not acceptable to or desired by Lessor (which shall not include any alterations, improvements and additions approved by Lessor in writing) from the Premises, and Lessee shall repair all damage caused by such installation and removal. Any costs incurred by Lessor in removing or disposing of any alterations, improvements and additions or repairing any related damage shall be charged to Lessee and may be treated by Lessor as additional rent hereunder or otherwise.
- 19. Each of Lessor and Lessee agree that each of the provisions of this Agreement is a material and substantial condition of the agreement between the parties hereto relating to the lease of the Premises and that non-compliance with any such provision shall be deemed to be a default hereunder. Lessor may terminate this Agreement upon ten (10) days' written notice of default hereunder or violation of applicable law from Lessor, and in any manner resume possession of the Premises.
- 20. In the event of any default by Lessee, re-entry by Lessor, expiration or termination of this Agreement or dispossession by summary proceeding or otherwise, Lessee shall be responsible for the following:
 - a) Rent up to the time of such re-entry, dispossession or expiration of the Term;
 - b) Rent for the balance of the full Term, all of which shall be accelerated and due and payable as of the date of default, re-entry by Lessor, termination of this Agreement or entry of a judgment of possession, whichever date first occurs;
 - c) The payment of all sums incurred by Lessor in putting the Premises in good order or preparing the same for re-rental, including brokerage and advertising fees;
 - d) Reasonable attorney's fees and expenses resulting from Lessor enforcing any of the remedies described above, or in the enforcement of this Agreement or in defending any claim brought against Lessor by Lessee against which Lessor successfully defends; and
 - e) Compensation for any damages caused by Lessee to the Premises.

INITIALS

LESSOR



LESSEE



In addition, Lessor shall have such other remedies as are then available to it by law. Lessor is under no obligation to mitigate damages.

No right or remedy granted or reserved unto Lessor hereunder shall be deemed to be exclusive of any other or additional right or remedy available to Lessor at law or in equity or under statute.

21. (a) Lessee shall not pledge, mortgage or otherwise encumber or take any other action to impinge Lessor's rights (or the value thereof) to the Premises, the equipment listed on Schedule B or any other real or personal property on the Premises belonging to Lessor.
- (b) Lessee shall not assign, sublet or otherwise transfer the Premises or any part thereof, without first obtaining Lessor's written consent which consent Lessor may, in its sole discretion, withhold. In the event of any such assignment, subletting, or other transfer, by new lease or otherwise, Lessee shall continue to remain jointly and severally liable with its transferee to Lessor for the performance of all of Lessee's obligations for the remainder of the Term.
22. (a) Lessee shall nominate a duly licensed and qualified contractor for any construction or repair work involving the Premises. Lessee shall assume all liability and shall indemnify and hold harmless Lessor and Additional Indemnitees for any contamination, claims, suits, damages, fines, expenses or any other payments whatsoever related to any construction or repair work at or in connection with the Premises. Lessee shall require certificates of insurance from such contractors or for any repair services, which certificates shall name Lessor and Additional Indemnitees as additional insureds to the satisfaction of Lessor.
- (b) This indemnification provision shall survive in perpetuity any expiration or termination of this Agreement.
23. The parties hereto waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other (except for personal injury or property damage) on any matters whatsoever arising out of or in any way connected with this Agreement, the relationship of Lessor and Lessee, Lessee's use of or occupancy of the Premises, or any other statutory remedy. In the event Lessor commences any dispossession proceeding for possession of the Premises, Lessee will not interpose any counterclaim of any nature or description in such proceeding.
24. Lessor shall not in any event whatsoever be liable for any injury or damages to any person happening on or about the Premises, or for any injury or damage to the Premises, or to any property of Lessee or to any property of any other person, firm, association, or corporation on or about the Premises, unless the direct result of Lessor's gross negligence. Lessee shall defend, indemnify and hold harmless Lessor and the Additional Indemnitees from and against any and all losses, claims, demands, suits, actions, judgments, fines, costs, expenses or payments, environmental or otherwise, for, or in connection with this Agreement, any accident, injury or damage whatsoever caused to any person or property arising, directly or indirectly, out of the business conducted at the Premises or by virtue of Lessee's use and occupancy of the Premises or on any of the sidewalks adjoining the same, or arising, directly or indirectly, from any violation of any law, agency ruling or regulation, or from any act or omission of Lessee or any subtenant and their respective licensees, servants, agents, customers, employees or contractors, and from and against all costs, expenses and liabilities incurred whether or not in connection with any such claim or proceeding brought in connection therewith. Lessee's obligations under this Paragraph shall survive in perpetuity any expiration or termination of this Agreement.

