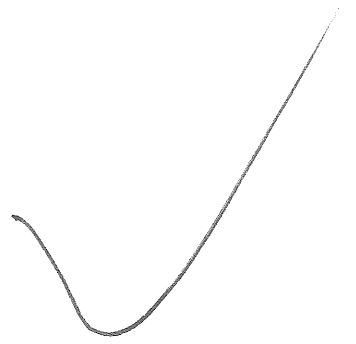


314-A-7

599 Warren Ave.

Dunkin Donuts

Kimco Realty



respects to Bank on the property at 599 Warren Avenue, Portland, Maine and 593 Main Street, Gorham, Maine. **3B**

Bank shall be designated as Mortgagee under standard Mortgagee Clause and be provided with a Lenders Loss Payable Endorsement, with ten (10) day Notice of Cancellation Clause given to Bank on the property at 599 Warren Avenue, Portland, Maine, and 593 Main Street, Gorham, Maine.

- O. ENVIRONMENTAL COMPLIANCE ANALYSIS:** The loan is subject to the completion of an Environmental Risk Assessment Questionnaire and such other follow-up analysis that may be determined to be necessary, including but not necessarily limited to an environmental site assessment of any real estate pledged to secure the loan, or an environmental audit of Borrower's operations. All assessments, audits or other analyses shall be at Borrower's expense and shall be performed by a qualified environmental consulting firm. If the results of any site assessment reveal that environmental problems exist, or if the results of any environmental audit reveal compliance problems by Borrower with relevant environmental laws and regulations, Bank reserves the right to terminate its commitment hereunder.

If any further environmental analyses are required, Borrower authorizes Bank or its agents to directly discuss with any consultants retained by Borrower the results of those analyses. Borrower acknowledges that Bank's inquiries and required environmental analyses are for Bank's credit risk assessment purposes only. The decision by Bank to lend after review of Borrower's environmental consultant's report should not be construed as Bank's determination or implicit representation that Borrower's real property or mode of operation is free of actual or potential environmental problems.

Borrower will remove, in accordance with applicable law, or will otherwise comply with orders or directives of environmental regulatory agencies relating to use or removal of underground storage tank(s) and will provide evidence, through reports of qualified environmental consultants that no unacceptable environmental problems resulted from prior use of those tanks.

Borrower will provide evidence; in the form of reports from a qualified environmental consulting firm, that there are no leaks in any underground storage tanks that exist on real property the Borrower is pledging to secure this loan.

P. CONDITIONS:

1. Borrower will pay all out-of-pocket costs and expenses incurred by Bank in connection with the proposed loan and incurred by Bank in connection with the proposed loan and financing arrangement. This will include, but will not be limited to, attorney's fees, lien search fees, filing fees, environmental audit fees and appraisal costs. These fees will be paid by Borrower whether or not the transaction contemplated herein is closed. Borrower agrees to pay any out-of-pocket costs and expenses incurred by the Bank after the closing and during the life of the loan, including but not limited to subsequent appraisal costs, environmental audit fees and/or title and lien search fees which may be required by the Bank.

2. Borrower shall execute such further documents to secure the loan transaction contemplated hereunder as counsel for Bank shall determine necessary or advisable in the interest of Bank. 3C
3. A default in any outstanding loan by Borrower to Bank or to any other person or institution whose priority is superior to Bank will be considered as a default in all loans.
4. Any business conducted by Borrower shall have all licenses, permits and approvals to operate, including appropriate environmental approvals.
5. All collateral shall be kept in good repair, and all taxes and assessments thereon shall be paid when due.
6. Borrower shall not cause or permit to exist any environmental problems from their business activities and shall, at all times, maintain compliance with all applicable federal, state and local environmental and land use laws and regulations including, but not limited to, those provisions relating to fuel and chemical storage tanks.
7. Borrower shall promptly notify Bank of any change in environmental status from that previously supplied to Bank. Further, Borrower shall promptly notify Bank of the commencement of state, federal or private environmental or land use investigation or enforcement proceeding or threat thereof.
8. Borrower and Guarantor agree to indemnify and hold Bank harmless from all liability or loss arising out of violations of all applicable environmental laws or regulations except insofar as the violation was a direct and intentional result or independent action taken by Bank.
9. No loan commitment given by Bank to Borrower shall be assignable by Borrower.
10. This commitment to lend is subject to the receipt of credit reports, appraisals and title opinions satisfactory to the Bank.
11. Borrower shall confirm by satisfactory documentation supplied to Bank, the existence of all leases, insurance or other collateral reserved or taken by Bank.
12. No liens, attachments or other encumbrances, whether or not superior to the lien of Bank, shall be placed or arise upon the collateral other than those previously approved by Bank.
13. Borrower and/or Guarantor shall certify to Bank prior to closing the status of any actions, suits, proceedings or investigations, now pending or to the knowledge of Borrower threatened against or affecting Borrower or Guarantor.
14. Borrower hereby submits to the jurisdiction of the state and federal courts located within the State of Maine in connection with any suits or proceedings arising from, under or in connection with any loan document, and agree that this Commitment Letter and the

3D

loan documents governing the loan transaction shall be construed in all respects in accordance with and shall be governed by the laws of the State of Maine. Borrower hereby waives any rights that Borrower may have to a trial by jury of any dispute arising under or relating to this loan or any of the other documents executed in conjunction with this loan (including commitment letter, notes, mortgages, pledge agreements, security agreements, financing statements, guaranties and other documents related to this loan) and agrees that any such dispute shall be tried before a judge sitting without a jury.

15. The Bank shall be given as security a first mortgage, which shall create a valid lien on real estate, pledged with good and merchantable title. Title insurance shall be provided to Bank by a title company approved by Bank.

16. The loan is subject to an appraisal on the property located at 599 Warren Avenue, Portland, Maine, by an appraiser acceptable to Bank. The combined loan to value, including the Gorham property, shall not exceed 80%.

17. Satisfactory organizational documents authorizing the Borrower to borrow from the Bank and the Corporate Guarantor to guaranty the loan shall be made available to the Bank prior to closing.

18. Borrower and Corporate Guarantor shall provide an opinion of counsel, if applicable, to the Bank stating a legal opinion of such attorney as to such matters as we may request, including but not limited to the following:

- a. Corporate existence;
- b. Corporate authority;
- c. No litigation or proceedings pending against Borrower; and
- d. Land use.

Construction Loan Requirements:

At least fifteen (15) days prior to loan closing, Borrowers will provide the following to Lender for its review and approval:

A detailed budget for the cost of constructing the project together with copies of executed bids and contracts with any contractors or suppliers, which must be approved by Lender.

Two (2) complete sets of the final plans and specifications for the construction of the project, by a qualified architect. The final plans and specifications must be prepared in accordance with good architectural and engineering practices and comply with all applicable federal, state and local laws, ordinances, codes, rules and regulations, including but not limited to those relating to zoning, building, fire prevention, health safety, handicap access, historic preservation, wetlands and flood control.

Evidence satisfactory to Lender and Lender's counsel that all permits, licenses and approvals required for the construction and use of the project under applicable laws, ordinances, codes, rules and regulations and under the terms of any restriction, easement or covenant affecting the land have been obtained.

3E

Insurance:

Borrower will obtain and maintain at all times during the construction of the Project such insurance as may be reasonably required by Lender, including, without limitation, commercial general liability insurance, contractor's liability insurance, comprehensive automobile liability insurance, all-risk contractor's equipment floater insurance, employer liability insurance, workmen's compensation insurance and builder's risk insurance.

Cost Overruns/Change Orders:

In addition, if Lender at any time determines, in its sole discretion, that the remaining undisbursed portion of the Loan is or will be insufficient to pay for all Project costs, Borrower will, within five (5) days after written notice of such determination by Lender, deposit with Lender such funds as Lender may require, in an amount sufficient to remedy the condition described in such notice, and until so deposited Lender shall have no obligation to make any further advances of the Loan.

Any change orders over \$5,000 shall require the written consent of the Lender.

Handicap Access:

Borrower shall provide evidence satisfactory to Lender that the proposed construction or renovation to be financed with the proceeds of the Loan will comply with all applicable provisions of the Americans with Disabilities Act of 1990 and the Maine Human Rights Act, including any rules and regulations promulgated thereunder, as well as any other laws or ordinances relating to equal access to public accommodations. Upon the completion of such construction or renovation, Borrower will provide evidence satisfactory to Lender that such construction or renovation does so comply.

Inspection Fees:

Lender shall retain, at Borrower's cost and expense, an outside consulting architect, engineer or inspector to (i) advise Lender as to the accuracy of the budget for the construction of the Project, (ii) advise Lender as to whether the final plans and specifications for the Project are satisfactory for the intended purposes, (iii) make periodic inspections of the construction on the project and to approve requisitions, (iv) advise Lender as to any requested change orders, and (v) review any construction contracts related to the Project. Lender, or any of its officers or employees, or any inspector retained by Lender will not assume any obligations to Borrower or any other party concerning the quality of the construction of the Project as a result of any such inspection activities.

Such architect or inspector shall furnish periodic reports to Lender on the progress of the work and in connection with request for advances; he shall certify to Lender that the work is proceeding satisfactorily and that the undisbursed amount of the Loan will be sufficient to complete the work. In addition to the foregoing, all requests for disbursements shall be accompanied by the following documents and any others, which Lender may require:

- (a) Invoices on the Project and completed requisition forms.
(AIA Documents B141 and G702)
- (b) Mechanic's lien waivers executed by contractor, subcontractors, suppliers, and suppliers of subcontractors for services and material already provided.

- (c) An updated construction budget and requisition form.

3F

On completion of the work such architect or inspector shall certify to Lender that all of the work was performed to his satisfaction, in accordance with the approved plans and specifications, and in compliance with all applicable codes, ordinances, rules and regulations relating to the construction of the Project. A Construction Loan Agreement shall also require updating of cost breakdowns, surveys and title insurance policies without further exceptions as conditions of each advance and shall contain such other terms and conditions, including commencement and completion dates as Lender may reasonably require.

Construction Loan Agreement:

The loan proceeds shall be advanced under a Construction Loan Agreement to finance the construction of the Project in accordance with plans and specifications and assignable contracts, which shall be subject to Lender's approval. Lender will make disbursements on account of the Loan not more often than once monthly after receipt of (i) written certification by an architect or inspector approved by Lender that the work covered thereby was completed to his satisfaction and in accordance with the approved plans and specifications, such disbursements to be made not more than ninety percent (90%) of the cost of each stage and (ii) title insurance disbursement endorsement by an attorney satisfactory to Lender showing that there are no mechanic's or other liens prior to Lender's mortgage.

Under Maine law, no promise, contract or agreement to lend money, extend credit, forbear from collection of a debt or make any other accommodation for the repayment of a debt for more than \$250,000 may be enforced in court against the Bank unless the promise, contract or agreement is in writing and signed by the Bank. Accordingly, the Borrower cannot enforce any oral promise unless it is contained in a loan document signed by the Bank, nor can any change forbearance, or other accommodation relating to the loan, this agreement or any other loan document be enforced, unless it is in writing signed by the Bank. Borrower also understands that all future promises, contracts or agreements of the Bank relating to any other transaction between Borrower and Bank cannot be enforced in court unless they are in writing signed by the Bank. Borrower further agrees that the requirement of a writing described in this paragraph shall apply to this commitment, the loans or credit described herein, any extension, modification, renewal, forbearance or other accommodation relating to the transactions contemplated by this commitment, and to any other credit relationship between Borrower and Bank, (whether existing now or created in the future) whether or not the amount involved exceeds \$250,000.

Any additions, deletions, substitutions or other changes in this Agreement must be documented in writing to become effective.

This commitment was approved upon the basis of information and financial data furnished by Borrower and Guarantor and is extended subject to and conditioned upon there being no material change in the information provided or financial condition of Borrower or Guarantor. In the event of such material change, in the opinion of Bank, the right is reserved to terminate the commitment. Further, at any time after the date hereof the Bank deems itself insecure, it may require additional collateral or alter the terms of this commitment.

To the extent that the terms and conditions as stated herein are not incorporated into the loan documents, this letter will survive the loan closing and will govern our relationship while the loan detailed herein, together with interest and fees, remains outstanding.

36

The Bank's obligation to make loans or advances hereunder is hereby expressly conditioned upon receipt by the Bank of any reports, instruments or documentation as required herein and which are satisfactory to the bank. If the terms and conditions as herein stated are satisfactory, please sign this letter signifying your acceptance and return a signed and accepted copy by June 21, 2004 as your authorization for us to proceed. If we do not receive your written acceptance as requested, this commitment will expire at that time. Whether or not the aforesaid conditions are met, the loan must close by September 30, 2004 or this commitment will expire. Any extension of this commitment must be in writing and signed by both parties.

Sincerely,

ANDROSCOGGIN BANK

By: Pamela J. Settle
Pamela J. Settle
Its: Vice President

The undersigned acknowledges receipt and acceptance of this commitment letter, the terms and conditions of which shall survive until the loan made hereunder is paid in full unless modified in writing and signed by Borrower, Guarantor and the Bank.

BORROWER:

KIMCO REALTY, LLC

By: _____
Edward S. Wolak
Its: Member

GUARANTORS:

GORHAM DISTRIBUTION CENTER, INC.

By: _____
Edward S. Wolak
Its:

AH.4

June 14, 2004

Kimco Realty, LLC
Dunkin Donuts Plaza
65 Gray Road, Box 4
Falmouth, Maine 04105

City of Portland
Planning Division
Portland City Hall
389 Congress Street
Portland, ME 04101

RE: Technical Capacity of Kimco Realty, LLC with respect to its Site Plan application
for Warren Avenue

Dear Sir or Madam:

I am the principal of Kimco Realty, LLC. I have developed in excess of 25 Dunkin' Donuts restaurants throughout Maine, New Hampshire and New York, including locations within the City of Portland. I have extensive experience with the implementation of and compliance with land use rules and regulations.

With regard to this proposed project on Warren Avenue in Portland, Kimco Realty, LLC has engaged Sebago Technics, Inc., a full service engineering firm located in Westbrook, Maine. Sebago Technics, Inc. will assist Kimco Realty, LLC in all aspects of the permitting for this project.

Between the extensive development experience of the principal of Kimco Realty, LLC, and the expertise of Sebago Technics, Inc., Kimco Realty, LLC has sufficient technical capacity to develop the proposed site on Warren Avenue.

Sincerely,



Edward S. Wolak
President

PURCHASE AND SALE AGREEMENT

This Agreement (the "Agreement") is entered into as of this 19th day of August, 2003, by and between **Older Brother LLC**, a Maine limited liability company, and **Younger Brother LLC**, a Maine limited liability company, both with a mailing address of c/o CB Richard Ellis-Boulos Property Management, One Canal Plaza, Portland, Maine 04101 (collectively, "Seller") and **Kimco Realty, LLC**, a Maine limited liability company with a mailing address of 65 Gray Road-Box 4, Falmouth, ME 04105 ("Buyer").

1. Purchase and Sale; Description. Seller agrees to sell, and Buyer agrees to buy, upon the terms set forth herein, certain real property, together with any improvements thereon, located at Warren Avenue in Portland, Maine, comprised of approximately 1.36 acres of land, and generally depicted in cross-hatching on Schedule A, attached hereto and made a part hereof (the "Land"), together with all right, title, and interest of Seller in and to all rights, privileges, easements, rights of way and appurtenances thereto, including without limitation, Seller's right, title and interest in and all air rights and any easements, rights-of-way or other interests in, on, under or to any land, highway, alley, street or right-of-way abutting or adjoining said parcel, but expressly excepting and reserving to Seller all in gross easements held by Seller (the "Premises").

2. Additional Property. Also included in the sale is all right, title, and interest of Seller in and to the private sewer line located in Warren Avenue and connecting to the City of Portland sewer system, as described in a certain Affidavit (including the exhibits thereto) of Gregory W. Boulos, dated April 29, 1988, and recorded in the Cumberland County Registry of Deeds in Book 8272, Page 211, as affected by Transfer Instrument from Wargate Associates and Bridgeside Associates to Seller, dated September 20, 2002, a copy of which is attached hereto as Schedule B (the "Private Sewer Line").

3. Purchase Price. Subject to any adjustment and pro-rations described in this Agreement, the purchase price for the Premises is [REDACTED] the "Purchase Price"), payable as follows:

(a) [REDACTED] which shall be paid to Escrow Agent (as defined herein) as an initial deposit (the "Initial Deposit") within one (1) business day of the date hereof, and shall be credited against the Purchase Price; and

(b) [REDACTED], which shall be paid to Escrow Agent as a second additional deposit (the "Additional Deposit") within two (2) business days after the expiration of the Due Diligence Period (as defined herein); and

(c) [REDACTED], which, subject to adjustments and pro-rations provided for herein, is to be paid at the time of delivery of the Deed (as defined herein) by certified, cashier's or treasurer's check or checks, or by electronic wire transfer in accordance with wiring instructions provided by Seller within a reasonable time prior to the time of Closing.

The Initial Deposit and the Additional Deposit are collectively referred to herein as the "Deposit". The interest on the Deposit shall be returned to Buyer at the Closing; provided, however, that if the Closing does not occur, such interest shall be payable to the party entitled to receive the Deposit as provided herein.

4. Deed; Title. (a) The Premises are to be conveyed by a good and sufficient quitclaim deed with covenant (the "Deed"), and such Deed shall convey Seller's title to the Premises, subject to (i) those encumbrances listed on Schedule C attached hereto; (ii) all other items waived or deemed waived pursuant to the terms of this Agreement; and (iii) the Reserved Easements (as that term is defined herein).

(b) Without limiting the generality of the requirements of Section 4(a) above, the Premises shall not be considered to be in compliance with the provisions of this Agreement with respect to title unless the following conditions are either satisfied or waived (or deemed waived) pursuant to Section 4(c) below;

(i) All improvements shall be wholly within the lot lines of the Land and shall not encroach upon or under any property not within such lot lines;

(ii) no building, structures, improvement, parking area, driveway, or property of any kind shall encroach on to the Land without easements therefor;

(iii) title to the Premises shall be insurable, for the benefit of Buyer, at customary rates, in the ALTA form currently in use, subject only to those matters that Buyer has waived or is deemed to have waived, as provided in subsection (c) below.

(c) Buyer shall have forty-five (45) days from the date of this Agreement (the "Title Review Period"), within which to give Seller written notice of (i) any alleged title defects in the Premises; (ii) any encumbrances or matters listed on Schedule C that are unacceptable to Buyer; and (iii) Buyer's dissatisfaction with any item set forth in Sub-section 4(b) (items (i), (ii) and (iii) being collectively referred to herein as "Unacceptable Encumbrances"). Buyer's failure to give such notice within the Title Review Period shall be deemed a waiver of Buyer's right to object to any matters listed on Schedule C, any matter that affects the title to the Premises and appears of record in the Cumberland County Registry of Deeds as of the date of this Agreement, and any matter set forth in Sub-section 4(b). If Buyer does give such written notice in a timely manner, Seller shall then have ten (10) days from the date it receives Buyer's notice within which to elect whether it will attempt to cure such Unacceptable Encumbrance(s) or to notify Buyer of its election not to attempt to cure such Unacceptable Encumbrance(s). In the event Seller elects to attempt to cure the Unacceptable Encumbrance(s), Seller shall have a period of forty-five (45) days within which to do so. In the event that Seller elects to, but fails to cure any Unacceptable Encumbrance(s) within said 45-day period, Seller shall give written notice thereof to Buyer at the expiration of said 45-day period. In the event Seller elects not to cure, or having elected to attempt to cure fails to cure, the Unacceptable Encumbrance(s), Buyer shall elect, within a period of ten (10) days after its receipt of notice thereof from Seller to either (i) terminate this Agreement; or (ii) waive such Unacceptable Encumbrance(s) and accept conveyance of the Premises subject to the Unacceptable Encumbrance(s) without deduction from the Purchase Price. If Buyer elects to terminate this Agreement, Seller shall direct Escrow Agent to return the Deposit to Buyer, and neither party shall have any further obligation under this Agreement, other than those obligations that are expressly stated herein to survive the termination of this Agreement. In the event Buyer fails to make such election within said ten (10) day period, then Buyer shall be deemed to have made an election to waive the Unacceptable Encumbrance(s) and accept conveyance of the Premises subject to the Unacceptable Encumbrance(s) without deduction from the Purchase Price. Notwithstanding anything in this sub-section to the contrary, Seller shall be obligated to procure at or prior to Closing the discharge or release of all mortgages and consensual liens created by Seller and affecting the Premises. In all events, Seller shall be required to remove at or prior to Closing (i) all mortgages and consensual liens affecting the Premises which secure Seller's obligation to pay a

monetary amount; and (ii) any, non-consensual liens affecting the Premises that arose out of Seller's failure to pay a monetary obligation of Seller, provided the total amount secured by such non-consensual liens, if any, does not exceed [REDACTED] in the aggregate and provided further that Seller shall be entitled to extend the Closing for up to forty-five days to enable Seller to bond-off or otherwise remove any non-consensual lien described in this clause (ii).

(d) Seller shall be entitled to reserve an assignable easement in gross for ingress, egress and installation of utilities (the "Access Easement") in connection with the development and use of land abutting the easterly portion of the premises and now or formerly owned by the Maine Turnpike Authority (the "Maine Turnpike Authority Parcel"). In addition, Seller shall be entitled to reserve an assignable easement in gross (the "Sewer Easement") to connect to and use the Private Sewer Line (including the discharge to the Private Sewer Line of no more than 5,000 gallons per day) in connection with the development and use of the Maine Turnpike Parcel. The Access Easement and Sewer Easement are collectively referred to as the "Reserved Easements". It is a condition to the parties' obligations hereunder that the location and terms of the Reserved Easements shall be agreed upon by the parties within the Due Diligence Period. The Sewer Easement shall terminate unless the Maine Turnpike Authority Parcel is acquired by Seller or its assign within ten (10) years after the date of Closing. Such Reserved Easements shall also be subject to the provisions of Section 21 below.

(e) To enable Seller to make conveyance as herein provided, Seller may, at the time of delivery of the Deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of the Deed.

5. Closing.

(a) The Deed is to be delivered and the consideration paid on January 30, 2004, at the offices of Seller's counsel unless otherwise mutually agreed (the "Closing"), subject to extension as provided in Sub-section 7(b) below.

(b) At the Closing, Seller shall:

(i) execute, acknowledge and deliver the Deed as provided herein, together with a Maine Real Estate Transfer Tax Declaration of Value;

(ii) execute, acknowledge and deliver an instrument transferring to Buyer all of Seller's right, title, and interest in and to the Private Sewer Line, excepting and reserving, however, the Sewer Easement relating thereto;

(iii) execute and deliver an underground oil storage tank notice informing Buyer whether, to the best of Seller's knowledge, any underground oil storage facilities exist at the Premises, and if so, such information as reasonably requested with respect to registration and/or abandonment of such tanks (the "UST Notice");

(iv) execute and deliver an affidavit of Maine residency pursuant to 36 M.R.S.A. § 5250-A;

(v) execute and deliver a non-foreign person affidavit pursuant to 26 U.S.C. § 1445;

(vi) execute and deliver a Closing Statement setting forth the Purchase Price and any credits and debits to each of Seller's and Buyer's transaction on account of items to be prorated pursuant to the terms of this Agreement and setting forth the disbursements to be made at closing (the "Closing Statement"); and

(vii) execute and deliver such other documents as are reasonably required to consummate the transaction contemplated by this Agreement.

(c) At the Closing, Buyer shall:

(i) execute and deliver the Maine Real Estate Transfer Tax Declaration of Value;

(ii) execute, acknowledge and deliver an acceptance of the instrument transferring to Buyer all of Seller's right, title and interest in and to the Private Sewer Line, including an assumption of all agreements relating to the use and/or maintenance of the Private Sewer Line, as listed on Schedule D, attached hereto (the "Third Party Sewer Agreements");

(iii) execute and deliver its acknowledgment of receipt of the UST Notice;

(iv) execute and deliver its acknowledgment of receipt of the Notification to Buyer of Withholding Tax Requirement pursuant to 36 M.R.S.A. § 5250-A;

(v) execute and deliver the Closing Statement; and

(vi) execute and deliver such other documents as are reasonably required to consummate the transaction contemplated by this Agreement.

(d) The acceptance by Buyer of the Deed and other documents identified herein to be executed and delivered at Closing shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of the Deed or which are expressly stated to survive the Closing.

6. Inspection of Premises.

(a) Buyer shall have the right to access the Premises at reasonable times provided Buyer gives Seller reasonable advance notice thereof, in order to conduct any inspections and non-invasive investigations and studies (including, without limitation, phase I environmental site assessments) as are reasonably necessary with respect to Buyer's satisfaction of its contingencies set forth in Section 7(a) in connection with the Buyer's proposed acquisition of the Premises. Buyer agrees to provide copies of all such surveys, inspections, tests and studies to Seller and agrees that it shall not disclose the results thereof to any third party other than prospective lenders, or as otherwise required by applicable law. Buyer agrees to promptly repair any damage to any property that may result from Buyer's exercise of its rights pursuant to this Section.

(b) Buyer agrees to indemnify and hold Seller harmless from and against any and all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including

reasonable attorney fees) that may be incurred by or threatened against Seller and that arise, directly or indirectly, out of the activities of Buyer, its agents, contractors, or employees on or near the Premises. The foregoing agreement to indemnify and hold Seller harmless applies to claims asserted by Buyer's employees without regard to any immunity that Buyer may have under workers compensation laws. The foregoing agreement to indemnify and hold Seller harmless shall survive the Closing and any termination of this Agreement.

7. Contingencies. The obligations of Buyer under this Agreement are subject to the following contingencies:

(a) Buyer shall have the right, for a period of ninety (90) days from the date that substantially all of the documents to be delivered by Seller to Buyer pursuant to Section 17 below are actually delivered to Buyer (the "Due Diligence Period") to conduct such inspections, tests and studies relating to the Premises and the Private Sewer Line (including the Third Party Sewer Agreements and the capacity of the Private Sewer Line to serve all parties using or entitled to use the Private Sewer Line) and the suitability thereof for Buyer's proposed use and development thereof as Buyer shall deem reasonably necessary, and a review of the threatened litigation described in Section 9 below, the results of all of which must be satisfactory to Buyer in Buyer's sole discretion. All inspections, tests, and studies will be performed by inspectors or consultants chosen and paid for by Buyer. Buyer acknowledges that Buyer is relying completely upon Buyer's own opinion or the opinion of Buyer's inspectors and/or consultants as to the condition of the Premises and the Private Sewer Line and the suitability thereof for Buyer's proposed use.

(b) Buyer shall have obtained within one hundred fifty (150) days from the date of this Agreement all final non-appealable permits and approvals necessary to construct a building and related improvements on the Premises to house a Dunkin' Donuts style restaurant, to include a drive-through window and such signage as Buyer shall require, such permits and approvals to contain only such conditions as are acceptable to Buyer. Notwithstanding the foregoing, if Buyer makes application for all permits and approvals deemed necessary by Buyer within ninety (90) days of the date of this Agreement and has been diligently pursuing such permits and approvals at all times thereafter, Buyer shall have the right to extend the period for obtaining such final non-appealable permits and approvals for an additional 90-day period if, on or before the expiration of the initial 150-day period, Buyer gives Seller written notice of such extension. In the event Buyer extends such period as set forth in this sub-section 7(b), the Closing shall be extended to the tenth (10th) business day after such extended permitting contingency period.

(c) Buyer shall have obtained, prior to the expiration of the Due Diligence Period, the approval of the Buyer's franchisor, Allied Domecq, approving the Premises for development as a Dunkin' Donuts site.

(d) Buyer shall have obtained within thirty (30) days from the date of this Agreement a written commitment, from a lending institution acceptable to Buyer, for a mortgage loan upon terms acceptable to Buyer.

In the event that any contingency is not satisfied, Buyer shall be entitled to terminate this Agreement by giving Seller and Escrow Agent written notice of Buyer's intention to do so prior to the expiration of the time period set forth for such contingency, in which event Seller shall direct Escrow Agent to return to Buyer the Deposit, the parties shall be relieved of all further obligations under this Agreement other than those that are expressly stated herein to survive such termination, and neither party shall be in default under this Agreement. In the event Buyer does not so notify

Seller within the time period applicable to any contingency, the Buyer shall be deemed to have waived its right to terminate this Agreement on account of the failure of such contingency.

8. Possession and Condition of Premises. Full possession of the Premises, free of all tenants and occupants except those persons in possession pursuant to the easements and agreements listed on the Schedules attached hereto or as otherwise herein provided, is to be delivered at the Closing, the Premises to be then in the same condition as they now are, reasonable use and wear thereof and damage caused by Buyer or persons acting by, through, or under Buyer excepted.

9. Disclosure of Pending or Threatened Litigation. Seller hereby discloses to Buyer that, pursuant to a Complaint for Declaratory Judgment dated October 8, 2002, each Seller, along with Wendy's Old Fashioned Hamburgers of New York, Inc., the owner of property abutting the Premises, has been named as a defendant in a civil action commenced by Dilworth & Son, LLC (the "Complaint"). A copy of the Complaint is attached hereto as Schedule E.

10. Adjustments; Closing Costs. Real estate taxes, assessments, common area maintenance charges, utilities, sewer charges, if any, and similar items that are commonly the subject of pro-ration between buyers and sellers of real estate in the Portland, Maine area shall be pro-rated as of the Closing. Each party shall pay its share of the real estate transfer tax incurred in connection with the conveyance of the Premises.

11. Brokerage. Seller and Buyer each represent and warrant to the other that no brokers, agents or consultants other than CB Richard Ellis-The Boulos Company have been employed with respect to this transaction by either of them, and Seller and Buyer agree to indemnify and hold the other harmless from any claim by any other broker or agent claiming compensation in respect of this transaction, alleging an agreement with Seller or Buyer, as the case may be. Seller shall be responsible for the commission payable to CB Richard Ellis-The Boulos Company.

12. Deposit; Escrow Agent. The Deposit shall be held by Buyer's counsel, Pierce Atwood (the "Escrow Agent"), in an interest-bearing account, subject to the terms of this Agreement and shall be held and disposed of in accordance with the terms of this Agreement. By executing this Agreement, Escrow Agent agrees to hold the Deposit in an interest-bearing account and to disburse the same in accordance with the terms hereof. For purposes of this Agreement, the term "Deposit" shall include any interest accrued on amounts deposited in connection herewith. Seller acknowledges that Pierce Atwood is counsel to Buyer and consents to the continued representation by Pierce Atwood of the Buyer, notwithstanding its role as Escrow Agent hereunder. In the event of a dispute with respect to the Deposit, Pierce Atwood shall have the right to implead the Deposit with a court of competent jurisdiction, whereupon Pierce Atwood shall be relieved of any further obligations as Escrow Agent hereunder.

13. Default:

(a) If Buyer defaults in any obligations hereunder, Seller shall have the right to retain the Deposit as liquidated damages. The foregoing shall not limit Seller's remedies with respect to any indemnification or confidentiality obligation of Buyer under this Agreement.

(b) If Seller defaults in any obligation hereunder, Buyer's remedies shall be to either (i) seek specific performance; or (ii) terminate this Agreement and recover from Seller the actual and verifiable damages suffered by Buyer as a result of such default; provided, however, that

in no event shall any such damages, in the aggregate, exceed, and in no event shall Seller be liable for any damages in excess of, the total amount of the Deposit.

14. "AS IS" Condition; Disclaimers. OTHER THAN AS EXPRESSLY SET FORTH HEREIN, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING THE CONDITION OF THE PREMISES, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL OR PHYSICAL CONDITION THEREOF, OR THE COMPLIANCE OF THE PREMISES WITH ANY LAWS, RULES, OR REGULATIONS, INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS, RULES OR REGULATIONS, OR THE SUITABILITY OF THE PREMISES FOR ITS CURRENT USE OR BUYER'S PROPOSED USE. BUYER EXPRESSLY AGREES THAT THE PREMISES ARE BEING SOLD "AS IS, WHERE IS", WITH ALL FAULTS, AND THAT BUYER IS RELYING SOLELY ON ITS OWN OPINIONS AND THE OPINIONS OF BUYER'S AGENTS, INSPECTORS AND CONSULTANTS AS TO THE CONDITION OF THE PREMISES, THE COMPLIANCE OF THE PREMISES WITH ANY AND ALL LAWS, RULES AND REGULATIONS, INCLUDING WITHOUT LIMITATION ENVIRONMENTAL LAWS, RULES AND REGULATIONS, AND THE SUITABILITY OF THE PREMISES FOR THEIR CURRENT USE AND BUYER'S PROPOSED USE. BUYER DOES HEREBY FOREVER RELEASE SELLER OF AND FROM ANY AND ALL LIABILITIES, CLAIMS, CAUSES OF ACTION, LIABILITY FOR CONTRIBUTION, AND ALL OTHER LIABILITIES ARISING OUT OF THE CONDITION OF THE PREMISES. BUYER SHALL BE RESPONSIBLE FOR SECURING ALL NECESSARY PERMITS, APPROVALS, AND LICENSES NECESSARY FOR ITS DEVELOPMENT, USE, AND OPERATION OF THE PREMISES.

15. Notices. Any notice relating in any way to this Agreement shall be in writing and shall be hand delivered or faxed or sent by registered or certified mail, return receipt requested, or by recognized overnight courier service which provides evidence of delivery (such as Federal Express) addressed to Buyer or Seller at the addresses listed in the first paragraph of this Agreement or by telecopy or facsimile and such notice shall be deemed delivered when so delivered by hand, when so posted with the United States Postal Services with all postage prepaid, or when deposited with such overnight courier or upon receipt of such telecopy or facsimile copy. Either party may, by such manner of notice, substitute persons or addresses for notice other than those listed in the first paragraph of this Agreement.

16. 1031 Exchange. Buyer agrees to cooperate with each Seller to qualify this transaction as part of a series of transactions intended to qualify as a like-kind exchange of property described in Section 1031 of the Internal Revenue Code of 1986, as amended, and Buyer further agrees to consent to the Seller's assignment of this contract to a "Qualified Intermediary" and take such other actions necessary for said like-kind exchange, provided that there shall be no cost or liability imposed on Buyer.

17. Items to be Delivered to Buyer from Seller. No later than the fifth (5th) business day after the date this Agreement is fully executed, Seller shall deliver to Buyer at Seller's expense, such of the following items relating to the Premises as are within the possession and control of Seller:

- (a) Copies of all documents pertaining to the Private Sewer Line, including without limitation any agreements regarding connection fees, sharing of expenses, use restrictions, capacity issues and the like;

(b) Copies of (i) the most recent title insurance policy for the Premises; (ii) the most recent survey of the Premises or property including the Premises; (iii) copies of all environmental reports, assessments or other information pertaining to the environmental condition of the Land, but all of the foregoing shall be provided without representation or warranty of any kind, including accuracy or completeness, and any reliance thereon by Buyer shall be at Buyer's sole risk.

18. Representations and Warranties.

(a) Seller represents and warrants to Buyer that the following are true and correct as of the date of this Agreement and will be true and correct as of the Closing:

(i) Each Seller is a limited liability company, duly organized and validly existing under the laws of the State of Maine, each has the right, power and authority to enter into this Agreement or to perform its obligations hereunder and each has duly authorized the entering into this Agreement and the performance of its obligations hereunder;

(ii) There is no action, suit, legal proceeding or other proceeding pending or, to the best of Seller's knowledge, threatened (or, to the best of Seller's knowledge, any basis therefor) against Seller or affecting any portion of the Premises in any court or before any arbitrator of any kind or before any governmental body that may materially or adversely affect the transactions contemplated by this Agreement or which may affect any portion of the Premises, except as disclosed in Section 9 above;

(iii) Seller has not knowingly released or disposed of any "Hazardous Substance" (as defined below) on, in, under or from the Real Property other than in compliance with applicable laws and, other than as may be indicated in any materials furnished by Seller to Buyer pursuant to Section 17, Seller is, to the best of its knowledge, not aware of the release or disposal of any Hazardous Substance on, in, under or from the Real Property at any time by anyone else other than in compliance with applicable laws. The term "Hazardous Substance" as used herein means any material, the generation, storage, handling, release, transportation or disposal of which is regulated by any federal, state or local environmental law or regulation;

(iv) Seller has no knowledge of any pending or threatened actions or proceeding regarding condemnation of the Premises or any part thereof;

(v) To the best of Seller's knowledge, after due inquiry, Schedule F attached hereto is a complete list of all parties that have connected to the Private Sewer Line and a complete list of all parties (or designation of property) that have a right to connect into such line. Seller has no knowledge of any defects or failures with respect to such Private Sewer Line other than as set forth below and is not aware of any other condition with respect to such Private Sewer Line that would require maintenance or corrective action. Seller hereby discloses a recent failure of two (2) "Fernco"-style couplings in the Private Sewer Line, both of which have been replaced with rigid PVC couplings. The term "due inquiry" does not include any inspections of the Private Sewer Line to determine whether any party has connected to the Private Sewer Line without permission from Seller, but Seller is not aware of any such connections.

(b) Buyer represents and warrants to Seller that the following are true as of the Contract Date and will be true as of the Closing:

(i) Buyer is a limited liability company, duly organized and validly existing under the laws of the State of Maine, has the right, power and authority to enter into this Agreement or to perform its obligations hereunder and has duly authorized the entering into this Agreement and the performance of its obligations hereunder.

(c) The representations and warranties set forth in this Section shall survive the Closing provided that any claim alleging breach of a representation and warranty must be made in writing within twelve (12) months after the Closing. All claims for breach of representations and warranties, other than those for which a timely claim has been made, shall be deemed waived.

19. Covenants and Agreements of Seller. Seller covenants and agrees with Buyer that between the date of this Agreement and the Closing:

(a) it shall not dispose of any interest in the Premises; shall not mortgage, pledge or voluntarily subject to lien and other encumbrances any interest in the Premises that will not be discharged at or prior to Closing; shall not enter into any other agreement relating to the Premises that would affect the sale or survive the Closing or enter into any new leases or use arrangements affecting the Premises or grant any rights or enter into any agreements with respect to the Private Sewer Line without Buyer's prior consent; and shall maintain its general liability insurance in effect consistent with its normal conduct of business; and

(b) it shall not knowingly take any action or knowingly fail to take any action that would cause any defect in title, cause the Premises not to conform with the provisions of this Agreement, would cause any statements set forth in Section 7(a) to be untrue or would otherwise cause Seller to be unable to perform its obligations under this Agreement.

20. Conditions Precedent to Buyer's Performance.

(a) Buyer's obligations hereunder, including the obligation to purchase and pay for the Premises, are subject to the satisfaction of the following conditions, any of which may be waived by Buyer, but only in a writing signed by Buyer;

(i) all of Seller's representations and warranties being true as of the Closing Date;

(ii) no material adverse changes in the physical condition of the Land shall have occurred and the Premises shall be in the same condition at the Closing as of the date of this Agreement, normal wear and tear excepted;

(iii) no portion of the Land shall have been condemned or sold in lieu thereof or be the subject of any pending or threatening condemnation proceeding or subject to any pending or threatening legislation, regulation, rezoning or zoning amendment, moratorium or referendum;

(b) If any of the conditions set forth above are, in Buyer's sole discretion, not satisfied, Buyer, by written notice delivered to Seller on or before the Closing Date may elect to (i) waive such condition and proceed with the Closing, or (ii) terminate this Agreement and have the Deposit returned to it and the parties shall be relieved of any rights or obligations hereunder, except for those obligations that expressly survive the termination of this Agreement. If Buyer does not

elect in writing to terminate on or before the Closing Date, Buyer shall be deemed to have elected to waive such condition and proceed with the Closing.

21. Reserved Easements. The following provisions shall apply to the Reserved Easements:

(a) Seller acknowledges that a portion of the Access Easement is a shared common entranceway onto Warren Avenue and will be used not only by Seller and Buyer, but other third parties as well. Commencing upon Seller's commencement of construction of improvements on the MTA Parcel and use of the Access Easement for purposes of accessing the MTA Parcel, Seller shall pay a pro-rata share of the repair and maintenance of the common entranceway, including snow plowing, and shall be solely responsible for the cost of repairing and maintaining in good condition that portion of the Access Easement used exclusively for access to the MTA Parcel. Seller shall maintain any utility lines servicing the MTA Parcel in good condition and repair. Notwithstanding the foregoing, if any repair to the common entranceway is due to the actions of either Seller or Buyer, such repair shall be paid for solely by the party whose actions necessitated such repair.

(b) If Seller, or their successors or assigns, conducts any work on the Land in connection with the exercise of the rights with respect to the Reserved Easements, Seller shall (i) provide written notice of such work to the owner of the Land at least fifteen (15) business days prior to commencing such work, excepting emergencies, and in the event of emergency work, shall provide written notice within twenty-four (24) hours of commencing such work; (ii) promptly and without delay restore the surface of the affected premises other than the road bed wherever disturbed and any improvements thereon to substantially the same condition of such surface and improvements as existed before being disturbed, including the restoration of any landscaping and trees; (iii) undertake such work at its sole cost and expense and without the imposition of any liens on the Land and in such a manner so as to minimize any disruption and disturbance to the use and enjoyment of the Land or the operation of the business conducted thereon by the owner of said Land and any tenants or occupants thereof; (iv) exercise its easement rights at its sole risk and (v) by the acceptance of the easements, agree to indemnify, release and hold harmless the owner of the Land and any mortgagees and tenants thereof, from and against any and all losses, costs, claims, expenses and liabilities (including the cost of defending the same or enforcing this indemnity, including reasonable attorneys' fees) incurred or suffered by such owner, mortgagee and tenants, on account of any injury to persons (including death) or damage to property arising out of the use of the Reserved Easements or the exercise of any of the easement rights described herein except to the extent the same arise out of the negligence of any such indemnified parties.

(c) The Sewer Easement shall provide that in the event Seller acquires the MTA Parcel and desires to utilize the Private Sewer Line to serve the MTA Parcel, Seller shall, prior to connecting to the Private Sewer Line, if desired by Buyer, accept responsibility for performing the maintenance and repair of the Private Sewer Line, and in such event (i) ownership of the Private Sewer Line shall be transferred from Buyer to Seller, together with an assignment of all then-existing Third Party Sewer Agreements; (ii) all sums paid by third parties in connection with their use of the Private Sewer Line pertaining to periods after the date of such transfer (including user fees, if any, and pro rata shares of maintenance and repair costs paid by such third parties) shall be paid to Seller; and (iii) Buyer shall continue to have the right to utilize the Private Sewer Line in connection with the Premises, and Buyer shall thereafter pay to Seller a pro rata share of the maintenance and repair costs incurred by Seller in connection with the Private Sewer Line. Buyer's pro rata share shall be a fraction, the numerator of which is the number of gallons of water used

each day, on average, measured over a thirty day period, in connection with the Premises, and the denominator of which is the number of gallons of water used each day, on average, measured over a thirty day period, in connection with all properties (including the Premises and the MTA Parcel) served by the Private Sewer Line.