INITIALS:

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LESSOR



LESSEE



25. For the avoidance of doubt, any indemnification obligations of Lessee to Lessor under this Agreement shall be deemed to run in favor of the Additional Indemnities at the sole option of Lessor.
26. Lessee agrees that the liability of the Lessor under this Agreement and all matters pertaining to or arising out of the tenancy and the use and occupancy of the Premises, shall be limited to Lessor's interest in the Premises, and in no event shall Lessee make any claim against or seek to impose any personal liability upon any individual, general or limited partner of any partnership, or principal of any firm or corporation that may now or hereafter become the Lessor.
27. If the whole or any substantial part of the Premises shall be acquired or condemned by eminent domain or for any public or quasi-public use or purpose, then, and in that event, the Term shall cease and terminate from the date of title vesting and Lessee shall have no claim against Lessor for the value of any unexpired Term of this Agreement. Any award will be for the benefit of Lessor and no part of any award shall belong to Lessee, provided however Lessee shall have to assert its full legal rights to share in such award so long as such assertion is coordinated with Lessor and in accordance with the Master Lease.
28. Should any of Lessee's checks, electronic wire transfers or electronic funds transfers be dishonored, stopped or returned for any reason after delivery or transfer to Lessor, Lessee agrees to pay to Lessor an administrative service charge equal to the greater of Fifty Dollars (\$50.00) or three percent (3%) of the amount of any such check or attempted transfer, to cover Lessor's costs and expenses. Any money owed by Lessee to Lessor after the due date shall bear interest at the rate of the lesser of one and a half percent (1 1/2%) per month (eighteen percent (18%) annual percentage rate), or the maximum interest rate permitted by law. Lessor reserves the right, at any time upon sixty (60) days' prior notice to Lessee, to increase the foregoing administrative service charge and/or the interest rate on money owned after the due date. Lessee understands and agrees that more than three (3) instances of dishonoring of checks and/or electronic wire transfers or Electronic Funds Transfers during any twelve (12) month period shall be an additional ground of default under this Agreement.
29. (a) Lessor does not, in any way, represent or warrant the fitness of the Premises for the use contemplated by Lessee, and it shall be Lessee's obligation to make same fit at its sole cost and expense. Lessee acknowledges that it has inspected the Premises including the equipment as set out in Schedule B and accepts the same in its present condition "AS IS".
- (b) Lessee acknowledges that it will be operating a place of public accommodation and covenants and agrees that it will make any improvements, alterations or modifications to the leased Premises as may be required by the Americans With Disabilities Act of 1990, as amended, and the regulations issued pursuant thereto and any similar applicable law, rule, regulation or act now existing or hereafter enacted (collectively the "Disabilities Act"). Furthermore, Lessee agrees that it will defend, indemnify and hold harmless Lessor for any costs, damages, penalties or fines Lessor may incur by reason of Lessor's and/or Lessee's failure to comply with the Disabilities Act at the Premises during the Term. The provisions hereof shall survive in perpetuity any expiration or termination of this Agreement.
30. Lessee warrants and represents to Lessor: (i) that this Agreement has been duly authorized by all necessary action on the part of Lessee, has been duly executed by Lessee and represents the valid and binding obligations of Lessee enforceable in accordance with its terms; and (ii) that it has dealt with no broker, real estate salesman, or person acting as broker or finder, in connection with this Agreement. Lessee shall defend, indemnify and hold harmless Lessor and Additional Indemnitees of and from any and all claims, liabilities and/or damages which are based upon a claim by any broker, person, firm, or corporation for brokerage commission and/or other compensation by reason of having dealt with Lessee. The provisions of this Paragraph shall: (A) survive in perpetuity any expiration or termination of this Agreement, and (B) be deemed to be continually repeated during the Term.

INITIALS:

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LESSOR LESSEE 

31. All notices and other communications which are required shall be given by Certified Mail, Return Receipt Requested, to the parties at their respective addresses first written above, or to the Lessee at the Premises or to such other address as either party may designate by like Certified Mail. Any such notice shall take effect at the time of the mailing thereof.
32. (a) Lessor's right to require strict performance shall not be affected by any previous waiver or course of dealings.
- (b) The receipt and acceptance of rent by Lessor with knowledge of a default by Lessee under this Agreement shall not be deemed a waiver of such default and Lessor retains all of its rights under this Agreement related to such default.
- (c) No payment by Lessee or receipt by Lessor of a lesser amount than the monthly rent stipulated herein shall be deemed to be other than on account of the earliest stipulated rent or item of additional rent outstanding, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or additional rent be deemed an accord and satisfaction and Lessor may accept any such check or payment without prejudice to Lessor's rights to recover the balance due or to pursue any other remedy.
- (d) Lessor may set off any amounts owned to Lessor hereunder against any monies owed by Lessee to Lessee hereunder or under any other agreements in force between Lessor and Lessee or Lessor.
33. Lessor shall not be liable for failure to give possession of the Premises upon the Commencement Date by reason of the fact that the Premises are not ready for occupancy or because a prior Lessee or any other person is wrongfully holding over or is in wrongful possession, or for any other reason. The rent shall not commence until possession is given or is available, but the Term herein shall not be extended.
34. At any time and from time to time, within twenty (20) days after request by Lessor, by written instrument, Lessee shall certify to Lessor, any mortgagee, assignee of a mortgagee, any purchaser, or any other person specified by Lessor, to the effect that: (a) Lessee is in possession of the Premises; (b) this Agreement is unmodified and in full force and effect (or if there has been modification, that the same is in full force and effect as modified and setting forth such modification); (c) whether or not there are then existing set-off or defenses against the enforcement of any duty or obligation of Lessee (and if so, specifying the same); and (d) the dates, if any, to which any rent or other charges have been paid in advance.
35. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, heirs, successors and assigns.
36. No waiver, modification or amendment of the provisions of this Agreement, or any of the rights or remedies of either of the parties hereto shall be valid, unless such waiver, modification or amendment is in writing, and signed by the party against whom enforcement is sought.
37. This Agreement shall be construed in accordance with the laws of the State where the Premises is located without regard to principles of conflict of laws.
38. In the event any provision of this Agreement is declared illegal, invalid, or unenforceable or contrary to law, it shall not affect any other part.
39. The parties hereto have set forth in this Agreement their entire understanding, there is no other agreement or understanding between the parties, except as expressly set forth herein.

INITIALS:

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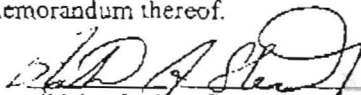
LESSOR



LESSEE



- 40. This Agreement is the product of negotiations between the parties, both sides being represented (or having an opportunity to be represented) by counsel. The mere fact that one party or the other drafted, typed, printed or produced the written form hereof shall not be construed to prejudice such party nor to raise any presumption in law or equity against the drafting party by reason of possible ambiguity.
- 41. Lessee has fully read this Agreement before signing same and is in full agreement with its terms. The person signing this Agreement on behalf of Lessee certifies that he/she is authorized by Lessee to execute this Agreement on behalf of Lessee and to bind Lessee to its terms.
- 42. Lessee shall not record this Agreement or any notice or memorandum thereof.

By: 
 Name: Richard Allen Stewart, Jr.
 Title: Lessee/General Manager

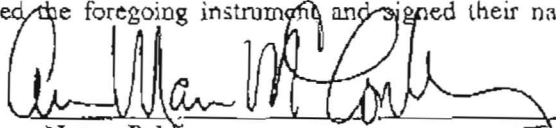
Lessee's Social Security Number or Federal Tax ID Number: 007-56-4332

GETTY PETROLEUM MARKETING INC.

By: _____
 Name: Edward J. Janoski
 Title: Regional Manager, Lessor

STATE OF Maine)
 COUNTY OF Lumberland) ss:

On this 10th day of April, 2008, before me personally came Richard Allen Stewart, Jr. to me known, who executed the foregoing instrument and signed their name thereto in my presence.


 Notary Public

ANNE MARIE MCCOUBREY
 Notary Public, Maine
 My Commission Expires September 23, 2008
 2010

STATE OF _____)
 COUNTY OF _____) ss:

On this ____ day of _____, 2008, before me personally came Edward J. Janoski, to me known, who being by me duly sworn, did depose and say that he is the Regional Manager of GETTY PETROLEUM MARKETING INC., the corporation described in and which executed the above instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

 Notary Public

ALL THAT CERTAIN

SCHEDULE A

INITIALS:
LESSOR

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LESSEE

Attachment B

Account No.:

Getty Petroleum Marketing Inc. ("Company") has waived obligations of RICHARD ALLEN STEWART, Jr. ("Lessee") to provide evidence of Workers Compensation coverage in as much as Lessee is the Sole Proprietor and has no employees including family members. In the event that Lessee shall be required to immediately provide evidence of Workers' Compensation Coverage to the company.