(d) The Sewer Easement and the Access Easement shall provide that in the event that Seller acquires the MTA Parcel, the rights created by the Sewer Easement and the Access Easement shall be subject to the following restriction: Neither the Sewer Easement nor the Access Easement shall be used to serve the MTA Parcel if the MTA Parcel is used for any business that (i) attributes more than ten percent (10%) of its gross sales to the sale of any one of the following items: (A) coffee, (B) bagels, (C) donuts, (D) baked goods, (E) ice cream, or (F) breakfast sandwiches; or (ii) is open before 11:00 a.m. for the sale of coffee or breakfast food items, provided, however, that the restrictions contained in the foregoing clauses (i) and (ii) shall automatically expire if the Premises cease to be operated as a Dunkin' Donuts franchise for a period longer than twelve (12) consecutive months.

22. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties, but, except as otherwise provided herein, this Agreement may not be assigned by any party without the prior written consent of the other party. This Agreement may not be modified, waived or amended except in a writing signed by the parties hereto. No waiver of any breach or term hereof shall be effective unless made in writing signed by the party having the right to enforce such a breach, and no such waiver shall be construed as a waiver of any subsequent breach. No course of dealing or delay or omission on the part of any party in exercising any right or remedy shall operate as a waiver thereof or otherwise be prejudicial thereto. Any and all prior and contemporaneous discussions, undertakings, agreements and understandings of the parties are merged in this Agreement, which alone fully and completely expresses their entire agreement. This Agreement shall be governed by and construed and enforced in accordance with the laws in effect in the State of Maine, without application of its conflict of laws principles. To facilitate execution, this Agreement may be executed in multiple originals which, collectively, shall constitute a single instrument. All pronouns and nouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties or the context may require. If any time period hereunder expires on a Saturday, Sunday or legal holiday, then such time period shall automatically be extended until the next day that is not a Saturday, Sunday, or legal holiday.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as a sealed instrument, effective as of the date first above written.

WITNESS:

Mich B. Smith
Mich B. Smith

SELLER:
OLDER BROTHER LLC
By: [Signature]
Joseph F. Boulos
Its Manager
YOUNGER BROTHER LLC
By: [Signature]
Gregory W. Boulos
Its Manager

5K

Barbara Johansen

BUYER:
KIMCO REALTY, LLC

By: Edward S. Wolak
Edward S. Wolak
Its Managing Member

ESCROW AGENT:
Pierce Atwood

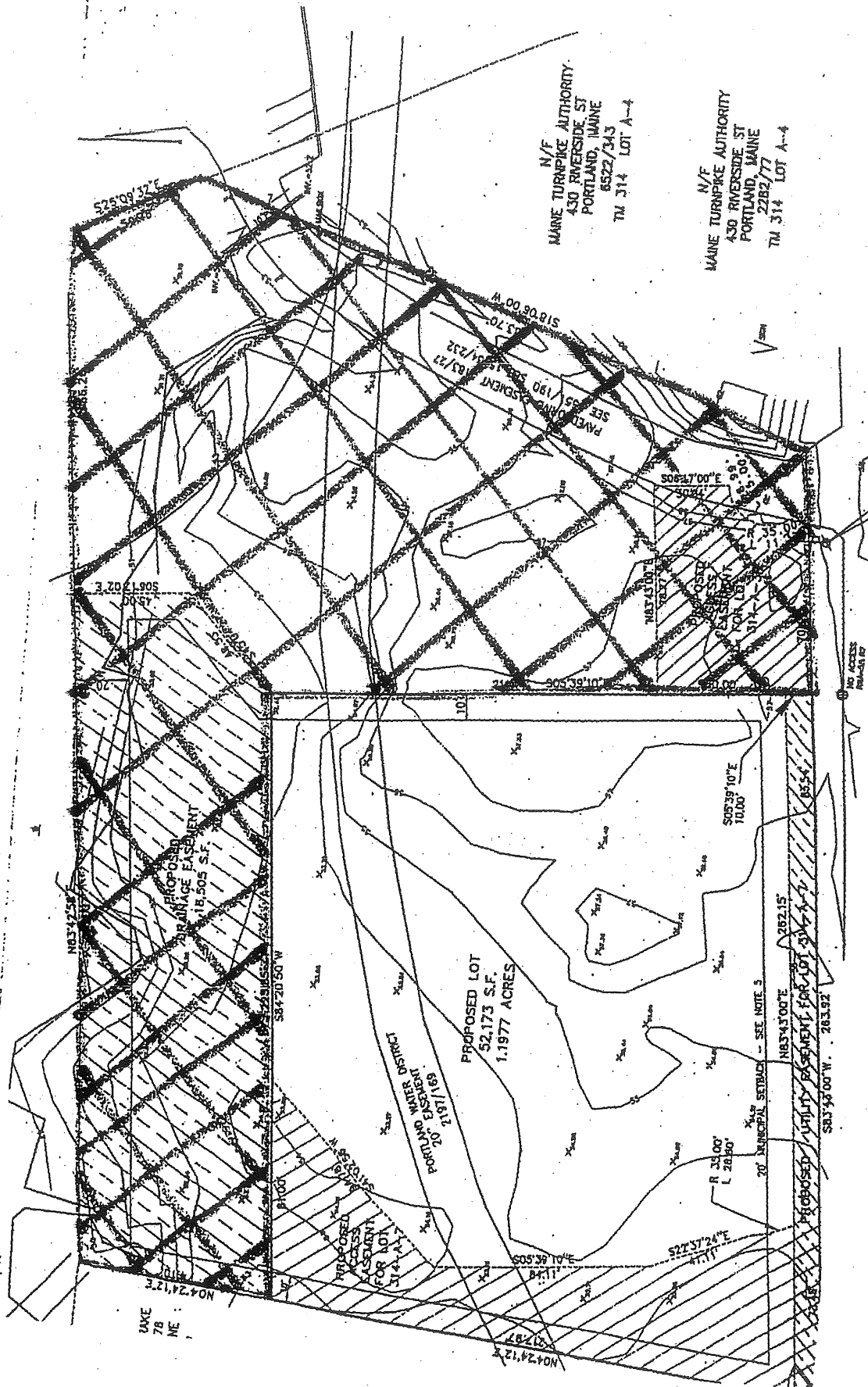
By: [Signature]
Printed Name: DENNIS C. KEELER
Its: _____

List of Schedules

Schedule A	Plan Depicting the Premises
Schedule B	Transfer Instrument (Private Sewer Line)
Schedule C	Encumbrances
Schedule D	Third Party Sewer Agreements
Schedule E	Complaint
Schedule F	Holders of Rights with respect to Private Sewer Line

5M

Schedule A
(Plan Depicting Premises)



N/F
 MAINE TURNPIKE AUTHORITY
 430 RIVERSIDE ST
 PORTLAND, MAINE
 6522/343
 TM 314 LOT A-4

N/F
 MAINE TURNPIKE AUTHORITY
 430 RIVERSIDE ST
 PORTLAND, MAINE
 2282/77
 TM 314 LOT A-4

LAKE
 78
 NE

PROPOSED LOT
 52,173 S.F.
 1.1977 ACRES

PROPOSED
 AIR RAMPAGE EASEMENT
 16,505 S.F.

PROPOSED
 UTILITY EASEMENT FOR LOT 30
 26215

PORTLAND WATER DISTRICT
 20' EASEMENT
 2197/169

20' MUNICIPAL SETBACK - SEE NOTE 5

PAVING EASEMENT
 SEE 190 EASEMENT 103/73

SCHEDULE A

Schedule B
(Transfer Instrument-Private Sewer Line)

TRANSFER INSTRUMENT

KNOW ALL BY THESE PRESENTS, THAT WARGATE ASSOCIATES, a Maine general partnership, and BRIDGESIDE ASSOCIATES, a Maine general partnership (collectively, "Grantor"), for good and sufficient consideration, the receipt whereof is hereby acknowledged, hereby RELEASE to OLDER BROTHER LLC, a Maine limited liability company, and YOUNGER BROTHER LLC, a Maine limited liability company, their successors, and assigns (collectively "Grantee"), all of Grantor's right, title, and interest in and to the following property:

The "Sanitary Sewer System" more particularly described in a certain Affidavit (including the exhibits thereto) of Gregory W. Boulos, dated April 29, 1988, and recorded in the Cumberland County Registry of Deeds in Book 8272, Page 212.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed as a sealed instrument by its duly authorized undersigned officer, on this 20th day of September, 2002

Tick Deal
Witness

GRANTOR:
WARGATE ASSOCIATES
By: *[Signature]*
Gregory W. Boulos
Its General Partner

Tick Deal
Witness

BRIDGESIDE ASSOCIATES
By: *[Signature]*
Gregory W. Boulos
Its General Partner

STATE OF MAINE
County of Cumberland, SS.

September 20, 2002

Then personally appeared the above-named GREGORY W. BOULOS, general partner of WARGATE ASSOCIATES, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said WARGATE ASSOCIATES.

Before me,

Lynda S. Harjula
Notary Public/Maine Attorney-at-Law
Printed Name: LYNDA S. HARJULA
Commission Expires: _____

SCHEDULE B

LYNDA S. HARJULA
Notary Public, Maine
My Commission Expires March 9, 2006

Schedule C
(Encumbrances)

1. Taxes which are not yet due and payable on the date of delivery of the Deed;
2. Pole line easement from George Wilson to Central Maine Power Company, dated March 29, 1954, and recorded in the Cumberland County Registry of Deeds in Book 2176, Page 301;
3. Twenty foot wide pipe line easement to Portland Water District, dated October 4, 1954, and recorded in said Registry of Deeds in Book 2197, Page 169;
4. Easement to Greater Portland Radio, Inc., dated May 10, 1974, and recorded in said Registry of Deeds in Book 3551, Page 190, and easements to Porter Communications Systems, Inc., dated May 21, 1986, and recorded in said Registry of Deeds in Book 7183, Pages 127 and 128, as affected by Easement Amendment Agreement by and between Wargate Associates and Citadel Broadcasting Company dated March 24, 2000, and recorded in said Registry of Deeds in Book 15434, Page 232, and as affected by Notice of Relocation of Easement dated September 24, 2002, and recorded in said Registry of Deeds in Book 18138, Page 168;
5. Plan of property as approved by the Planning Board of the City of Portland recorded in Plan Book 170, Page 38, as affected by Partial Vacation of Approved Subdivision Plat as recorded on February 14, 1989 in said Registry of Deeds in Book 8657, Page 27;
6. Indenture by and between Portland Water District and Bridgeside Associates dated April 27, 1988, and recorded in said Registry of Deeds in Book 8265, Page 75;
7. Affidavit of Gregory W. Boulos dated April 29, 1988, and recorded in said Registry of Deeds in Book 8272, Page 211;
8. Easements, restrictions, terms and conditions, set forth in a Quitclaim Deed With Covenant from Older Brother LLC and Younger Brother LLC to Wendy's Old Fashioned Hamburgers of New York, Inc., dated September 24, 2002, and recorded in said Registry of Deeds in Book 18138, Page 171, as affected by Corrective Quitclaim Deed dated February 27, 2003, and recorded in said Registry of Deeds in Book 18656, Page 1;
9. Terms and conditions set forth in a Road Construction, Maintenance and Easement Agreement by and between Older Brother LLC and Younger Brother LLC, as parties of the first part, and Wendy's Old Fashioned Hamburgers of New York, Inc. as party of the second part, dated September 24, 2002, and recorded in said Registry of Deeds in Book 18138, Page 182, as affected by Corrective Road Construction, Maintenance and Easement Agreement dated February 27, 2003, and recorded in said Registry of Deeds in Book 18656, Page 12.
10. Terms and conditions of a Sewer Joint Use Agreement between Older Brother LLC and Younger Brother LLC, as parties of the first part, and Wendy's Old Fashioned Hamburgers of New York, Inc. as party of the second part, dated September 24, 2002, and recorded in said Registry of Deeds.

5R

11. Complaint dated October 8, 2002 filed by Dilworth & Son, LLC against Older Brother LLC, Younger Brother LLC and Wendy's Old Fashioned Hamburgers of New York, Inc., a copy of which is attached to this Purchase and Sale Agreement as Schedule E.

Schedule D
(Third Party Sewer Agreements)

1. Affidavit (including the exhibits thereto) of Gregory W. Boulos, dated April 29, 1988, and recorded in the Cumberland County Registry of Deeds in Book 8272, Page 211, as affected by Transfer Instrument from Wargate Associates and Bridgeside Associates to Seller, dated September 20, 2002 (including rights of the owner of Lot 1 on a plan recorded in the Cumberland County Registry of Deeds, in Plan Book 170, Page 38, as referenced in Section 3 of said Affidavit);
2. Agreement with Northern General Services, as evidenced by letter from Boulos Property Management to Northern General Services dated June 11, 1992, letter from Northern General Services to Boulos Property Management dated September 8, 1992, letter from October 29, 1992, from Northern General Services to Boulos Property Management, and related correspondence referred to in the foregoing letters;
3. Letter from Boulos Property Management to the City of Portland dated June 12, 2002; and
4. Sewer Joint Use Agreement between Older Brother LLC and Younger Brother LLC, as parties of the first part, and Wendy's Old Fashioned Hamburgers of New York, Inc. as party of the second part, dated September 24, 2002, and recorded in said Registry of Deeds. ✓

5T

Schedule E
(Complaint)

STATE OF MAINE
Cumberland, ss

SUPERIOR COURT
Civil Action
Docket No:

Dilworth & Son, LLC,
a Maine Limited Liability Company
with a place of business in the City
of Portland, County of Cumberland
and State of Maine

Plaintiff,

v

Older Brother LLC.,
a Limited Liability Company with a
place of business in the City of
Portland, County of Cumberland
and State of Maine.

Younger Brother LLC.,
a Limited Liability Company with a
place of business in the City of
Portland, County of Cumberland
and State of Maine.

and

Wendy's Old Fashioned Hamburgers
of New York, Inc., an Ohio
Corporation with a place of business
in the City of Portland, County of
Cumberland and State of Maine

Defendants

COPY

COMPLAINT FOR
DECLARATORY JUDGMENT

NOW COMES THE PLAINTIFF, Dilworth & Son, LLC, acting by and through its attorney, and complains against the Defendants as follows:

1. Plaintiff, Dilworth & Son, LLC, is a Maine Limited Liability Company which owns real estate off of Warren Ave., in the City of Portland, County of Cumberland and State of Maine.

2. Defendant, Older Brother LLC, is a Maine Limited Liability Company which owns real estate off of Warren Ave., in the City of Portland, County of Cumberland and State of Maine. (hereinafter referred to as Older Brother).

3. Defendant, Younger Brother LLC, is a Maine Limited Liability Company which owns real estate off of Warren Ave. in the City of Portland, County of Cumberland and State of Maine. (hereinafter referred to as Younger Brother).

4. Defendant, Wendy's Old Fashioned Hamburgers of New York, Inc., is an Ohio Corporation which owns real estate off of Warren Ave. in the City of Portland, County of Cumberland and State of Maine. (hereinafter referred to as Wendy's).

5. The Plaintiff has an easement across land owned by the Defendants. An aerial photograph depicting the easement is attached hereto as Exhibit A.

6. On September 24, 2002 Older Brother and Younger Brother sold and/or transferred a parcel of real estate to Wendy's. This transfer of real estate by the Defendants granted an easement to Wendy's. A copy of the Deed is attached hereto as Exhibit B.

7. On or about September 24, 2002, Older Brother and Younger Brother notified Dilworth & Son LLC that Older Brother and Younger Brother were relocating the easement as outlined in Exhibit B above. A copy of the Notice of Relocation of Easement is attached hereto as Exhibit C.

8. At the time of the transfer of the real estate described in Exhibit B, Older Brother and Younger Brother and Wendy's knew that the Plaintiff did not agree with the relocation of the easement.

9. The relocation of the easement is not the same width.

10. The relocation of the easement is not the same type.

11. The relocation of the easement is not an access road.

12. The relocation of the easement is not in a manner which least interferes with the Grantee's use of said easement.


13. The Plaintiff objects to the relocation of the easement and wishes to retain the same type of access that is the same width and least interferes with its use of the easement it was granted in Exhibit A.

WHEREFORE, Plaintiff requests that this Court:

1. Void the transfer of the easement from Older Brother and Younger Brother to Wendy's;
 2. Order Older Brother and Younger Brother to restore the easement back to the same type and width as previously existed;
 3. Order Defendants to pay Plaintiff's costs associated with bringing the present action;
- and
4. Grant such other and further relief to Plaintiff as the Court may find appropriate under the circumstances.

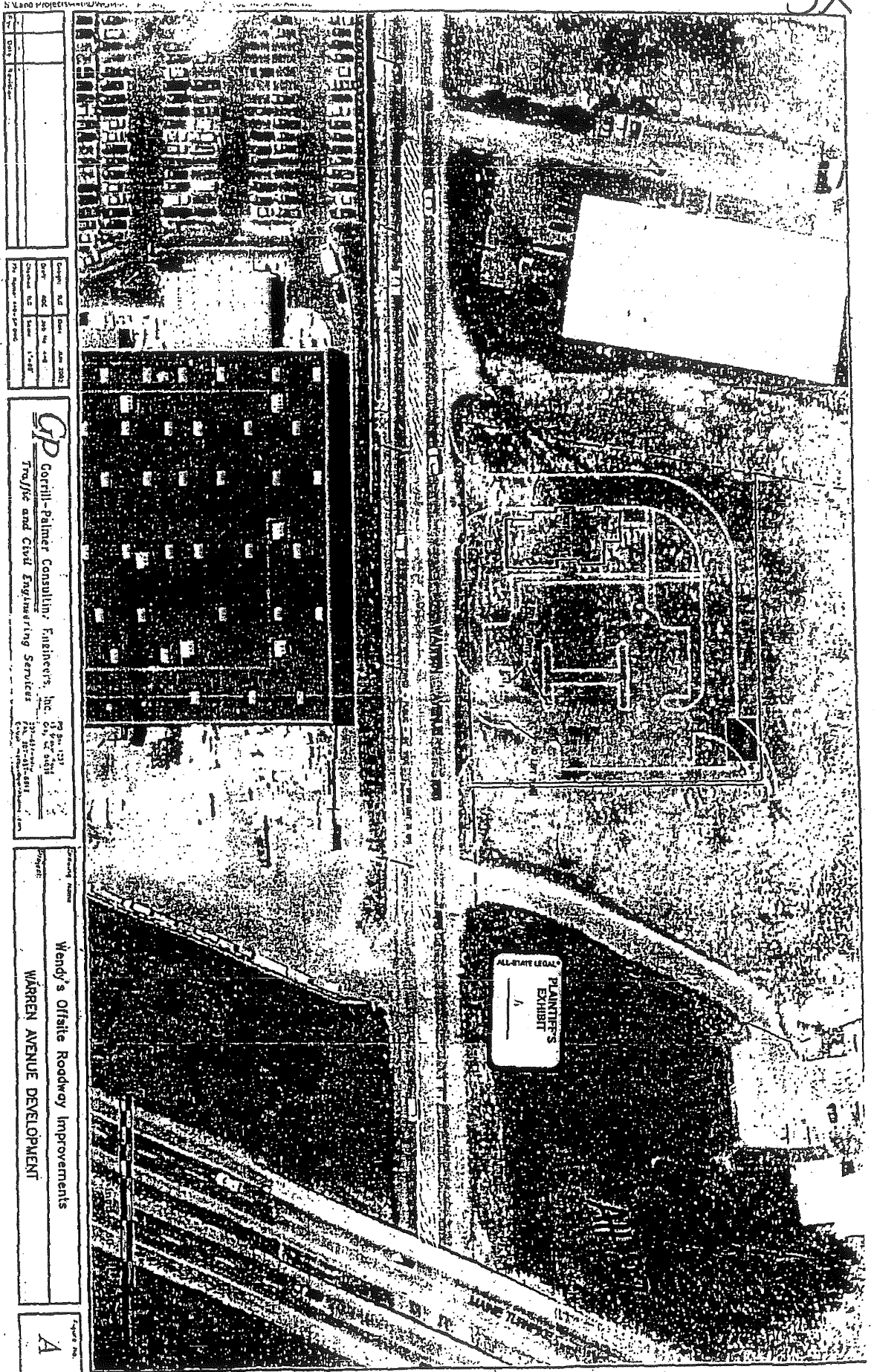
Dated at Norway, Maine this 8th day of October, 2002.

DOW'S LAW OFFICE, P.A.



Edward L. Dilworth, III
Bar No. 7644
Attorney for Plaintiff

266 Main Street
P.O. Box 349
Norway, Maine 04268
(207) 743-6351



NO.	DATE	DESCRIPTION

Contract No.	200-10-1000
Date	200-10-1000
Checked By	
By	

GP
 Correll-Palmer Consulting Engineers, Inc.
 Traffic and Civil Engineering Services
 19 Penn. Ave.
 2nd Floor
 Philadelphia, PA 19106
 Tel: 215-561-4811

Project Name: Wendy's Offsite Roadway Improvements
 Project: WARREN AVENUE DEVELOPMENT

Sheet No. A

5Y

Phone # 774-0317
Fax # 871-8026

0021374 0215634PG232

EASEMENT AMENDMENT AGREEMENT
(Corrective)

This Easement Amendment Agreement made this 24 day of March, 2000, by and between Wargate Associates, a Maine general partnership with a mailing address of c/o Boulos Property Management, One Canal Plaza, 5th Floor, Portland, ME 04101 ("Grantor"), and Citadel Broadcasting Company, a Nevada corporation with a mailing address of 7301 West Lake Mend Boulevard, Suite 400, Las Vegas NV 89128 ("Grantee").

WHEREAS, Grantor is the owner of certain real property located on Warren Avenue, in Portland, Maine, described in and by virtue of a Short Form Quitclaim Deed With Covenant dated December 1, 1994, recorded in the Cumberland County Registry of Deeds in Book 11750, Page 307 ("Grantor's Land");

WHEREAS, Grantee is the owner of certain real property located adjacent to Grantor's Land and described in a Warranty Deed from WCSO Broadcasting Company Limited Partnership to Fuller-Jeffrey Broadcasting Corporation of Greater Des Moines, dated October 2, 1996, recorded in the aforesaid Registry at Book 12757, Page 400 ("Grantee's Land"), Grantee being the successor by merger to Fuller-Jeffrey Broadcasting Companies, Inc., which in turn was the successor by merger to Fuller-Jeffrey Broadcasting Corporation of Greater Des Moines;

WHEREAS, Grantee's Land is benefited by a certain easement for access as more fully described in Deeds from Horace K. Sowles, Jr. dated May 10, 1974 and May 21, 1986, respectively, and recorded in the aforesaid Registry at Book 3551, Page 190 and Book 7183, Page 127, respectively (the "Easement");

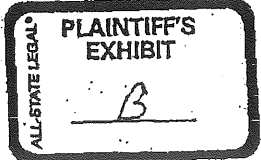
WHEREAS, an unpaved access road has been located on the Grantor's Land pursuant to the terms of the Easement and Grantee desires permission to pave the said access road in the location as it exists on the date hereof (the "Access Road") and as the same may be relocated from time to time by Grantor;

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the Parties agree to amend the Easement as follows:

1. Grantee shall have the right, at Grantee's sole cost and expense and risk, to pave the Access Road, and any similar access road located in the Easement as the Easement may be relocated by the Grantor from time to time in Grantor's sole discretion. In the event that Grantor relocates the Easement and the Access Road, the new Easement and Access Road shall forever be at least of the width and type as the presently existing Access Road, and any such relocation shall be done in the manner which least interferes with the Grantee's use of said easement, and the Grantor shall bear all costs of any such relocation, except that Grantee shall bear the cost of paving the relocated Access Road should Grantee in its option decide to pave the relocated Access Road. Grantee shall have the right and obligation to keep the Access Road or any relocated access road in good repair and covenants to repair and maintain same; provided, however, that such right is expressly subject to Grantor's prior written approval (which approval shall not be unreasonably withheld or delayed) of all plans for such paving, which plans Grantee shall submit to Grantor in form and detail as reasonably required by Grantor. In the event Grantor exercises Grantor's right to relocate the Easement from time to time, Grantor shall have no obligation whatsoever to pave or bear any portion of the cost or expense to pave any access

*2 amendments
C is this \$10
drive way allowed
117826/75*

*1001
117826/75*



05/16/02 11:25

DRUMMOND & DRUMMOND LLP → +207 871 8026

DKT5434PG233

road or way across the Easement as relocated. However, the Grantor shall have the right but not the obligation to repair and maintain the Access Road or any relocated access road if the same is not maintained or repaired adequately by Grantee in Grantor's reasonable opinion and the Grantee will, upon demand, reimburse Grantor for its actual and verifiable costs of repair and maintenance.

2. Grantee, its successors and assigns, agree to indemnify and hold harmless Grantor, its successors and assigns, from and against any and all damages, liabilities, losses, expenses, claims and suits (including without limit costs of enforcing this indemnity and all reasonable attorneys' fees) incurred or suffered in connection with or arising out of the rights granted under the Easement, as the same may be relocated from time to time and as herein amended, or the use, maintenance or repair by Grantee, its successors and assigns of the Easement, as the same may be relocated from time to time and as herein amended, and/or Grantee's or its successors' and assigns', or their agents' presence upon the Grantor's Land in connection therewith or for any other reason.

3. The rights granted by Grantor herein are granted without warranty or covenant of title whatsoever, are not exclusive, and are subject to any and all rights, easements or encumbrances of record in force now or in the future and applicable to the Grantor's Land and/or said rights.

4. All of the provisions of the Easement not amended hereby remain in full force and effect.

The purpose of this instrument is to correct a certain Easement Amendment Agreement by and between Warren Properties Limited Partnership and WCSO Broadcasting Limited Partnership (said WCSO Broadcasting Limited Partnership being Grantor's predecessor-in-title as the owner of the Grantee's Land) dated September 19, 1995 and recorded in the Cumberland County Registry of Deeds in Book 12136, Page 214. Said Easement Amendment Agreement erroneously identified both (i) the Grantor; and (ii) the Grantor's Land, all of which should have been as stated in this instrument. Grantee is releasing any right, title and interest in and to the property of Warren Properties Limited Partnership pursuant to a Release of Easement Rights of even or near date to be recorded in said Registry of Deeds.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized undersigned representatives as of the day first above-written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

[Signature]
Witness

[Signature]
Witness

GRANTOR:
WARDATE ASSOCIATES

By: [Signature]
Printed Name: JOSEPH E BOULAS
Its General Partner

GRANTEE:
CITADEL BROADCASTING COMPANY

By: [Signature]
Printed Name: STUART STANLEY
Its V.P.

5AA

05/16/02 11:26

DRUMMOND & DRUMMOND LLP → +207 871 8026

NO. 56E

BKJ5434 PG234

STATE OF MAINE
County of Cumberland, SS

March 24, 2000

Personally appeared before me the above-named Joseph F. Barros
general partner of Wargate Associates, and acknowledged the foregoing instrument to be his free
act and deed in his said capacity and the free act and deed of said Wargate Associates.

Before me,

SEAL

LYNDA S. HAGULA
Notary Public, Maine
My Commission Expires March 8, 2008

Linda S. Hagula
Notary Public
Printed Name: LYNDA S. HAGULA

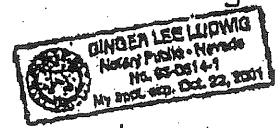
STATE OF Nevada
County of Clark, SS

March 28th, 2000

Personally appeared the above-named Stuart Slank in
his/her capacity as VP of Citadel Broadcasting Company and
acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity
and the free act and deed of said Citadel Broadcasting Company.

Before me,

Ginger Lee Ludwig
Notary Public
Printed Name: Ginger Lee Ludwig



RECEIVED
RECORDED REGISTRY OF DEEDS
2000 APR 26 AM 9:37
CUMBERLAND COUNTY
John B. Cairn

5AB

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named JOSEPH F. BOULOS, Manager of OLDER BROTHER LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity; and the free act and deed of said OLDER BROTHER LLC.

Before me,



Notary Public/Maine Attorney-at-Law

Printed Name: PAUL D. PIETRAFESA

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named GREGORY W. BOULOS, Manager of YOUNGER BROTHER LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said YOUNGER BROTHER LLC.

Before me,



Notary Public/Maine Attorney-at-Law

Printed Name: PAUL D. PIETRAFESA

5AD

Schedule F

(Holders of Rights to Private Sewer Line)

1. Wendy's Old Fashioned Hamburgers of New York Corporation.
2. Francis Drake, his successors or assigns, as owner of certain land adjacent to the Premises, as described in that certain Affidavit (including the exhibits thereto) of Gregory W. Boulos, dated April 29, 1988, and recorded in the Cumberland County Registry of Deeds in Book 8272, Page 211.
3. Value Mall LLC, as successor to or assignee of Turner Barker Associates, as successor to or assignee of Northern General Services, Inc.

AH. 6

ete **EATON TRAFFIC ENGINEERING**
2 Miranda Street • Brunswick • Maine • 04011
Tel 207.725.9805 • Fax 207.725.0847

To: Jeff Perry, Sebago Technics
Fm: William C. Eaton, P.E., Eaton Traffic Engineering
Re: Preliminary Traffic Assessment – Proposed Dunkin’ Donut Shop – Warren Avenue, Portland.
Dt: June 14, 2004

Per your request I have prepared this very preliminary traffic assessment for the proposed Warren Avenue Dunkin’ Donut shop. The proposed facility will utilize the existing entrance and exit driveways that currently serve the Wendy’s restaurant. A one-way circulation flow will be used for the site, with vehicles entering at the easterly driveway and exiting at the westerly driveway.

Peak hour trip generation for Dunkin’ Donut shops are pretty much independent of size or seating. In a high traffic area such as this, the MDOT uses 330 AM and 90 PM peak hour trips in evaluating traffic impacts. We obviously will have to get an MDOT Traffic Movement Permit (through the City of Portland, as it has delegated review authority) as we will clearly generate over 100 peak hour trips. Because of the disparity between AM and PM peak hour trip generation, I have assumed that the AM peak hour will be the time period used for analysis. Accordingly I have conducted an AM peak period (7:00 AM to 9:00 AM) manual turning movement count at the proposed site access. In addition, I have obtained accident data on Warren Avenue and Riverside Street for further analysis. Shortly I will prepare a formal application to the City of Portland for a Scoping Meeting to define the scope and parameters of the required traffic impact study.

I trust that the above addresses your current needs in this matter. If you have any questions, please contact me.

6/14/04

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
Fire Copy**

Att. 7

2004-0118
Application I. D. Number

Kimco Realty, LLC
Applicant
65 Gray Street, Falmouth, ME 04105
Applicant's Mailing Address

06/15/2004
Application Date

Dunkin Donuts
Project Name/Description

Consultant/Agent
Applicant Ph: (207) 797-7600 **Applicant Fax: (207) 797-4300**
Applicant or Agent Daytime Telephone, Fax

597 - 597 Warren Ave , Portland, Maine
Address of Proposed Site
314 A007001
Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify)

2,432 s.f. **B4**
Proposed Building square Feet or # of Units Acreage of Site Zoning

Check Review Required:

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan
(major/minor) | <input type="checkbox"/> Subdivision
of lots | <input type="checkbox"/> PAD Review | <input type="checkbox"/> 14-403 Streets Review |
| <input type="checkbox"/> Flood Hazard | <input type="checkbox"/> Shoreland | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional
Use (ZBA/PB) | <input type="checkbox"/> Zoning Variance | | <input type="checkbox"/> Other |

Fees Paid: Site Plan \$400.00 Subdivision Engineer Review Date **06/15/2004**

Fire Approval Status:

Reviewer **Lt. MacDougal**

- Approved** **Approved w/Conditions** **Denied**
See Attached

Approval Date **06/16/2004** Approval Expiration **06/16/2005** Extension to Additional Sheets
Attached

Condition Compliance **Lt. MacDougal** **06/16/2004**
signature date

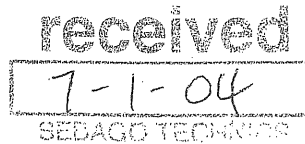
Performance Guarantee **Required*** **Not Required**

* No building permit may be issued until a performance guarantee has been submitted as indicated below

- | | | | |
|---|----------------|--|-----------------|
| <input type="checkbox"/> Performance Guarantee Accepted | date | amount | expiration date |
| <input type="checkbox"/> Inspection Fee Paid | date | amount | |
| <input type="checkbox"/> Building Permit Issue | date | | |
| <input type="checkbox"/> Performance Guarantee Reduced | date | remaining balance | signature |
| <input type="checkbox"/> Temporary Certificate of Occupancy | date | <input type="checkbox"/> Conditions (See Attached) | expiration date |
| <input type="checkbox"/> Final Inspection | date | signature | |
| <input type="checkbox"/> Certificate Of Occupancy | date | | |
| <input type="checkbox"/> Performance Guarantee Released | date | signature | |
| <input type="checkbox"/> Defect Guarantee Submitted | submitted date | amount | expiration date |
| <input type="checkbox"/> Defect Guarantee Released | date | signature | |



Central Maine Power



Att. 8

June 30, 2004

Mr. Jeffrey R. Perry
C/O Sebago Technics
One Chabot Street
PO Box 1339
Westbrook, Maine 04098

RE: Proposed Dunkin Donuts, 597 Warren Avenue, Portland

Dear Mr. Perry,

This letter is to advise you that Central Maine Power has sufficient three phase electrical capacity in the area to serve the subject project.

Once the project is accepted by the City of Portland, the owner will need to call our Customer Service Center at 1-800-565-3181 to sign up for a New Account and a Work Request Order so we may start a cost estimate.

To complete the cost estimate I will need the information of what voltage is required, the size of the main disconnect and the kilowatt loads required for the new facility. This information should be provided to me from the electrician or electrical engineering firm.

If you have any questions please feel free to call me at 828-2882.

Sincerely,

Paul DuPerre
Technical Advisor

An equal opportunity employer

162 Canco Road | Portland, ME 04103

tel (800) 750-4000

www.cmpco.com

An Energy East Company

AH. 9

Department of Planning & Development
Lee D. Urban, Director



CITY OF PORTLAND

Division Directors
Mark B. Adelson
Housing & Neighborhood Services

Alexander Q. Jaegerman, AICP
Planning

John N. Lufkin
Economic Development

July 2, 2004

Jeffrey Perry
Project Manager
Sebago Technics
One Chabot Street
P.O. Box 1339
Westbrook, ME 04098-1339

RE: Dunkin' Donuts Building, 597 Warren Avenue
ID #2004-0118, CBL #314-A-007

Dear Mr. Perry:

After review of the Dunkin' Donuts site plan proposed at 597 Warren Avenue, the following comments have been generated:

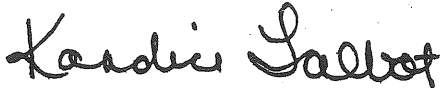
1. Based on the preliminary traffic study prepared by Eaton Traffic Engineering, a MDOT Traffic Movement Permit is necessary. The City of Portland has delegated review authority for a Traffic Movement Permit, which requires Planning Board review. Also, a Traffic Movement Permit requires an additional fee of \$1,000. The project is tentatively scheduled for a Planning Board workshop on August 24th.
2. A standard boundary survey, stamped by a registered surveyor, shall be submitted.
3. Capacity letters from the Portland Water District and the Portland Sewer Division shall be submitted.
4. There is an access easement that runs through the site. Please submit a copy of the easement language for review by Corporation Counsel.
5. The Traffic Engineer is currently reviewing the layout of the plan. Additional comments from the Traffic Engineer shall be forwarded to you.

9A

6. The Development Review Coordinator is currently reviewing stormwater management plan. Additional comments from the Development Review Coordinator shall be forwarded to you.
7. The City Arborist is currently reviewing the landscaping plan. Additional comments from the City Arborist shall be forwarded to you.
8. Lighting catalogue cuts and a lighting photometric plan shall be submitted to determine if the lighting meets the City's lighting standards.

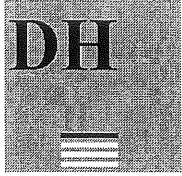
If you have any questions, please do not hesitate to contact me at 874-8901.

Sincerely,



Kandice Talbot
Planner

CC: Sarah Hopkins, Development Review Services Manager



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

778 MAIN STREET
SUITE 8
SOUTH PORTLAND, MAINE 04106
TEL. 207 775 1121
FAX 207 879 0896

■ ROADWAY DESIGN
■ ENVIRONMENTAL ENGINEERING
■ TRAFFIC STUDIES AND MANAGEMENT
■ PERMITTING
■ AIRPORT ENGINEERING
■ SITE PLANNING
■ CONSTRUCTION ADMINISTRATION

AH. 10

MEMORANDUM

DATE: July 15, 2004
TO: Kandi Talbot, City of Portland Planning
FROM: Stephen R. Bushey, P.E.
SUBJECT: Dunkin Donuts
Warren Avenue

DeLuca-Hoffman Associates, Inc has reviewed the application materials dated June 14, 2004 for a proposed Dunkin Donuts off Warren Avenue. The materials received included only the Stormwater report and pre/postdevelopment watershed plans. We have not reviewed the site plans, grading or utility plans. We offer the following comments:

1. The stormwater management system for the new Dunkin Donuts includes a closed drainage system that will collect runoff from the developed area and convey it to a detention basin. An existing basin serving the adjacent Wendy's development will be substantially enlarged to handle the increase volume of runoff generated by the development.
2. The post development runoff modeling includes a watershed 40 containing the proposed detention basin. This watershed area must be routed through the pond within the computer model. Because of the increased area adjustments to the outlet control structure may be necessary as well as potential increases to the basin size.
3. The watershed plans contain no information on the pipe sizing and other drainage system measures, therefore no review was completed.
4. Does the Planning Staff want our review of the grading and utilities designs? If so, then plans should be forwarded to this office.
5. We assume that staff will review the queuing lengths for vehicles entering the facility and the circulation with the adjacent Wendy's restaurant.
6. Design plans for the detention basin including cross sections and details for the outlet control structure should be provided.
7. Erosion control measures and plans should be provided on the grading plans.

We trust these items can be satisfactorily worked out by the engineer and look forward to additional materials addressing these comments.

If you have any questions please call.

Steve Bushey, PE
Senior Engineer

Srb/jn1350.10/Dunkin Donuts07-15-04

John E. Baldacci
Governor



received
8-16-04
SEBAGO TECHNICS
Roland D. Martin
Commissioner

Att. 11

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

Wildlife Division – Region A
358 Shaker Rd.
Gray, ME 04039
Phone: (207) – 657-2345 x 109
Fax: (207) – 657-2980

August 13, 2004

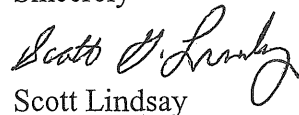
Jeffrey Perry
Sebago Technics
1 Chabot St.
P.O. Box 1339
Westbrook, ME 04098

Dear Mr. Perry,

You contacted this office requesting information on any wildlife habitats that may be impacted by a proposed Dunkin Donuts on Warren Avenue in Portland.

Based on a review of our most current data, I conclude there are no Essential or Significant Wildlife Habitats within or adjacent to this site, nor are there any documented occurrences of rare, threatened or endangered species at this site. Given the extensive development existing at this urban location, I do not believe this development will have any negative impact on wildlife habitats.

Sincerely


Scott Lindsay

Att. 12

Kandi Talbot - Dunkin Donuts -- Warren Avenue

From: "Tom Errico" <terrico@wilbursmith.com>
To: "Kandi Talbot" <KCOTE@portlandmaine.gov>
Date: 08/20/2004 1:39 PM
Subject: Dunkin Donuts -- Warren Avenue
CC: "Katherine Earley" <KAS@ci.portland.me.us>

Kandi--

In response to your request I have conducted an initial preliminary review of the proposed Dunkin Donuts project on Warren Avenue adjacent to Wendy's Restaurant. My comments are noted as follows.

- The project will need to conduct a traffic study that meets the MaineDOT Traffic Movement Permit process.
- I am concerned about the ingress/egress driveway configuration. There is a limited amount of on-site vehicle storage and traffic safety and operational problems are likely.
- On-site circulation seems circuitous and confusing.

Those are my initial observations. Warren Avenue in this area has been know to have accident deficiencies and the project will need to address any existing problems (Those things will be address in the traffic study). I received a call from Sebago Technics about a scoping meeting and submission of the application. I would expect a project scoping meeting to be scheduled in the near future.

Thomas A. Errico, P.E.
Senior Transportation Engineer
Wilbur Smith Associates
59 Middle Street
Portland, Maine 04101
(207) 871-1785 Phone
(207) 871-5825 Fax

Att. 12

Kandi Talbot - Dunkin Donuts -- Warren Avenue

From: "Tom Errico" <terrico@wilbursmith.com>
To: "Kandi Talbot" <KCOTE@portlandmaine.gov>
Date: 08/20/2004 1:39 PM
Subject: Dunkin Donuts -- Warren Avenue
CC: "Katherine Earley" <KAS@ci.portland.me.us>

Kandi--

In response to your request I have conducted an initial preliminary review of the proposed Dunkin Donuts project on Warren Avenue adjacent to Wendy's Restaurant. My comments are noted as follows.

- The project will need to conduct a traffic study that meets the MaineDOT Traffic Movement Permit process.
- I am concerned about the ingress/egress driveway configuration. There is a limited amount of on-site vehicle storage and traffic safety and operational problems are likely.
- On-site circulation seems circuitous and confusing.

Those are my initial observations. Warren Avenue in this area has been know to have accident deficiencies and the project will need to address any existing problems (Those things will be address in the traffic study). I received a call from Sebago Technics about a scoping meeting and submission of the application. I would expect a project scoping meeting to be scheduled in the near future.

Thomas A. Errico, P.E.
Senior Transportation Engineer
Wilbur Smith Associates
59 Middle Street
Portland, Maine 04101
(207) 871-1785 Phone
(207) 871-5825 Fax

From: "Tom Errico" <terrico@wilbursmith.com>
To: "Kandi Talbot" <KCOTE@portlandmaine.gov>
Date: 11/12/2004 8:52:52 AM
Subject: RE: Dunkin Donuts-Warren Ave

Kandi--

The layout is certainly improved, but I can't make a final determination until I get the traffic study.

Tom

-----Original Message-----

From: Kandi Talbot [mailto:KCOTE@portlandmaine.gov]
Sent: Tuesday, November 09, 2004 1:29 PM
To: terrico@wilbursmith.com
Subject: Fwd: Dunkin Donuts-Warren Ave

Tom,

Did you get a chance to review this? And is this layout workable? Thanks.