RICHARD ALLEN STEWART, Jr.
Name (Print)

Lessee Signature(s)

TSM Signature

Notary:

GUARANTY

In consideration of Company's agreement to enter into the above Agreement with Lessee and for other good and valuable consideration, the undersigned does hereby promise and guaranty to Company full performance by Contractor of all terms and conditions of this Agreement and any riders, modifications or amendments thereto and to any and all agreements now or hereafter made relating to the Station or the equipment thereon, and the undersigned guarantees payment to Company of all sums due to Company by reason of the aforesaid agreements. If any sums of money are not paid to Company when due, or if any other default exists, the undersigned shall immediately pay said sums to Company on demand or cure such default and Company shall be released from any obligation to give notice or to make demand upon, or to pursue any remedy against Lessee. It is understood that this shall be a continuing guaranty and shall cover all obligations and indebtedness which Lessee now has or may incur in the future.

[Signature]
Guarantor, _____

81 Eldersburg Rd. Seaford, ME
Address

Witness:
[Signature]

Dated: 4-8-08

INITIALS

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LESSOR [Signature]

LESSEE [Signature]

GUARANTY

In order to induce Getty Petroleum Marketing Inc., its Subsidiaries and Affiliated Companies (herein collectively called "Company"), with their offices located at LUKOIL Plaza, 1500 Hempstead Turnpike, East Meadow, New York, 11554 to extend credit to Richard Allen Stewart, Jr. of 81 Elderberry Drive, S. Portland, ME 04106 (herein called "Customer"), and in consideration thereof and of the interest of the undersigned (herein called "Guarantor", whether one or more) in having such credit extended and of the sum of One Dollar and other valuable considerations, receipt of which is hereby acknowledged, the undersigned hereby guarantees to the Company the full and prompt payment at maturity of all indebtedness of merchandise heretofore and hereafter bought by the Customer from the Company and of all rentals and all other indebtedness, howsoever arising, now due and hereafter becoming due to the Company from the Customer, and of all checks, drafts, notes, acceptances and renewals thereof given on account of such indebtedness.

If the Customer fails to pay any check, draft (including without limitation, electronic transfer), note, acceptance, bill, invoice, rental, or other indebtedness promptly when due, Guarantor agrees to pay the same promptly upon demand, the same as if Guarantor had bought the merchandise or incurred the rental or other indebtedness for his own account or had given or made directly such check, draft, note, or acceptance, it being agreed that Guarantor's liability hereunder is a primary obligation.

Guarantor agrees that without impairing his obligation hereunder the Company may at any time, without his consent or notice to him, upon such terms and conditions as it may deem advisable, (a) extend in whole or in part the time of payment of any indebtedness, or any part thereof, due the Company, and of any check, draft, note, or acceptance delivered to the Company, and may renew or defer payment of same and (b) settle, adjust, or compromise any indebtedness due or claimed to be due the Company. Guarantor ratifies and confirms every such deferring, extension, renewal, settlement, and adjustment, and agrees that the same shall be binding upon him, hereby waiving all defenses, counterclaims and offsets which he might or could have by reason thereof against the Company, it being understood that he shall at all times be and remain liable to the Company as the primary obligor hereunder for the amount of any obligation, indebtedness or liability of the Customer to the Company, howsoever arising, until same is paid in full.

Guarantor's obligation to make payment in accordance with the terms of this Guaranty shall not be impaired, modified, changed, released or limited in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of Customer or its estate in bankruptcy resulting from the operation of any present or future provision of the Bankruptcy Code or other similar statute, or from the decision of any court.

Guarantor agrees that any claim it may have against Customer shall be subordinate to Company's rights hereunder against Guarantor.

Guarantor waives (1) notice of acceptance hereof, (2) notice of orders for and deliveries of merchandise, (3) notice of any default in any payment by the Customer, (4) notice of presentment, demand, protest, extension, or of non-payment of any check, draft, note, acceptance, bill, invoice or rental, (5) notice of any default of Customer in carrying out any settlement, adjustment or compromise and (6) all rights to seek reimbursement from the Customer and will waive all recourse against the Customer.

This agreement is a continuing, unlimited, unconditional guaranty, and shall be in full force and effect until the Company shall receive, at its office in East Meadow, New York, or at such other office as the Company may designate in writing, by Certified Mail, Return Receipt Requested, written notice signed by Guarantor canceling same; but such cancellation shall not be effective until thirty (30) business days after same has been received and shall not release Guarantor from liability on any transaction covered herein prior to the actual receipt as herein set forth by Company of such written notice.

This guaranty is assignable by Company, shall be construed liberally in Company's favor, and shall inure to the benefit of Company's successors and assigns. It is also understood and agreed that Company may, without notice to Guarantor, sell, assign and transfer all or any portion of the indebtedness secured hereby, and that each and every immediate and successive assignee or transferee of such indebtedness shall have the right to enforce this guaranty, by legal action or otherwise, for the benefit of such assignee or transferee as fully as if such assignee or transferee were named herein; provided, however, that Company shall have the unimpaired right to enforce this guaranty for Company's benefit as to any indebtedness not sold, assigned or transferred.