Kandi

Kandi Talbot - RE: Dunkin Donuts-Warren Ave

From: "Steve Bushey" <SBushey@DelucaHoffman.com>
To: "Tom Errico (E-mail)" <terrico@wilbursmith.com>
Date: 11/10/2004 4:34 PM
Subject: RE: Dunkin Donuts-Warren Ave
CC: "Kandi Talbot (E-mail)" <KCOTE@portlandmaine.gov>

Tom and Kandi,

I trust you will be reviewing the driveway piece closely for this project. I only offer that I was at the Wendy's on Tuesday at lunchtime and the place was full. I drove through the lot twice basically waiting for someone to leave to park. The drive through backed up to Warren Ave. I went in and there appeared to be ample staff to process orders; it simply was very busy. Adding a Dunkin Donuts seems like it could be really pushing the envelope for circulation etc. Perhaps I caught it at a bad time although it didn't seem like there was any extraordinary condition other than lots of business at the Wendy's. If I'm the Wendy's owner I would be looking for more parking.

Just some thoughts.

Steve Bushey

-----Original Message-----

From: Jeffrey Perry [mailto:jperry@sebagotechnics.com]
Sent: Wednesday, October 27, 2004 12:10 PM
To: Tom Errico (E-mail)
Cc: Kandi Talbot (E-mail); Steve Bushey
Subject: Dunkin Donuts-Warren Ave

Given the concerns regarding circulation on this challenged site, I offer the following layout plan for discussion. It shows one-way in from Warren. There is a curbed diverter that would direct traffic either to Wendy's or to the Tower site and DD. The circulation on the DD site will be one-way (counter clockwise) with all DD and Tower traffic directed to the existing Wendy's exit-lane further west on Warren Ave. We believe this addresses the conflicting maneuvers that were present on the previous plan.

Please call with any questions or comments.

Thank you
Jeffrey R. Perry
Senior Project Manager
Sebago Technics
1 Chabot Street
Westbrook, Maine 04098
ph 207.856.0277
fx 207.856.2207
jperry@sebagotechnics.com

Application for MDOT Permit
for the
Proposed Warren Avenue Dunkin' Donut
601 Warren Avenue - Portland, Maine

Prepared for:
Kimco Realty LLC
Falmouth, Maine
207/ 797-7600

Prepared by:
Eaton Traffic Engineering
2 Miranda Street
Brunswick, ME 04011-7348
207/ 725-9805

and

Sebago Technics
One Chabot Street
Westbrook, ME 04098-1339
207/ 856-0277

Department of Transportation
Traffic Engineering Division
16 State House Station
Augusta, Maine 04333
Telephone: 207-287-3775

FOR MDOT USE 1/2000
ID #
Total Fees:
Date: Received

**PERMIT APPLICATION - TRAFFIC
TRAFFIC MOVEMENT PERMIT, 23 M.R.S.A. § 704 - A**

Please type or print:
This application is for:

Traffic 100-200 PCE's _____
Traffic 200+ PCE's X

Name of Applicant: Kimco Realty LLC
Address: 65 Gray Rd. Box 4, Falmouth, Maine 04105 Telephone: 207-797-7600
Name of local contact or agent: William C. Eaton
Address: 2 Miranda St., Brunswick, ME 04011 Telephone: 207-725-9505
Name and type of development: Proposed Dunkin' Donuts Restaurant
Location of development including road, street, or nearest route number: 601 Warren Avenue

City/Town/Plantation: Portland , County: Cumberland , Tax Map # 314 , Lot # A 7

Do you want a consolidated review with DEP pursuant to 23 M.R.S.A. § 704-A (7)?

Yes _____ No X

Was this development started prior to obtaining a traffic permit? No

Is the project located in an area designated as a growth area (as defined in M.R.S.A. title 30 - A, chapter 187)?

Yes X No _____

Is this project located within a compact area of an urban compact municipality? Yes X No _____

Is this development or any portion of the site currently subject to state or municipal enforcement action?

No

Existing DEP or MDOT permit number (if applicable):

NA

Name(s) of DOT staff person(s) contacted concerning this application:

Tom Errico, Acting Portland Traffic Engineer- Delegated Review Authority

Name(s) of DOT staff person(s) present at the scoping meeting for 200+ applications: _____

1/2000

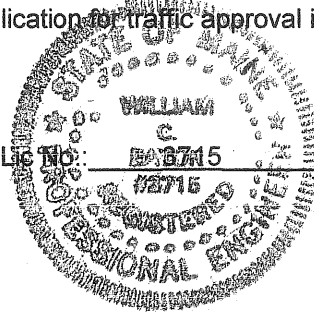
CERTIFICATION

The traffic engineer responsible for preparing this application and/or attaching pertinent site and traffic information hereto, by signing below, certifies that the application for traffic approval is complete and accurate to the best of his/her knowledge.

Signature: _____

William C. Eaton

Re/Cert/Lic No: _____



Name (print): William C. Eaton, P.E.

Date: _____

8/24/04

If the signature below is not the applicant's signature, attach letter of agent authorization signed by applicant.

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Edward Wohl

Signature of applicant

8/30/04

Date

NOTICE OF INTENT TO FILE

Please take notice that

Kimco, 65 Gray Road, Falmouth, Maine

is intending to file a Traffic Movement Permit application with the Maine Department of Transportation pursuant to the provisions of 23 M.R.S.A. § 704 - A on or about

August 30, 2004

The application is for

the construction of a 1840 square foot Dunkin Donut shop on Warren Avenue in Portland, Maine. Estimated peak hour trip generation (and net over pre-existing traffic) is 330 vehicle trips (166 net) during the AM peak hour and 90 trips during the PM peak hour.

The project, if approved, is expected to be complete in 2005 at the following location:

Northerly side of Warren Avenue behind Wendy's in Portland, Maine

A request for a public hearing must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. Public comment on the application will be accepted throughout the processing of the application.

The application will be filed for public inspection at the Department of Transportation Division office in Scarborough during normal working hours. A copy of the application may also be seen at the municipal offices in

_____ Portland _____, Maine.

Written public comments may be sent to the Department of Transportation, Traffic Engineering Division, 16 State House Station, Augusta, Maine 04333.

03461

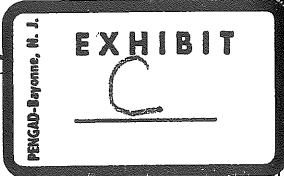
ABUTTERS LIST	
Map/Lot	Name/Address
34 / A7	Older Brother & Younger Brother, LLC One Canal Plaza Portland, ME 04101
34 / A6	Francis P. Drake P.O. Box 1378 Portland, ME 04103
34 / A1	Casey & Paige, LLC 583 Warren Avenue Portland, ME 04103
34 / A4	Maine Turnpike Authority 430 Riverside Street Portland, ME 04103
34 / A3	Wendy's P.O. Box 256 Dublin, OH 43017
Part of 315 / B5 B1 & 6	HD Development of Maryland, Inc. 2455 Paces Ferry Road Atlanta, GA 30339

3551-190

d. 5-10-74

n. 5-30-74

190



10517

Know All Men by These Presents,

That I, HORACE K. SOWLES JR. of Falmouth in the County of Cumberland and State of Maine

in consideration of the sum of One Dollar and other valuable considerations, total consideration less than \$100.00.

paid by GREATER PORTLAND RADIO INC., a corporation organized and existing under the laws of the State of Maine and located at Portland in said County of Cumberland and State of Maine and having its principal place of business on Warren Avenue in said City of Portland

the receipt whereof I do hereby acknowledge, do hereby give, grant,

beginning, sell and convey unto the said GREATER PORTLAND RADIO INC., its successors and assigns forever, a triangular lot or parcel of land located on the westerly boundary of the main through-artery of the Maine Turnpike Authority near its intersection with Warren Avenue in said City of Portland, and more ~~being and containing~~ particularly described as follows:

Beginning at a monument on the westerly side of said Maine Turnpike Authority through-artery and at the southeasterly corner of the land of the Grantor herein; thence northerly along the boundary of the through-artery of the Maine Turnpike Authority four hundred fifty-seven and forty-four hundredths (457.44) feet, more or less, to a point marking the northeasterly corner of the land of the Grantor herein; thence westerly by land of Riverton Homesites, so-called, and land now or formerly of one Waning four hundred and thirty (430) feet, more or less, to a point; thence southeasterly six hundred (600) feet, more or less to the monument and point of beginning.

Being a part of the premises conveyed to the Grantor herein by Chandler Broadcasting, Inc. by its deed dated November 16, 1971 and recorded in Cumberland County Registry of Deeds in Book 3261 at Page 78.

The Grantor hereby grants to the Grantee an easement to pass over other land of the Grantor from Warren Avenue to reach its property, the exact location of said easement to be determined by agreement of the parties, but generally to follow the southerly boundary of the Grantor's land.

The Grantor further grants to the Grantee an easement to lay a copper radial field underground at a radius of one hundred and eighty (180) feet from the base of a proposed radio tower as shown on a plan made for Greater Portland Radio Inc. entitled "Proposed WJAB Studio and Tower" dated April 1974, from a survey by Engineering Services, Inc. Said plan is referred to for the location of the copper radial field and not for the location of the right-of-way depicted thereon. The Grantor retains the right to pave over and otherwise use the limits of said copper radial field provided he does not interfere with its intended operation.

This conveyance is made subject to an easement granted by George Wilson to Portland Water District dated October 4, 1954 and recorded in said Registry of Deeds in Book 2197 at Page 169.

This conveyance is also made subject to the taxes on the land hereby conveyed and the structure presently owned by the Grantee for the year 1974 which the Grantee hereby assumes and agrees to pay.

On this and in full the aforegranted and bargained premises with all the ¹⁹¹ privileges and appurtenances thereof, to the said GREATER PORTLAND RADIO INC. its successors and assigns

~~to~~ successors, to them and their use and behoof forever.

And I do covenant with the said Grantee, its ^{successors} heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all incumbrances; that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that I and my heirs shall and will warrant and defend the same to the said Grantee, its ^{successors} heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof I the said HORACE K. SOWLES JR.

and MARGARET P. SOWLES

wife of the said Grantor, Horace K. Sowles Jr.

joining in this deed as Grantors, and relinquishing and conveying all right by descent and all other rights in the above described premises, have hereunto set our hands and seals this 10th day of May in the year of our Lord one thousand nine hundred and seventy-four.

Signed, Sealed and Delivered in presence of

Ronald K. Henderson

Horace K. Sowles Jr.
Margaret P. Sowles

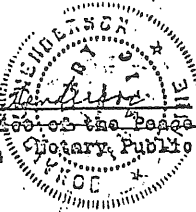
State of Maine. Cumberland ss. May 10, 1974.

Personally appeared the above named HORACE K. SOWLES JR.

and acknowledged the foregoing instrument to be his free act and deed.

Before me,

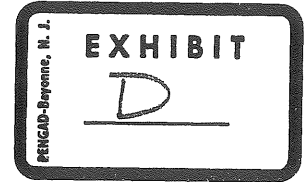
Ronald K. Henderson
Justice of the Peace
Notary Public
MY COMMISSION EXPIRES
MAY 1 1978



MAY 30 1974

REGISTRY OF DEEDS, CUMBERLAND COUNTY, MAINE
Received at 8 30 AM, and recorded in
BOOK 355/ PAGE 190 W. C. [unclear] Register

My Commission Expires June 7 1974



Technet[®] Systems Group

Broadcast Equipment - Turn-keyed Systems - Technical Consulting

Main Office
PO Box 422
Auburn NH 03032

Toll-Free: (888)832-4638
Tel: (603)483-5365
Fax: (603)483-0512

ENGINEERING STATEMENT

TO

Kimco Realty, LLC
65 Gray Road, Unit 4
Falmouth, ME 04105

RE:

EASEMENT FOR RADIAL FIELD

March 23, 2004

PURPOSE AND SCOPE

This Engineering Statement is in response to an inquiry from Kimco Realty, LLC regarding an easement for a "Radial Field" on parcel 314-A-7 at the intersection of the Maine Turnpike and Warren Avenue in Portland, ME.

BACKGROUND

The parcel in question has an easement for the maintenance of a "radial field" for the antenna tower located on an adjacent parcel 314-A-1.

Radial fields consist of a number of copper wires buried to a nominal depth of four to six inches below the ground surface. Each wire begins at the tower and is placed in a radial direction from the tower. The radial system usually consists of 120 equally spaced wires. The length of the wires is usually similar to the height of the tower. Radial fields are normally present only at towers used for AM broadcasting or other low frequency emitters (i.e. Loran Stations). The radials provide a counterpoise for the tower and complete the lower half of the vertical radiator. FM broadcast stations, PCS, Cellular, Land Mobile Service and similar higher frequency facilities do not require buried ground radials.

TOWER HISTORY

The tower and associated ground system, located on parcel 314-A-1, was at one time tower number one of a three tower directional antenna system for AM broadcast station WJBQ(AM), now known as WJAE(AM), operating on 1440 kHz. The other two towers were removed from the site at some time following relocation of the WJAE(AM) transmitter site to the southwest corner of Conant Street and Wayside Drive in Westbrook, ME. The removal of the towers prevents the use of the site as it now exists by a directional AM station. No AM broadcast station has used the subject tower since the WJAE(AM) relocation.

EFFECTS OF PROPOSED CONSTRUCTION

I discussed the construction plans with Jeffrey Perry of Sebago Technics. The portion of the radial field on parcel 314-A-7 is to be covered with a parking lot and a

storm water retention pond. Even if the construction company uses due care, construction will likely damage some of the radials in the area under the parking lot and pond. The area that will be impacted involves less than 10% of the total ground radial system and spans an arc of 55 degrees. Given an initial installation of 120 radials, the construction crew should expect to encounter approximately 20 radial wires in the area in question.

RESTORATION OF GROUND SYSTEM

Since the tower is not now being used for AM broadcast and it is highly unlikely that it will ever again serve that purpose, there is no technical imperative to restore the ground system. Even if an AM station were to be constructed at the site utilizing the existing tower, the loss of the ground system in the area in question would have little to no effect on the efficiency of the antenna system.

If it is necessary to restore the ground system, it can be repaired during construction. As the radial wires are exposed they should be rolled back toward the tower. Once the final grade of the land is established they can be re-buried by rolling them out directly away from the tower and pushing them four to six inches below the final grade. If any wires are cut they can be spliced together by silver soldering the exposed ends. If the radials are restored in such a manner the fact that the radials will be underneath pavement and a retention pond will not interfere with the intended operation of the radials.

STATEMENT OF QUALIFICATIONS

I, Robert M. Smith Jr., of Port St. Lucie, Florida do hereby state:

That I am a qualified and experienced Broadcast Technical Consultant and the President of R.M. Smith Associates of Jensen Beach, Florida;

That I have been continuously employed in the field of broadcast engineering since 1974;

That my qualifications are a matter of record with the Federal Communications Commission, having filed numerous applications, statements and reports with that agency.



Robert M Smith Jr.

Technical Consultant

PIERCE
ATWOOD

—LLP—
ATTORNEYS AT LAW

VIA HAND DELIVERY

February 15, 2005

A.H. 15

Eben Adams

One Monument Square
Portland, ME 04101

207-791-1175 voice
207-791-1350 fax
eadams@pierceanwood.com

pierceanwood.com

Admitted in: MA ME

Sarah Hopkins, Assistant City Planner
Planning & Urban Development
City of Portland
City Hall – 289 Congress Street
Portland, Maine 04101

RE: Site Plan Application (the “Application”) for Kimco Realty, LLC
597 Warren Avenue – Portland, ME

Dear Ms. Hopkins:

I represent Kimco Realty, LLC (“Kimco”) and I am writing to address some outstanding issues with regard to the Application.

First, with regard to the easements that affect the property, attached please find a copy of the deed by which Kimco acquired the subject property. On the fourth and fifth pages of the deed are a list of all the easements that affect the property (numbered paragraphs 2-10). Copies of all the documents referenced therein are attached as Exhibit A-2 through A-10. Please note that the access easements related to the Wendy’s Parcel are set out in the deed attached as Exhibit A-8.

Attached as Exhibit B is a copy of a transfer instrument by which Kimco acquired the private sewer line running from this property easterly under Warren Avenue and connecting to public sewer lines owned by the City of Portland. Because Kimco now owns this sewer line, there should no longer be a requirement that Kimco show evidence of an agreement with the owner of the sewer line.

Should you have any questions regarding the enclosed documentation, please do not hesitate to contact me.

Sincerely,

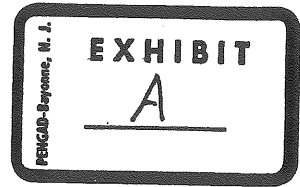


Eben Adams

EA:f

Enclosure

cc: Mr. Edward S. Wolak (w/o encl.)
Mr. Jeff Perry (w/o encl.)



QUITCLAIM DEED WITH COVENANT
(Maine Statutory Short Form)


MAINE REAL ESTATE TAX PAID

KNOW ALL BY THESE PRESENTS, that **OLDER BROTHER LLC**, a Maine limited liability company, and **YOUNGER BROTHER LLC**, a Maine limited liability company, both having a place of business in the City of Portland, County of Cumberland, and State of Maine, for consideration paid, GRANT to **KIMCO REALTY, LLC**, a Maine limited liability company, the mailing address of which is 65 Gray Road-Box 4, Falmouth, Maine 04105, with QUITCLAIM COVENANT, certain real estate located in Portland, County of Cumberland and State of Maine, which is more particularly described in Exhibit A attached hereto and made a part hereof.


IN WITNESS WHEREOF, Older Brother LLC has caused this instrument to be executed by Morris Fisher, its Vice President, and Younger Brother LLC has caused this instrument to be executed by Gregory W. Boulos, its President, hereunto duly authorized, this 7th day of January, 2005.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Older Brother LLC




Witness

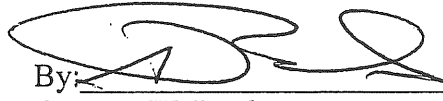
By: 

Morris Fisher
Its Vice President

Younger Brother LLC



Witness

By: 

Gregory W. Boulos
Its President

STATE OF MAINE
County of Cumberland, SS.

January 7, 2005

Then personally appeared the above-named Morris Fisher, Vice President of Older Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Older Brother LLC.

Before me,



~~Notary Public/Maine Attorney-at-Law~~

Printed Name: PAUL D. PIETROPAOLI

STATE OF MAINE
County of Cumberland, SS.

January 7, 2005

Then personally appeared the above-named Gregory W. Boulos, President of Younger Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Younger Brother LLC.

Before me,



~~Notary Public/Maine Attorney-at-Law~~

Printed Name: PAUL D. PIETROPAOLI

Exhibit A

A certain lot or parcel of land located on the northerly side of Warren Avenue, in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

BEGINNING at an iron pin set (5/8" rebar) on the northerly sideline of Warren Avenue, said pin also being at the southeasterly corner of land now or formerly of Michael Scarks and shown as Lot 2 on the Plan entitled "Plan of Property Warren Avenue, Portland, Maine, made for Neptune Properties, Inc., dated March 31, 1986", thence by the following courses and distances:

N 04° 24' 12" E along land now or formerly of Michael Scarks and shown as Lot No. 2 on the aforementioned Plan, a distance of 292.07 feet to a point;

Thence turning and running N 83° 43' 00" E a distance of 386.20 feet to a point on the westerly sideline of land now or formerly of the Greater Portland Radio, Inc., as recorded in Cumberland County Registry of Deeds in Book 3551, Page 190;

Thence running southeasterly along said westerly sideline (S 26° 09' 32" E) a distance of 59.48 feet to a point;

Thence running southwesterly along land now or formerly of the Maine Turnpike Authority S 18° 06' 00" W a distance of 253.70 feet to an iron pin set (5/8" rebar) at the northerly sideline of said Warren Avenue;

Thence S 83° 43' 00" W along the northerly sideline of Warren Avenue a distance of 355.85 feet to the POINT OF BEGINNING.

Bearings are referenced to True North.

EXCEPTING from the above described property, the premises conveyed to Wendy's Old Fashioned Hamburgers of New York, Inc. by deed dated September 24, 2002 and recorded in said Registry of Deeds in Book 18138, Page 171, as corrected by deed dated February 27, 2003 and recorded in said Registry of Deeds in Book 18956, Page 1.

Together with all right, title, and interest of the Grantors in and to a right of way or easement for ingress and egress on foot or by vehicle for the transmission of power, gas, water, sewer, fuel or other utility, and all other usual purposes of access over, under or above a strip of land adjoining the westerly sideline of the above-described parcel, said strip of land being described as follows:

BEGINNING at an iron pin set (5/8" rebar) on the northerly sideline of Warren Avenue, said pin also being at the southeasterly corner of land now or formerly of Pine Tree Paper, Inc. and running N 04° 24' 12" E for a distance of 292.07 feet, along the easterly sideline of land now or formerly of Pine Tree Paper, Inc. to a point;

Thence turning and running N 83° 43' 00" E for a distance of 50.88 feet to a point;

Thence turning and running S 04° 24' 12" W for a distance of 292.07 feet to an iron pin set (5/8" rebar) on the northerly sideline of Warren Avenue;

Thence turning and running S 83° 43' 00" W for a distance of 50.88 feet along the northerly sideline of Warren Avenue to the POINT OF BEGINNING.

Together with all right, title and interest of Grantors in and to the right to pave, repair, plow and maintain the above-described easement as described in a deed to Francis P. Drake dated March 31, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8229, Page 47.

Also, together with the right, title, and interest of Grantors in and to the right of way or easement for the installation, use and maintenance of an outlet from the stormwater detention basin of Lot No. 1 as described in a deed to Francis P. Drake dated March 31, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8229, Page 47.

The above-described property is conveyed, SUBJECT, HOWEVER, to the following:

1. Taxes which are not yet due and payable on the date of delivery hereof;
2. Pole line easement from Frederick T. Knowles, et al. to Central Maine Power Company, dated March 29, 1954, and recorded in the Cumberland County Registry of Deeds in Book 2176, Page 301;
3. Twenty foot wide pipe line easement to Portland Water District, dated October 4, 1954, and recorded in said Registry of Deeds in Book 2197, Page 169;
4. Easement to Greater Portland Radio, Inc., dated May 10, 1974, and recorded in said Registry of Deeds in Book 3551, Page 190, as affected by Release of Easement from Porter Communication Systems, Inc. dated May 21, 1986, and recorded in Book 7183, Page 126, and easements to Porter Communications Systems, Inc., dated May 21, 1986, and recorded in said Registry of Deeds in Book 7183, Pages 127 and 128, as affected by Easement Amendment Agreement by and between Wargate Associates and Citadel Broadcasting Company dated March 24, 2000, and recorded in said Registry of Deeds in Book 15434, Page 232, and as affected by Notice of Relocation of Easement dated September 24, 2002, and recorded in said Registry of Deeds in Book 18138, Page 168;
5. Plan of property as approved by the Planning Board of the City of Portland recorded in Plan Book 170, Page 38, as affected by Partial Vacation of Approved Subdivision Plat as recorded on February 14, 1989 in said Registry of Deeds in Book 8657, Page 27;
6. Indenture by and between Portland Water District and Bridgeside Associates dated April 27, 1988, and recorded in said Registry of Deeds in Book 8265, Page 75;
7. Affidavit of Gregory W. Boulos dated April 29, 1988, and recorded in said Registry of Deeds in Book 8272, Page 211;
8. Easements, restrictions, terms and conditions, set forth in a Quitclaim Deed With Covenant from Older Brother LLC and Younger Brother LLC to Wendy's Old Fashioned Hamburgers of New York, Inc., dated September 24, 2002, and recorded in said Registry of Deeds in Book 18138, Page 171, as affected by Corrective Quitclaim Deed dated February 27, 2003, and recorded in said Registry of Deeds in Book 18956, Page 1;
9. Terms and conditions set forth in a Road Construction, Maintenance and Easement Agreement by and between Older Brother LLC and Younger Brother LLC, as parties of the first part, and Wendy's Old Fashioned Hamburgers of New York, Inc. as party of the second part, dated September 24, 2002, and recorded in said Registry of Deeds in Book 18138, Page 182, as affected by Corrective Road

Construction, Maintenance and Easement Agreement dated February 27, 2003,
and recorded in said Registry of Deeds in Book 18956, Page 12.

10. Terms and conditions of a Sewer Joint Use Agreement between Older Brother LLC and Younger Brother LLC, as parties of the first part, and Wendy's Old Fashioned Hamburgers of New York, Inc. as party of the second part, dated September 24, 2002, and recorded in said Registry of Deeds in Book 18138, Page 191.

Received
Recorded Register of Deeds
Jan 07, 2005 12:51:45P
Cumberland County
John B O'Brien

2176-301 d. 3-29-54
R 5-25-54

3301

Know all Men by these Presents, That

We, Frederick T. Knowles, George Wilson, Adam W. Wilson, Alice Hannah Palmer, all of Portland in the County of Cumberland and State of Maine

in consideration of One Dollar (\$1.00) and other valuable considerations (being less than One Hundred Dollars (\$100.00) paid by Central Maine Power Company, a corporation organized and existing under the laws of the State of Maine and located at Augusta in the receipt whereof ----- do hereby acknowledge, do hereby, give, grant, bargain, sell and convey unto the said County of Kennebec and State of Maine the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said Central Maine Power Company its Successors and Assigns forever. The right perpetually to enter at any and all times upon so much of our respective lands situated in said Portland as lies within a strip of land one hundred thirty-five (135) feet in width, namely fifty (50) feet Southwesterly and Northwesterly of and eighty-five (85) feet Northeasterly and South-easterly of the following described survey line and its projection at both ends. Beginning at a stake set in the northwesterly side line of land of Kenneth H. and Anne T. Corliss, said stake being Northeasterly five (5) feet along said dividing line from an iron pipe set at the most Northerly corner of land conveyed to this Grantee by Everett F. Chapman by deed dated December 20, 1953 and recorded in Cumberland County Registry of Deeds in Book 2166, Page 70; thence North 60° 8' West, three hundred and four-nine (369) feet to a stake and angle; thence North 17° 10' East, one thousand and four-hundred eighty (1480) feet to a stake and angle; thence North 15° 52' West, three hundred forty-eight (348) feet to a stake set in the Southerly side line of land of George Wilson, said last named stake being Easterly along said dividing line, ninety-two (92) feet from the Southeasterly corner of land of Richard F. Chase.

And to erect, construct and maintain on and over said one hundred thirty-five (135) foot strip a power line or lines consisting of poles with wires attached thereto for the transmission of electricity and intelligence and with all necessary foundations, fixtures, anchors, guys, braces, cables, wires and other appurtenances, and to maintain, repair, respace, replace and remove said power line or lines, to stretch wires and convey electricity and intelligence through said wires for all purposes of the Grantee, its successors and assigns, and with the right at all times to trim, cut down and spray trees, timber and bushes growing on said one hundred thirty-five (135) foot strip, and to trim and cut down such tall trees growing outside the limits of said strip, which in falling would in the judgment of the Grantee, its successors and assigns, interfere with the safe and efficient operation of said line or lines, together with the right to enter upon said strip at all times for any or all of the foregoing purposes; reserving to the Grantors, their heirs and assigns, the right to use said strip for such purposes only as do not conflict with or infringe upon said use of said strip by the Grantee, its successors and assigns, for the purposes above mentioned, provided that the Grantors, their heirs and assigns, shall not erect or maintain any structure of any kind on said strip.

This conveyance is made subject to the existing rights of New England Telephone & Telegraph Company in its toll circuit No. 211.

U.S.I.R.
Stamp
10/11/54
U.S.I.R.
\$0.55
F.T.K.
et als
3/29/54

On and in With the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Central Maine Power Company, its successors and assigns, to its and

said Grantee, its Successors their use and behoof forever. And we do covenant with the

heirs and assigns, that we are lawfully seized in fee of the premises; that they are free of all incumbrances; except as aforesaid;

that we have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that we and our heirs, shall and will warrant and defend the same to the said Grantee, its successors

except as aforesaid; heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, We the said Frederick T. Knowles, George Wilson, Adam Wilson and Alice Hannah Palmer, the said Grantors, and I, Nellie A. Knowles, wife of the said Frederick T. Knowles, and I, Lucy L. Wilson, wife of the said George Wilson, and I, Helen L. Wilson, wife of the said Adam W. Wilson, and I, Charles A. Palmer, husband of the said Alice Hannah Palmer, joining in this deed as Grantors, and relinquishing and conveying our rights by descent, and all other rights in the above described premises,

our hands and seals this twenty-ninth day of March in the year of our Lord one thousand nine hundred and fifty-four.

Signed, Sealed and Delivered in presence of
 Franklin G. Hinckley
 Mary A. Knowles
 Clara M. Ciose
 Clara M. Ciose
 Clara M. Ciose
 Clara M. Ciose
 Clara M. Ciose
 Howard J. Haskell
 Howard J. Haskell
 Frederick T. Knowles
 Nellie A. Knowles
 George Wilson
 Lucy L. Wilson
 Adam W. Wilson
 H. L. Wilson
 Alice H. Palmer
 Charles A. Palmer
 Seal
 Seal
 Seal
 Seal
 Seal
 Seal
 Seal
 Seal
 Seal
 Personally appeared

the above named Frederick T. Knowles and acknowledge the above instrument to be his free act and deed.

Before me, Franklin G. Hinckley Justice of the Peace
 Received May 25 1954, at 3 o'clock 22 m. p. M., and recorded according to the original.

2197-169 d 10-4-54
2 " " " " " "

169
167

Know All Men by these Presents,

That I, George Wilson, of Portland, in the County of Cumberland and State of Maine

Wilson

to

Portland Water District

War

in consideration of One Dollar and other valuable considerations

paid by Portland Water District, a corporation duly organized and existing under the laws of the State of Maine and located at Portland, in the County of Cumberland and State of Maine

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey, unto the said

Portland Water District

its Successors ~~Heirs~~ and Assigns forever.

~~The following is a description of the property~~

The right perpetually to enter at any and all times upon a strip of land situated on the Northerly side of Warren Avenue, so-called, in said Portland, being a part of the land conveyed to Adam W. Wilson by Alonzo Leighton by deed dated December 5, 1876 and recorded in Cumberland County Registry of Deeds in Book 436, Page 103, and inherited by the Grantor as sole heir at law of Adam W. Wilson, to which deed reference is hereby made for a more particular description of said land, said strip being twenty (20) feet in width and lying seven and one-half (7½) feet on the Northerly side and twelve and one-half (12½) feet on the Southerly side of the following described line and its projection at both ends:

Beginning at a stake in the Northerly side line of said Warren Avenue, said stake being distant Westerly along said Northerly side line of said Warren Avenue six hundred fifty-five (655) feet, more or less, from the Northwesternly right of way line of the Maine Turnpike, so-called; thence North 48° 17' East one hundred eighty-six and four tenths (186.4) feet, more or less, to a stake; thence with a deflection angle to the right of 9° 24' seventy-five (75) feet, more or less, to a stake; thence with a deflection angle to the right of 7° 39' seventy-five (75) feet, more or less, to a stake; thence with a deflection angle to the right of 7° 45' seventy-five (75) feet, more or less, to a stake; thence with a deflection angle to the right of 5° 11' seventy-five (75) feet, more or less, to a stake; thence with a deflection angle to the right of 8° 48' seventy-five (75) feet, more or less, to a stake; thence with a deflection angle to the right of 1° 53' seventy-five (75) feet, more or less, to a stake; thence with a deflection angle to the right of 0° 38' seventy-five (75) feet, more or less, to a stake; thence with a deflection angle to the right of 4° 59' sixty-two (62) feet, more or less, to a stake in said Northwesternly right of way line of said Maine Turnpike, said stake being distant Northerly along said Northwesternly right of way line one hundred seventy (170) feet, more or less, from the Northerly side line of said Warren Avenue.

169

The above described courses are true courses and are referred to the true meridian.

And to construct and perpetually maintain through and across said strip conduits or pipe lines for conveying water and to lay, re-lay, repair, maintain and remove water pipe or pipes upon or under said strip with all necessary fixtures and appurtenances together with the right at all times to make connections with said conduits or pipe lines to land adjoining said strip by means of pipes or services; to trim, cut down and remove bushes and trees and to remove grass and crops growing on said strip to such extent as in the judgment of the Grantee is necessary for any of the above purposes and to enter upon said strip at any and all times for any of the foregoing purposes; reserving to the Grantor, his heirs and assigns, the use and enjoyment of said strip for such purposes only as will in no way interfere with the perpetual use thereof by the Grantee, its Successors and Assigns, for the purposes above mentioned, provided that no building or any kind of permanent structure shall be erected on said strip by the Grantor, his heirs and assigns, and that the Grantor, his heirs and assigns, shall not remove earth from said strip or place fill thereon without the written permission of the Grantee.

On have and to hold the aforegranted and bargained premises, with all privileges and appurtenances thereof to the said

Portland Water District

its / ^{Successors} ~~Heirs~~ and Assigns, to its and their use and behoof forever.

And I do covenant with the said Grantee, its / ^{Successors} ~~Heirs~~ and Assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that I and my Heirs, shall and will warrant and defend the same to the said Grantee, its

^{Successors} ~~Heirs~~ and Assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I, the said George Wilson, and I, Lucy L. Wilson, wife of the said George Wilson,

joining in this deed as Grantor, and relinquishing and conveying my rights by descent and all other rights in the above described premises, have hereunto set our hands and seals this 4th day of October in the year of our Lord, one thousand nine hundred and fifty-four.

Signed, Sealed and Delivered in presence of

Edward J. Morris
to both

George Wilson
Lucy L. Wilson



State of Maine,
Cumberland

October 4, 1954

Personally appeared the above named

George Wilson

and acknowledged the above instrument to be his free act and deed.

Before me,

Edward J. Davis

Justice of the Peace

Notary Public

MY COMMISSION EXPIRES
June 29, 1960



STATE OF MAINE

CUMBERLAND, ss. Received at 1 H. 30 M. on OCT 4 1954 and recorded in Book 2197 Page 169 ATTEST

Robert N. Crum Register

Know All Men by These Presents,

That PINE STATE LOAN AND BUILDING ASSOCIATION, a corporation organized and existing according to law and having its place of business at Portland, County of Cumberland and State of Maine,

Pine
State
Ln &
Bldg
Assn

mortgagee & owner of a certain mortgage given by Carlton F. Sylvester and Aria M. Sylvester, both of said Portland,

to
Sylvester
&

to PINE STATE LOAN AND BUILDING ASSOCIATION

Disch

dated February 6, , A.D. 1952, and recorded in Cumberland County Registry of Deeds, Book 2071, Page 187, do hereby acknowledge that it has ~~now~~ received full payment and satisfaction of the same and of the debt thereby secured, and in consideration thereof it does ~~do~~ hereby cancel and discharge said mortgage, and release unto the said Carlton F. Sylvester and Aria M. Sylvester, their

heirs and assigns forever the premises therein described.

In ~~Witness~~ presence, the said PINE STATE LOAN AND BUILDING ASSOCIATION has caused this instrument to be signed in its corporate name

10517

Know All Men by These Presents,

That I, HORACE K. SOWLES JR. of Falmouth in the County of Cumberland and State of Maine

in consideration of the sum of One Dollar and other valuable considerations, total consideration less than \$100.00.

paid by GREATER PORTLAND RADIO INC., a corporation organized and existing under the laws of the State of Maine and located at Portland in said County of Cumberland and State of Maine and having its principal place of business on Warren Avenue in said City of Portland

the receipt whereof I do hereby acknowledge, do hereby give, grant,

convey, sell and convey unto the said GREATER PORTLAND RADIO INC., its successors and assigns forever, a triangular lot or parcel of land located on the westerly boundary of the main through-artery of the Maine Turnpike Authority near its intersection with Warren Avenue in said City of Portland, and more particularly described as follows:

Beginning at a monument on the westerly side of said Maine Turnpike Authority through-artery and at the southeasterly corner of the land of the Grantor herein; thence northerly along the boundary of the through-artery of the Maine Turnpike Authority four hundred fifty-seven and forty-four hundredths (457.44) feet, more or less, to a point marking the northeasterly corner of the land of the Grantor herein; thence westerly by land of Riverton Homeites, so-called, and land now or formerly of one Waning four hundred and thirty (430) feet, more or less, to a point; thence southeasterly six hundred (600) feet, more or less to the monument and point of beginning.

Being a part of the premises conveyed to the Grantor herein by Chandler Broadcasting, Inc. by its deed dated November 16, 1971 and recorded in Cumberland County Registry of Deeds in Book 3201 at Page 78.

The Grantor hereby grants to the Grantee an easement to pass over other land of the Grantor from Warren Avenue to reach its property, the exact location of said easement to be determined by agreement of the parties, but generally to follow the southerly boundary of the Grantor's land.

The Grantor further grants to the Grantee an easement to lay a copper radial field underground at a radius of one hundred and eighty (180) feet from the base of a proposed radio tower as shown on a plan made for Greater Portland Radio Inc. entitled "Proposed WJAB Studio and Tower" dated April 1974, from a survey by Engineering Services, Inc. Said plan is referred to for the location of the copper radial field and not for the location of the right-of-way depicted thereon. The Grantor retains the right to pave over and otherwise use the limits of said copper radial field provided he does not interfere with its intended operation.

This conveyance is made subject to an easement granted by George Wilson to Portland Water District dated October '4, 1954 and recorded in said Registry of Deeds in Book 2197 at Page 169.

This conveyance is also made subject to the taxes on the land hereby conveyed and the structure presently owned by the Grantee for the year 1974 which the Grantee hereby assumes and agrees to pay.

3551-190

d. 5-10-74

n. 5-30-74

190

det

On this day I have granted and bargained premises with all the
privileges and appurtenances thereof, to the said GREATER PORTLAND
RADIO INC. its successors and assigns

191

to the said assigns, to them and their use and behoof forever.

And I do warrant with the said Grantee, its successors
and assigns, that I am lawfully seized in fee of the premises, that they are
free of all incumbrances;
that I have good right to sell and convey the same to the said
Grantee to hold as aforesaid; and that I and my heirs
shall and will warrant and defend the same to the said Grantee, its
successors and assigns forever, against the lawful claims and demands of
all persons.

In Witness Whereof, I the said HORACE K. SOWLES JR.

and MARGARET P. SOWLES

wife of the said Grantor, Horace K. Sowles Jr.

joining in this deed as Grantors, and
relinquishing and conveying all right by descent and all other
rights in the above described premises, have hereunto set our
hands and seals this 10th day of May
in the year of our Lord one thousand nine hundred and seventy-four.

Signed, Sealed and Delivered
in presence of

Ronald K. Henderson

Horace K. Sowles Jr.
Margaret P. Sowles

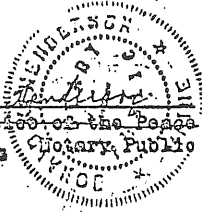
State of Maine. Cumberland ss. May 10, 1974.

Personally appeared the above named HORACE K. SOWLES JR.

and acknowledged the foregoing instrument
to be his free act and deed.

Before me,

Ronald K. Henderson
Justice of the Peace
Notary Public
MAY 1 1974



MAY 30 1974

REGISTRY OF DEEDS, CUMBERLAND COUNTY, MAINE

Received at 8:30 AM, and recorded in

BOOK 355/ PAGE 190

Ronald K. Henderson Register

My Commission
Expires
June 7
1974

DK7183PG0126

21743

RELEASE OF EASEMENT

PORTER COMMUNICATION SYSTEMS, INC., a Maine corporation of Portland, Cumberland County, Maine, for consideration paid, grants and releases to HORACE K. SOWLES, JR. of Falmouth, County of Cumberland, Maine, whose mailing address is c/o Morong Falmouth, P.O. Box 3788, Falmouth, Maine 04105, the easement over land of the Grantee in Portland, Cumberland County, Maine described as follows:

That easement for passage over land of the Grantee, which easement was conveyed by the Grantee herein to Greater Portland Radio, Inc. by deed dated May 10, 1974 and recorded in the Cumberland County Registry of Deeds in Book 3551, Page 190.

Also hereby conveying all rights and privileges belonging to the easement described above.

IN WITNESS WHEREOF, the said Porter Communication Systems, Inc. has caused this instrument to be sealed with its corporate seal and signed in its corporate name by Winslow Turner Porter, Jr., its President, thereunto duly authorized this 21st day of May, 1986.

WITNESS

David McShea

PORTER COMMUNICATION SYSTEMS, INC.

By: [Signature]
Its President

ACKNOWLEDGEMENT

STATE OF MAINE
CUMBERLAND, SS:

May 21, 1986

SEAL

Personally appeared Winslow Turner Porter, Jr., President of Porter Communication Systems, Inc. and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said corporation.

Before me,

David McShea
Notary Public, Attorney at Law

RECEIVED
RECORDED REGISTRY OF DEEDS

1986 MAY 22 PM 3:35

CUMBERLAND COUNTY
James J. Walsh

EASEMENT DEED

21744

HORACE K. SOWLES, JR. of Falmouth, Cumberland County, Maine, for consideration paid, grants to PORTER COMMUNICATION SYSTEMS, INC., a Maine corporation of Portland, Cumberland County, Maine, whose mailing address is 583 Warren Avenue, Portland, Maine 04103, with Warranty Covenants, an easement over land in Portland, Cumberland County, Maine described as follows:

A perpetual easement, appurtenant to the land conveyed by the Grantor to Greater Portland Radio, Inc. in a deed dated May 10, 1974, and recorded in the Cumberland County Registry of Deeds in Book 3551, Page 190, said land having subsequently been conveyed to Grantor herein, to pass over land of the Grantor between the land therein conveyed and Warren Avenue, the location of which shall be determined and at anytime changed by the Grantor, PROVIDED THAT said easement shall forever be at least of the width and type as the presently existing easement, and that any such relocation shall be done in the manner which least interferes with the Grantee's use of said easement, and that the Grantor shall bear all costs of any such relocation; the Grantee, however, shall continue to bear the burden of maintaining its easement across the land of the Grantor.

This conveyance is made subject to an easement granted by George Wilson to Portland Water District dated October 4, 1954, and recorded in the Cumberland County Registry of Deeds in Book 2197, Page 169.

Also hereby conveying all rights, easements, privileges, and appurtenances belonging to the premises hereinabove described.

WITNESS my hand and seal this 21st day of May, 1986.

David M. Cohen

Horace K. Sowles, Jr.
Horace K. Sowles, Jr.

STATE OF MAINE
CUMBERLAND, SS.

May 21, 1986

Then personally appeared the above-named Horace K. Sowles, Jr. and acknowledged the foregoing instrument to be his free act and deed.