The Guarantor hereby agrees to indemnify and reimburse the Company, and its successors and assigns, for reasonable attorney's fees, court costs and other legal expenses incurred by Company and its successors and assigns in enforcing this guaranty for any delinquency, or late payment charges or interest incurred by and charged to Customer.

Guarantor agrees that this instrument contains his entire agreement with the Company and that there is no other agreement (oral or written), understanding or custom whereby the provisions hereof have been or can be varied, modified or waived in any manner unless endorsed herein in writing, signed by an authorized Company representative and that the word "Guarantor" as used herein shall include plural as well as singular, and the pronouns "him" and "his" may refer to a non-gender entity or female as well as male and may include plural as well as singular, and that this instrument shall be the joint and several obligation of the subscribers hereto, their heirs, legal representatives, successors and assigns.

The Guaranty shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of April, 2008.

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Witness to signature:

Kenneth Adams #

P. O. Address: P.O. Box 502

Windham ME 04062

By [Signature]

Richard Allen Stewart, Jr., Guarantor
P. O. Address: 81 Eldenberry Dr. So. Portland, ME

81 Eldenberry Drive, South Portland,
ME 04106

BOLTON ST

Sidewalk

CONTINUOUS RAMP

R 104.00

PARKING

38,295' approx

26'-6" approx

62'-5" approx

RBANS

10' approx

6'-0"

R 122.59

EXIST. GUARD RAIL FENCE

STORAGE
REST ROOM

OFFICE

PARKING

38,295' approx

R 104.00

LAND TO BE TAKEN
SIGN RELOCATED
INSIDE PROPERTY LINE

R 26.82

NEW LSI HERITAGE
FIXTURES ON
EXIST. AREA
LIGHT POLES

R 96.3

CONGRESS STREET Sidewalk

45'
52'
26'
16'

CANDOPY



BOLTON ST

Sidewalk

CONTINUOUS RAMP
R 104.00

LAND TO BE TAKEN
& SIGN RELOCATED
INSIDE PROPERTY LINE



PARKING

38.295'

← 26'-6" →

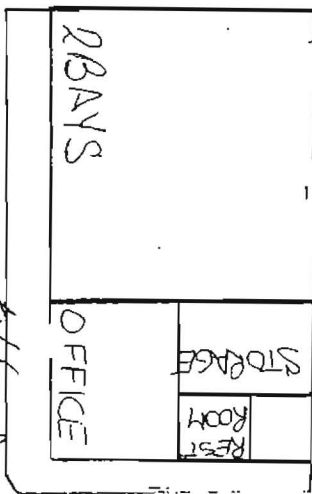
< 62.5' approx. >

R 26.82

NEW LSI HERITAGE
FIXTURES ON
EXIST. AREA
LIGHT POLES

R 96.3

CONGRESS STREET Sidewalk

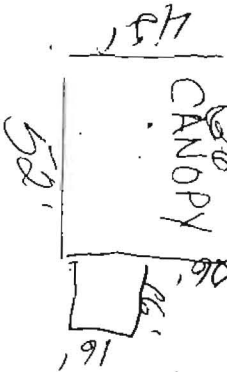


EXIST. GUARD RAIL FENCE

R = 122.59

PARKING

38.295'



R 104.00



This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number 1 of 1
 Parcel ID 186 D001001
 Location 1217 CONGRESS ST
 Land Use RETAIL & PERSONAL SERVICE

 Owner Address POWER TEST REALTY
 1500 HEMPSTEAD TURNPIKE
 EAST MEADOW NY 11554

 Book/Page 6969/247
 Legal 186-D-1
 CONGRESS ST 1213-1221
 BOLTON ST 1-7
 12218 SF

Current Assessed Valuation

Land \$263,800 Building \$110,700 Total \$374,500

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1964	1	1288	1

Total Acres	Total Buildings	Sq. Ft.	Structure Type	Building Name
0.28	1288		SERVICE STATION	GETTY OIL

Exterior/Interior Information

Section	Levels	Size	Use
1	01/01	1288	

Height	Walls	Heating	A/C
14	BRK/CONC BLK	HOT AIR	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE



Building Other Features

Line	Structure Type	Identical Units
1	CANOPY - ONLY	1
1	OVERHEAD DOOR - WD/MT	1

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1970	ASPHALT PARKING	8000	1
1972	LIGHT - MERCURY VAPOR, POLE		2