Before me,

RECEIVED
RECORDED REGISTRY OF DEEDS
1986 MAY 22 PM 3:36

CUMBERLAND COUNTY
James J. Walsh

David M. Cohen
Notary Public/Attorney at Law
David M. Cohen

21745

WARRANTY DEED OF EASEMENT

HORACE K. SOWLES, JR. of Falmouth, Cumberland County, Maine, for consideration paid, grants to PORTER COMMUNICATION SYSTEMS, INC., a Maine corporation of Portland, Cumberland County, Maine, whose mailing address is 583 Warren Avenue, Portland, Maine 04103, with Warranty Covenants, an easement over and in land in Portland, Cumberland County, Maine described as follows:

An easement for the placement and maintenance of a guy wire and anchor point serving a transmitting tower located on land conveyed to Greater Portland Radio, Inc. by deed of Grantor dated May 10, 1974, and recorded in the Cumberland County Registry of Deeds, Book 3551, Page 190, said land having subsequently been conveyed to Grantee herein, said anchor point being located westerly of a point on Grantee's westerly boundary, located two hundred and twenty (220) feet, more or less, from the westerly corner thereof; the duration of said easement shall be for so long as said transmitting tower or any replacements stand on the Grantee's land.

Also hereby conveying all rights, easements, privileges, and appurtenances belonging to the premises hereinabove described.

WITNESS my hand and seal this 21st day of May, 1986.

David M. Cohen

Horace K. Sowles, Jr.
Horace K. Sowles, Jr.

STATE OF MAINE
CUMBERLAND, SS.

May 21, 1986

Then personally appeared the above named Horace K. Sowles, Jr. and acknowledged the foregoing instrument to be his free act and deed.

Before me,

David M. Cohen
Notary Public/Attorney at Law
DAVID M. COHEN

RECEIVED
RECORDED REGISTRY OF DEEDS

1986 MAY 22 PM 3:37

CUMBERLAND COUNTY
James J. Walsh

Fax # 871-8626 Phone # 774-0317 Fax #

0021374 BK T5434 PG 232

EASEMENT AMENDMENT AGREEMENT
(Corrective)

This Easement Amendment Agreement made this 24 day of March, 2000, by and between Wargate Associates, a Maine general partnership with a mailing address of c/o Boulos Property Management, One Canal Plaza, 5th Floor, Portland, ME 04101 ("Grantor"), and Citadel Broadcasting Company, a Nevada corporation with a mailing address of 7201 West Lake Mend Boulevard, Suite 400, Las Vegas NV 89128 ("Grantee").

WHEREAS, Grantor is the owner of certain real property located on Warren Avenue, in Portland, Maine, described in and by virtue of a Short Form Quitclaim Deed With Covenant dated December 1, 1994, recorded in the Cumberland County Registry of Deeds in Book 11750, Page 307 ("Grantor's Land");

WHEREAS, Grantee is the owner of certain real property located adjacent to Grantor's Land and described in a Warranty Deed from WCSO Broadcasting Company Limited Partnership to Fuller-Jeffrey Broadcasting Corporation of Greater Des Moines, dated October 2, 1996, recorded in the aforesaid Registry at Book 12757, Page 100 ("Grantee's Land"), Grantee being the successor by merger to Fuller-Jeffrey Broadcasting Companies, Inc., which in turn was the successor by merger to Fuller-Jeffrey Broadcasting Corporation of Greater Des Moines;

WHEREAS, Grantee's Land is benefited by a certain easement for access as more fully described in Deeds from Horace K. Sawles, Jr., dated May 10, 1974 and May 21, 1986, respectively, and recorded in the aforesaid Registry at Book 3551, Page 190 and Book 7183, Page 127, respectively (the "Easement");

WHEREAS, an unpaved access road has been located on the Grantor's Land pursuant to the terms of the Easement and Grantee desires permission to pave the said access road in the location as it exists on the date hereof (the "Access Road") and as the same may be relocated from time to time by Grantor;

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the Parties agree to amend the Easement as follows:

1. Grantee shall have the right, at Grantee's sole cost and expense and risk, to pave the Access Road, and any similar access road located in the Easement as the Easement may be relocated by the Grantor from time to time in Grantor's sole discretion. In the event that Grantor relocates the Easement and the Access Road, the new Easement and Access Road shall forever be at least of the width and type as the presently existing Access Road, and any such relocation shall be done in the manner which least interferes with the Grantee's use of said easement, and the Grantor shall bear all costs of any such relocation, except that Grantee shall bear the cost of paving the relocated Access Road should Grantee at its option decide to pave the relocated Access Road. Grantee shall have the right and obligation to keep the Access Road or any relocated access road in good repair and covenants to repair and maintain same; provided, however, that such right is expressly subject to Grantor's prior written approval (which approval shall not be unreasonably withheld or delayed) of all plans for such paving, which plans Grantee shall submit to Grantor in form and detail as reasonably required by Grantor. In the event Grantor exercises Grantor's right to relocate the Easement from time to time, Grantor shall have no obligation whatsoever to pave or bear any portion of the cost or expense to pave any access

*2 amendments
is this \$13
drive way allowed
118206/75*

*118206/75
118206/75*

ALL-STATE LEGAL
PLAINTIFF'S
EXHIBIT
B

DKT 5434 PG 233

road or way across the Easement as relocated. However, the Grantor shall have the right but not the obligation to repair and maintain the Access Road or any relocated access road if the same is not maintained or repaired adequately by Grantee in Grantor's reasonable opinion and the Grantee will, upon demand, reimburse Grantor for its actual and verifiable costs of repair and maintenance.

2. Grantee, its successors and assigns, agree to indemnify and hold harmless Grantor, its successors and assigns, from and against any and all damages, liabilities, losses, expenses, claims and suits (including without limit costs of enforcing this indemnity and all reasonable attorneys' fees) incurred or suffered in connection with or arising out of the rights granted under the Easement, as the same may be relocated from time to time and as herein amended, or the use, maintenance or repair by Grantee, its successors and assigns of the Easement, as the same may be relocated from time to time and as herein amended, and/or Grantee's or its successors' and assigns', or their agents' presence upon the Grantor's Land in connection therewith or for any other reason.

3. The rights granted by Grantor herein are granted without warranty or covenant of title whatsoever, are not exclusive, and are subject to any and all rights, easements or encumbrances of record in force now or in the future and applicable to the Grantor's Land and/or said rights.

4. All of the provisions of the Easement not amended hereby remain in full force and effect.

The purpose of this instrument is to correct a certain Easement Amendment Agreement by and between Warren Properties Limited Partnership and WCSO Broadcasting Limited Partnership (said WCSO Broadcasting Limited Partnership being Grantee's predecessor-in-title as the owner of the Grantee's Land) dated September 19, 1995 and recorded in the Cumberland County Registry of Deeds in Book 12136, Page 214. Said Easement Amendment Agreement erroneously identified both (i) the Grantor; and (ii) the Grantor's Land, all of which should have been as stated in this instrument. Grantee is releasing any right, title and interest in and to the property of Warren Properties Limited Partnership pursuant to a Release of Easement Rights of even or near date to be recorded in said Registry of Deeds.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized undersigned representatives as of the day first above-written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Eric D. [Signature]
Witness

Carolee J. [Signature]
Witness

GRANTOR:
WARDATE ASSOCIATES

By: [Signature]
Printed Name: JOSEPH E. DOUGLAS
Its General Partner

GRANTEE:
CITADEL BROADCASTING COMPANY

By: [Signature]
Printed Name: STUART STANLEY
Its V.P.

BK 5434 PG 234

STATE OF MAINE
County of Cumberland, SS

March 24, 2000

Personally appeared before me the above-named Joseph F. Baltes
general partner of Wargate Associates, and acknowledged the foregoing instrument to be his free
act and deed in his said capacity and the free act and deed of said Wargate Associate.

Before me,

SEAL

LYNDA S. HAGURA
Notary Public, Maine
My Commission Expires March 6, 2003

Lynnda S. Hagura
Notary Public
Printed Name: LYNDA S HAGURA

STATE OF Nevada
County of Clark, SS

March 28th, 2000

Personally appeared the above-named Stuart Stanek in
his/her capacity as VP of Citadel Broadcasting Company and
acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity
and the free act and deed of said Citadel Broadcasting Company.

Before me,

Ginger Lee Ludwig
Notary Public
Printed Name: Ginger Lee Ludwig



RECEIVED
RECORDED REGISTRY OF DEEDS

2000 APR 26 AM 9:37

CUMBERLAND COUNTY

John B. O'Brien

NOTICE OF RELOCATION OF EASEMENT

WHEREAS, **OLDER BROTHER LLC AND YOUNGER BROTHER LLC** (collectively, "Owner") are the owners, as tenants of common, of certain real estate located in Portland, Cumberland County, Maine and more particularly described in a deed from **WARGATE ASSOCIATES** to Owner dated September 20, 2000 and recorded in said Registry of Deeds in Book 18114, Page 323 (the "Servient Property"); and

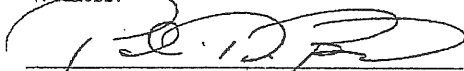
WHEREAS, the Servient Property is burdened by an easement (the "Easement") benefiting the property adjacent to the Servient Property (the "Dominant Property"), all as more particularly described in instruments recorded in said Registry of Deeds in Book 3551, Page 190 and Book 7183, Page 127, as amended by Easement Amendment Agreement (Corrective) dated March 24, 2000 and recorded in said Registry of Deeds in Book 15434, Page 232 (collectively, the "Easement Documents"); and

WHEREAS, the owner of the Servient Property has the right to relocate the Easement as more particularly set forth in the Easement Documents.

NOW THEREFORE, notice is hereby given that Owner is exercising its right to relocate the Easement such that the new location of the Easement shall be as depicted on Exhibit A, attached hereto and made a part hereof.

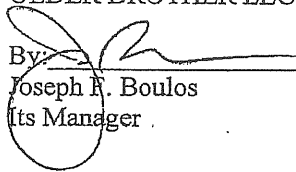
IN WITNESS WHEREOF, Owner has caused this instrument to be executed by its undersigned representative on this 27th day of September, 2002.

Witness:



OLDER BROTHER LLC

By:

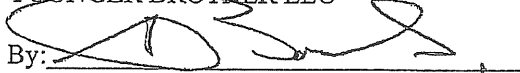

Joseph R. Boulos
Its Manager

Witness:



YOUNGER BROTHER LLC

By:


Gregory W. Boulos
Its Manager

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named **JOSEPH F. BOULOS**, Manager of **OLDER BROTHER LLC**, and acknowledged the foregoing instrument to be his free act and deed in his said capacity; and the free act and deed of said **OLDER BROTHER LLC**.

Before me,



Notary Public/Maine Attorney-at-Law

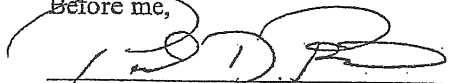
Printed Name: Paul D. Petrosian

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named **GREGORY W. BOULOS**, Manager of **YOUNGER BROTHER LLC**, and acknowledged the foregoing instrument to be his free act and deed in his said capacity; and the free act and deed of said **YOUNGER BROTHER LLC**.

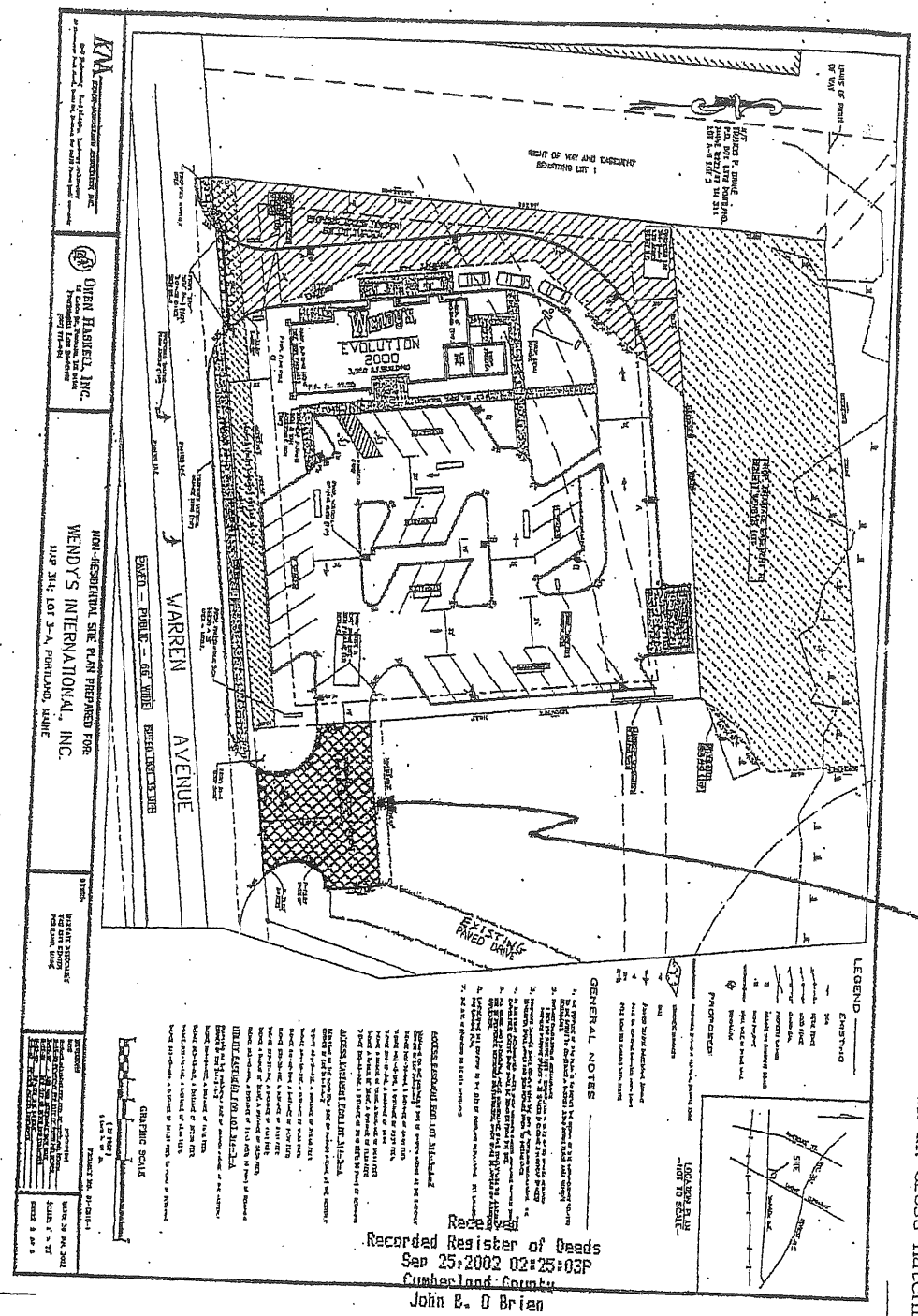
Before me,



Notary Public/Maine Attorney-at-Law

Printed Name: Paul D. Petrosian

Exhibit A



Easement For Portion
Of Existing Paved Drive Is
Relocated To This Area
Shown in Cross-Hatching

Recorded Register of Deeds
Sep 25, 2002 02:25:03P
Cumberland County
John E. O'Brien

KM
KIMMEL ENGINEERING ASSOCIATES, INC.
1000 W. 10th Street
Portland, ME 04102
Tel: 603.763.1100

DM
DMEN FISHER, INC.
1000 W. 10th Street
Portland, ME 04102
Tel: 603.763.1100

WENDY'S INTERNATIONAL, INC.
1000 W. 10th Street
Portland, ME 04102
Tel: 603.763.1100

WENDY'S INTERNATIONAL, INC.
1000 W. 10th Street
Portland, ME 04102
Tel: 603.763.1100

WENDY'S INTERNATIONAL, INC.
1000 W. 10th Street
Portland, ME 04102
Tel: 603.763.1100

006831

SKR 557 PG 027

PARTIAL VACATION OF APPROVED SUBDIVISION PLAT

In accordance with Portland Municipal Code Section 14-496(4)(b), the undersigned City of Portland, duly authorized by action of the City Council dated January 30, 1988, along with Bridgeside Associates and Francis P. Drake, owners of record of Lot 1 and Lot 2, respectively, being all lots shown on a certain Plan of Property on Warren Avenue, Portland, Maine made for Neptune Properties, Inc. by R. P. Titcomb Associates, Inc. dated March 31, 1986 and revised through April 14, 1988, as approved by the City of Portland Planning Board and recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38, (the "Plan"), do hereby declare said Plan to be partially vacated as follows:

1. All references to "Proposed Building #1," "Proposed Building #2," and "Pump Station (Proposed)" as depicted on Lot 1 on said Plan, along with Note 2 on said Plan referencing the right of Lot 2 to install, repair and use the sewer pump station depicted on Lot 1, are hereby deemed vacated with the same effect as if no such proposed buildings or pump station were ever depicted or otherwise referenced on said Plan.

It is the intent of this instrument to vacate and nullify any rights or obligations of any party with respect to such proposed buildings or pump station depicted on Lot 1 or otherwise referenced on said Plan, which rights or obligations might otherwise have arisen upon approval of said Plan as a subdivision by the City of Portland Planning Board or the subsequent recording of said Plan. It is not the intent of this instrument to effect any other change in any notes, lot lines, easements or other matters shown on said Plan.

IN WITNESS WHEREOF, the undersigned, hereunto duly authorized, have executed this instrument as of the dates set forth below.

WITNESS:

Mary Lee Clifford

LOT 1 OWNER:

BRIDGESIDE ASSOCIATES

By: Gregory W. Boulos 12/29/88
 Gregory W. Boulos Date
 Its General Partner

Rose Mary Desmar

LOT 2 OWNER:

Francis P. Drake 12/29/88
 Francis P. Drake Date

Yvonne M. Daniels

CITY OF PORTLAND

By: Robert Stanley
 Its City Manager 2-9-89

BK8657PG0028

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

Dec. 29, 1988

Personally appeared the above-named Gregory W. Boulos, General Partner of Bridgeside Associates and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of Bridgeside Associates.

Before me,

Mary Lea Clifford
~~Notary Public/Attorney-at-Law~~
Print Name: Mary Lea Clifford
My Commission Expires: 2/6/95

SEAL

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

, 1988

Personally appeared the above-named Francis P. Drake, and acknowledged the foregoing to be his free act and deed.

Before me,

W. D. Wall
~~Notary Public/Attorney-at-Law~~
Print Name: William Wall
My Commission Expires: UNSPECIFIED

SEAL

STATE OF MAINE
COUNTY OF CUMBERLAND, SS.

, 1988

Personally appeared the above-named ROBERT B. GAWLEY, CITY MANAGER of the City of Portland, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of the City of Portland.

Before me,

Nathan M. Daniels
~~Notary Public/Attorney-at-Law~~
Print Name: NATHAN M DANIELS
My Commission Expires: _____

SEAL

NATHAN M. DANIELS
NOTARY PUBLIC MAINE
MY COMMISSION EXPIRES JULY 21, 1998

RECEIVED
RECORDED DEPT. OF DEEDS
1989 FEB 14 AM 10:50

CUMBERLAND COUNTY
James J. Walsh

BK 8265 PG 0075

018604

INDENTURE

THIS INDENTURE made this 27th day of April, 1988 by and between the PORTLAND WATER DISTRICT, a quasi-municipal corporation organized and existing under the laws of the State of Maine with a principal place of business at Portland, in the County of Cumberland and State of Maine (the "District") and BRIDGESIDE ASSOCIATES, a partnership of Portland, in the County of Cumberland and State of Maine (hereinafter "BRIDGESIDE").

WITNESSETH

WHEREAS, BRIDGESIDE owns a certain parcel of land located on the northerly side of Warren Avenue westerly of the Maine Turnpike, said parcel being aquired from Michael Scarks by deed dated April 27, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8260, Page 301; and

WHEREAS, the District has an easement across land now or formerly of BRIDGESIDE, said easement being acquired from George Wilson by deed dated October 4, 1954 and recorded in said Registry of Deeds in Book 2197, Page 169; and

WHEREAS, BRIDGESIDE desires to construct a driveway, parking area and utilities within the District's easement as shown on a plan entitled "Plan of Property, Warren Avenue, Portland, Maine, made for Neptune Properties, Inc., Riverside Street, Portland, Maine", dated March 31, 1986 as amended April 14, 1988 and recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38; and

WHEREAS, the District is willing to allow BRIDGESIDE to construct and maintain the above described driveway, parking area and utilities within the District easement as located on said plans.

NOW, THEREFORE, in consideration of the sum of one dollar (\$1.00) and other valuable considerations each to the other paid, the receipt whereof is hereby acknowledged, and in consideration of the mutual promises herein contained, it is agreed by and between the parties hereto as follows:

1. The District hereby consents, insofar as it may legally do so, subject to the rights referred to hereinabove and subject to the terms and conditions herein contained, to the construction and maintenance by BRIDGESIDE, its successors and assigns, of a driveway, parking area and utilities within the District easement as located on a plan entitled "Plan of Property, Warren Avenue, Portland, Maine, made for Neptune Properties, Inc., Riverside Street, Portland, Maine", dated March 31, 1986 as amended April 14, 1988 and recorded in the said Registry of Deeds in Plan Book 170, Page 38.

2. BRIDGESIDE agrees to construct and maintain its driveway, parking area and utilities in good and satisfactory operating condition and in compliance with all Federal, State, and Municipal laws rules and regulations.

3. The District reserves the right without limitation thereto, to lay an additional line or lines of pipe within its easement at such proximity to the driveway and utilities of BRIDGESIDE as the District may in its sole discretion determine.

8K8265PG0076

4. Both parties hereto agree to notify the other at least forty-eight (48) hours prior to conducting work within the area of the District easement which will involve excavation, except in an emergency, whereupon either party shall notify the other immediately.

5. BRIDGESIDE shall reimburse, fully and completely indemnify and save harmless the District from any and all loss, damage, cost, and expense caused by or arising out of constructing, using, maintaining, reconstructing, or removing of its driveway, parking area and utilities, including without limitation any and all such costs and expenses incurred to assure the safety, securement, protection, and continuity of present and future operations which are deemed reasonably necessary by the District, including but not limited to the cost of inspection.

6. The District agrees to restore any portion of the Intersecting Area to a reasonable condition after the laying, relaying, maintenance or removal of pipelines of the District, except that the District will be under no obligation to repair or replace any pavement.

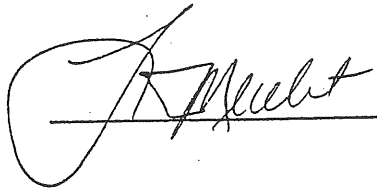
7. This Indenture shall be binding upon and inure to the benefit of the parties thereto and their respective successors and assigns and shall run as a covenant with the land.

8. The failure of the District to enforce or insist upon compliance with any of the terms or conditions of this agreement shall not constitute a general waiver or relinquishment of any of said terms or conditions but the same shall be and remain in full force and effect at all times.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate by their duly authorized agents and the District's corporate seal to be hereto affixed by its General Manager, thereunto duly authorized, all as of the day and year first above written.

Signed, Sealed and Delivered
in the presence of

Norman V. Jwaddel

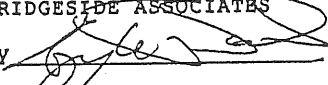


PORTLAND WATER DISTRICT

By Joseph B. Taylor
Joseph B. Taylor
General Manager.

SEAL

BRIDGESIDE ASSOCIATES

By 
GREGORY BOULOS

BK8265PG0077

STATE OF MAINE
Cumberland, SS.

April 29, 1988

Personally appeared the above named Joseph B. Taylor, in his said capacity and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Norman V. Twaddel
Notary Public

NORMAN V. TWADDEL
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES DECEMBER 18, 1988
April 27, 1988

SEAL

STATE OF MAINE
Cumberland, SS.

Personally appeared the above named Gregory Boulos and acknowledged the foregoing instrument to be his free act and deed, and the free act and deed of said Bridgeside Associates

Before me,

Mary Lea Clifford
Notary Public

MARY LEA CLIFFORD
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES FEBRUARY 8, 1988

SEAL

RECEIVED
RECORDED REGISTRY OF DEEDS
1988 APR 29 PH 1:42
CUMBERLAND COUNTY
James J. Walsh

SEAL

of the
ately.

ly and
and
ning,

and
and
sonably
of

ecting
enance
t will

enefit
ns and

shall
terms
effect

resents
the
anager,
re

DICT

ybr

11

BK8272PG0211

019459

AFFIDAVIT

My name is Gregory W. Boulos, and I have a principal place of business at Two City Center, Portland, Maine. Being duly sworn, I state and declare under oath the following:

1. I am a general partner of Bridgeside Associates, a Maine General Partnership with a principal place of business at Two City Center, Portland, Maine. On May 19, 1987, Bridgeside Associates entered into a Purchase and Sale Agreement with Michael Scarks for the acquisition of a certain lot or parcel of land consisting of approximately 2.7 acres with no buildings situated thereon, located adjacent to Warren Avenue, Portland, Maine ("Lot 1"), as more fully described on the Plan entitled "Plan of Property, Warren Avenue, Portland, Maine", recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38 (the "Plan"), the terms of which agreement contemplated the installation of a certain sanitary sewer line system by Seller at its sole cost and expense to service the Warren Avenue property (the "Sanitary Sewer System").
2. On or about March 31, 1988, Mr. Scarks orally agreed to assign to Bridgeside Associates all of his right, title and interest in and to the sanitary sewer system once such system was installed and fully operational, and in addition, to assign to Bridgeside Associates all right, title and interest in and to any warranties Mr. Scarks may receive from any contractor installing said Sanitary Sewer System.
3. In connection with the closing contemplated by the Purchase and Sale Agreement described in paragraph 1 above on April 27, 1988, Scarks delivered a Letter dated April 21, 1988 (the "Letter") to me on behalf of Bridgeside Associates in which Mr. Scarks assigns all of his right, title and interest in and to the Sanitary Sewer System to me, with certain conditions pertaining to the use of said Sanitary Sewer System by the owner of certain property located adjacent to Lot 1 ("Lot 2") as shown on the Plan, a true copy of which Letter is attached hereto as Exhibit A.
4. The Letter also assigns to me all rights to and in a certain warranty of installation regarding the Sanitary Sewer System granted to Mr. Scarks by Les Wilson & Son, a true copy of which is attached hereto as Exhibit B.
5. Based upon the representations and understandings between Bridgeside Associates and Mr. Scarks, the letter conveys, transfers and assigns all rights, title and interest in and to the Sanitary Sewer System (limited only by certain conditions pertaining to the use thereof by the owner of Lot 2), and any warranties of installation received by Mr. Scarks in connection therewith to me as General Partner of Bridgeside Associates.



NEPTUNE PROPERTIES, INC.

1000 BAXTER BOULEVARD PORTLAND, MAINE 04103-5333

FILE COPY

April 21, 1988

Mr. Gregory W. Boulos
Boulos Company
Two City Center
Portland, Maine 04101

Dear Greg:

This letter is written to transfer all my rights, title and interest in the sanitary sewer force main I have installed from Warren Avenue in the vicinity of Georgia Pacific to lot 2 of the Warren Avenue land I acquired from Harold Sowles. This is done with the understanding that Francis Drake (current owner of lot 2) and his successors and assigns also will have the full right to use of the sanitary force main in question.

The contractor I have installing the force main is warranting the installation for a period of one (1) year from the date of my acceptance of the line, and I hereby also assign my rights to this warranty to you. A copy of the Les Wilson & Son proposal providing the aforesaid warranty is attached hereto.

Greg, I understand from Marty that your lawyer wants guarantees and warranties and all sorts of other things. As you know, our contract doesn't require any of this and doesn't really require this letter. But because I verbally told you I would convey to you whatever interest I had in the sewer, I believe this letter accomplishes that. I trust that this will be in order for closing upon completion of the sewer installation.

Sincerely,

Michael Scarks
Michael Scarks

MS:mc
Enc.
cc: Martin J. Foley, Esq.

TJB

EXHIBIT B
 8K8272PG0214 Proposal
 W. J. Wilson & Sons
 Excavating Contractors
 • Tank Testing •
 Bulldozing • Excavating and Grading
 Installation of Septic Tanks and Leaching Beds
 P.O. Box 1028 Westbrank, Maine 04092
 Phone 854-4593

POOR ORIGINAL

PROPOSAL SUBMITTED TO <i>Neptune Properties Inc.</i>	PHONE <i>775-2100</i>	DATE <i>3/2/68</i>
STREET <i>1000 Baxter Blvd.</i>	JOB NAME	
CITY, STATE AND ZIP CODE <i>Portland, ME 04102</i>	JOB LOCATION <i>Malabar Ave - Portland, Me</i>	
ARCHITECT	DATE OF PLANS <i>July 21 - 1967</i>	JOB PHONE

We Propose hereby to furnish material and labor - complete in accordance with specifications below, for the sum of:

[REDACTED] dollars (\$ *[REDACTED]*).

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature *[Signature]*

Note: This proposal may be withdrawn by us if not accepted within 30 days.

We hereby submit specifications and estimates for:
 Finish & install approx. 1650' - 4" P.V.C. #26 Ring like force main. Finish & install crushed stone for bedding. Finish & install sand for backfill. Haul all material away; cut culvert with air ramp. Resin across driveway - & roadway. Re-hoist same. Plug one end of force main. Finish & install 1-41 dia. manhole with cast iron frame & cover. Finish & install 6" gravity line from new manhole to existing manhole on point. Finish traffic control. Air test line.

Price does not include - ledge - loaming or seeding - no frost conditions.

ANY UTILITIES NOT SHOWN ON PLANS AND DRIMAGED WILL BE REPAIRED AT AN EXTRA CHARGE BASED ON TIME.
 ALL WORKED TO BE WARRANTIES FOR 1 YEAR FROM FINAL ACCEPTANCE
 ALL SHOULDER AREAS TO BE RAKED OUT AND CLEANED UP, PAVED AREAS TO BE SWEEP.
 ALL EXCAVATION GENERALLY TO BE OFF EDGE OF PAVED SHOULDER SO AS NOT TO DISTURB CITY STREET. BASED ON UPDATED PLANS REVISED 3/22/68.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.
 Signature *[Signature]*
 Date of Acceptance: *3/23/68*

1968 MAY -5 AM 9:22

CHECKED BY *[Signature]*

Doc#: 79642 Bk:18138 Ps: 171

See Book / 18958
Page 012

QUITCLAIM DEED WITH COVENANT
(Maine Statutory Short Form)

MAINE REAL ESTATE TAX PAID

KNOW ALL BY THESE PRESENTS, that **OLDER BROTHER LLC**, a Maine limited liability company and **YOUNGER BROTHER LLC** a Maine limited liability company (collectively "Grantor"), for consideration paid, GRANT to **WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.**, an Ohio corporation whose mailing address is P.O. Box 256, 4288 West Dublin-Granville Road, Dublin, Ohio 43017 ("Grantee"), with **QUITCLAIM COVENANT**, certain real estate located in Portland, County of Cumberland and State of Maine, which is more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as "Parcel A").

EXCEPTING AND RESERVING to Grantor its successors and assigns, a non-exclusive, perpetual easement, appurtenant to Grantor's remaining land which is more particularly described in Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Parcel B"), for the purpose of a paved road for continuous and uninterrupted vehicular and pedestrian ingress, egress and access, and the installation, operation, maintenance, repair, and replacement of overhead and/or underground utilities, to and from Parcel B and Warren Avenue, over, upon, across, and through the area described in Exhibit C, attached hereto and made a part hereof (the "Easement Area"). This easement shall include the right to enter upon such other portions of Parcel A as about the Easement Area to the extent reasonably necessary for the purpose of constructing and maintaining said Easement Area and installing such utilities, provided however, Grantor, its successors and assigns, agree (i) that such use of such other portions of Parcel A shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof. This easement is subject to and benefited by the covenants and conditions set forth in a Road Construction, Maintenance and Easement Agreement of even or near even date by and between Grantor and Grantee, to be recorded in the Cumberland County Registry of Deeds.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, the right to relocate to the Easement Area, a portion of the existing easement burdening the real estate comprised of Parcel A and Parcel B, which easement is more particularly described in instruments recorded in said Registry of Deeds in Book 3551, Page 190 and Book 7183, Page 127, as amended by Easement Amendment Agreement (Corrective) dated March 24, 2000 and recorded in said Registry of Deeds in Book 15434, Page 232.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, a non-exclusive, assignable easement in gross for continuous and uninterrupted vehicular and pedestrian ingress, egress and access over, upon, across, and through the Easement Area. The assigns of the Grantor with respect to the in gross easement described in this paragraph shall be limited to those persons and entities owning or occupying that certain parcel of real estate located adjacent to and easterly of Parcel B, and identified as "N/F Maine Turnpike Authority, 430 Riverside St, Portland, Maine 6522/343" and "N/F Maine Turnpike Authority, 430 Riverside St, Portland, Maine 2282/77" (collectively, the "MTA Parcel") on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine Made For Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated



Easement For Portion
Of Existing Paved Drive Is

October 30, 2001, and revised through September 12, 2002. The assignment of the easement in gross as set forth in this paragraph shall not be construed to affect or impair the other rights and easements reserved by Grantor as set forth in this instrument.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns a perpetual easement, appurtenant to Parcel B, for drainage from Parcel B over, under and across Parcel A and the use, maintenance and repair of any stormwater detention facilities now or hereafter located on Parcel A by Grantee, its successors or assigns. This easement shall include the right to enter upon such other portions of Parcel A as abut this easement area and as are reasonably necessary for the purpose of maintaining, repairing, and replacing said stormwater detention facilities or any culverts or other drainage apparatus as are reasonably necessary in connection with the development of Parcel B, provided however, Grantor, its successors and assigns, agree (i) that such use shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, a perpetual easement appurtenant to Parcel B, to erect a sign, subject to requisite governmental approvals, on any sign pylon hereafter erected on Parcel A by Grantee, its successors or assigns, provided however, that for so long as a Wendy's Old Fashioned Hamburgers hamburger restaurant is continuously operated by Grantee on Parcel A, any sign erected for the benefit of Parcel B on such pylon shall be smaller in square footage than the primary sign erected by Grantee on such pylon to advertise the Wendy's Old Fashioned Hamburgers hamburger restaurant on Parcel A. This easement shall include the right to enter upon such other portions of Parcel A as abut this easement area and as are reasonably necessary for the purpose of installing, maintaining, repairing and replacing said sign, provided however, Grantor, its successors and assigns agree (i) that such use shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof. By acceptance of this deed Grantee agrees that the sign pylon will be physically designed and constructed in a manner so as to reasonably accommodate a commercially reasonable sign relating to the current or future use of Parcel B.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, two (2) perpetual easements (one of which shall be appurtenant to Parcel B and one of which shall be in gross and assignable to those persons and entities owning or occupying the MTA Parcel, and the assignment of such easement in gross as aforesaid shall not be construed to impair the appurtenant easement set forth in this paragraph) for the installation, operation, maintenance, repair, and replacement of overhead and/or underground utilities (expressly including an underground sewer line to serve Parcel B and/or the MTA Parcel, said sewer line to run across the portion of Parcel A which is described on Exhibit D, attached hereto and made a part hereof) necessary or desirable for the development, use and occupancy of Parcel B and/or the MTA Parcel, subject, however, to the prior approval by Grantee of the location of such utilities (other than said sewer line, the location of which is described on Exhibit D), which approval shall not be unreasonably withheld, conditioned or delayed, together with the right to enter upon such other portions

of Parcel A as are reasonably necessary for the purpose of installing, maintaining, repairing and replacing said utilities, provided however, that Grantor, its successors and assigns agree (i) that such use shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof.

AND GRANTOR DOES HEREBY COVENANT AND AGREE with Grantee that Parcel B shall not be used for a drive-through, quick service restaurant which sells hamburger products if such hamburger products exceed fifteen percent (15%) of its gross sales or which sells chicken products if such chicken products exceed fifteen percent (15%) of its gross sales. The foregoing restriction shall not apply to sit-down restaurants with waiter/waitress service, which may sell hamburger products exceeding the foregoing fifteen percent (15%) limitation and/or chicken products exceeding the foregoing fifteen percent (15%) limitation, so long as the restaurant does not have a drive-through facility. This restriction shall burden and run with Parcel B for a period of twenty (20) years from the date of this instrument, and shall benefit Parcel A, and the owners, successors, and assigns thereof and shall automatically expire at the expiration of said twenty (20) year period. In the event of any transfer of Parcel B, Grantor shall be relieved from, and have no further responsibility for, the enforcement of the foregoing restriction but such sale shall not preclude Grantee from enforcing the foregoing restriction against any transferee of Parcel B.

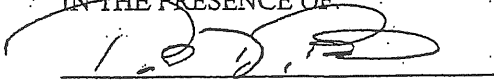
ALSO HEREBY GRANTING to Grantee, its successors and assigns, a perpetual non-exclusive easement, appurtenant to Parcel A, over the portion of Parcel B that is described on Exhibit E, attached hereto and made a part hereof, for the purpose of a paved road for vehicular and pedestrian ingress and access to (but not egress from) Parcel A. This easement shall include the right to enter upon such other portions of Parcel B as abut the Easement Area to the extent reasonably necessary for the purpose of constructing and maintaining said Easement Area, provided however, Grantee, its successors and assigns, agree, by their acceptance hereof, (i) that such use of such other portions of Parcel B shall not unreasonably interfere with the then-existing use or occupancy of Parcel B; and (ii) to repair any damage to Parcel B that results from such use thereof. This easement is subject to and benefited by the covenants and conditions set forth in a Road Construction, Maintenance and Easement Agreement of even or near even date by and between Grantor and Grantee, to be recorded in the Cumberland County Registry of Deeds.

ALSO HEREBY GRANTING to Grantee, its successors and assigns, a perpetual non-exclusive easement, appurtenant to Parcel A, over the portion of Parcel B that is described on Exhibit F, attached hereto and made a part hereof, for the installation, operation, maintenance, repair and replacement of a stormwater detention pond or stormwater drainage area (including any underground pipes and culverts in such area for the drainage of stormwater from Parcel A to the foregoing easement area), provided however, that the foregoing stormwater detention and/or drainage facilities shall not interfere in any way with the Grantor's installation, operation, maintenance, repair, or replacement of a paved driveway or roadway, for pedestrian and vehicular passage, over a strip of land on Parcel B that is at least twenty-four (24) feet wide running in a generally

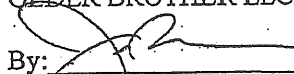
east-west direction, parallel with the northerly boundary of Parcel A, to provide full ingress and egress to and from the easterly portions of Parcel B via (i) that certain 50.88-foot wide right of way described and reserved in a deed from Michael Scarks to Francis P. Drake dated March 31, 1988, recorded in the Cumberland County Registry of Deeds in Book 8229, Page 47; and (ii) the Easement Area. Grantor, its successors, and assigns, shall have the right to use, in common with Grantee, any stormwater detention and/or drainage facilities installed by Grantee in connection with the foregoing easement and shall also have the right to modify or enlarge the same, at Grantor's sole expense, to accommodate additional drainage, detention, and/or treatment of stormwater from Parcel B and/or the MTA Parcel, provided that such use, modification, or enlargement does not adversely impact the use of the same for the stormwater from Parcel A. By acceptance of this deed, Grantee agrees that Grantee, its successors, and assigns shall be responsible, at Grantee's sole expense, for maintaining and repairing the stormwater detention and drainage facilities to keep the same in good order, condition, and repair and in compliance with applicable laws, until such time, if any, as Grantor, its successors or assigns, develop Parcel B and/or the MTA Parcel and make use of the stormwater detention and drainage facilities installed by Grantee on Parcel B. If Grantor, its successors or assigns develop Parcel B and/or the MTA Parcel and make use of the stormwater detention and drainage facilities installed by Grantee on Parcel B, either party shall have the right to maintain and repair the same, but the costs of maintenance and repair shall be shared equally by the parties, except to the extent such is done at the request of Grantor, its successors or assigns to modify or enlarge such facilities to accommodate additional drainage, detention and/or treatment of stormwater from Parcel B and/or the MTA Parcel, in which event such costs shall be paid solely by Grantor, its successors or assigns. Nothing herein contained shall be construed to preclude Grantor, its successors or assigns from granting rights to others to use any portion of Parcel B (including that portion described on Exhibit F) for drainage, detention and/or treatment of stormwater.

IN WITNESS WHEREOF, each Grantor has caused this instrument to be executed on its behalf by its duly authorized undersigned representative, this 27th day of September, 2002.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

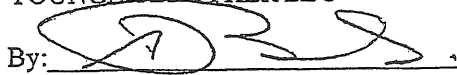


OLDER BROTHER LLC

By: 
Joseph F. Boulos
Its Manager



YOUNGER BROTHER LLC

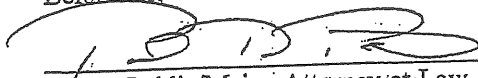
By: 
Gregory W. Boulos
Its Manager

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named Joseph F. Boulos, Manager of Older Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Older Brother LLC.

Before me.



Notary Public/Maine Attorney-at-Law

Printed Name: PAUL D. PIETROPAOLI

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named Gregory W. Boulos, Manager of Younger Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Younger Brother LLC.

Before me.



Notary Public/Maine Attorney-at-Law

Printed Name: PAUL D. PIETROPAOLI

EXHIBIT A
(Legal Description of Parcel A)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Lot, 52,173 S.F., 1.1977 Acres" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002; being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Two Hundred Seventeen and 97/100 (217.97) feet to a point;

thence N 84° 20' 50" E through land of the Grantor a distance of Two Hundred Twenty-Five and 85/100 (225.85) feet to a point;

thence S 05° 39' 10" E through land of the Grantor a distance of Two Hundred Eleven and 71/100 (211.71) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of Warren Avenue a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet to the point of beginning.

Specifically excluded from this conveyance is all right, title, or interest of Grantor in and to a certain access and utility easement over the parcel which abuts the westerly sideline of the above-described premises as set forth in a deed from Michael Scarks to Francis P. Drake dated March 31, 1988, recorded in the Cumberland County Registry of Deeds in Book 8229; Page 47, which access and utility easement is hereby excepted and reserved by Grantor for the benefit of the land described in Exhibit B to this deed.

EXHIBIT B
(Legal Description of Parcel B)

A certain lot or parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, being all of the premises described in a deed from Bridgeside Associates to Wargate Associates dated December 1, 1994, and recorded in the Cumberland County Registry of Deeds in Book 11750, Page 307, as further conveyed by Wargate Associates to Older Brother LLC and Younger Brother LLC, as tenants in common; EXCEPTING, HOWEVER, that portion thereof that is described in Exhibit A to this Quitclaim Deed with Covenant.

EXHIBIT C

(Legal Description of Easement Area)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Access Easement for Lot 314-3-A" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002; being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Two Hundred Seventeen and 97/100 (217.97) feet to a point;

thence N 84° 20' 50" E along the northerly boundary of Parcel A (as that term is defined in the instrument to which this Exhibit is attached) a distance of Eighty-One and 00/100 (81.00) feet to a point;

thence S 41° 02' 56" W a distance of Ninety-Four and 78/100 (94.78) feet to a point;

thence S 05° 39' 10" E a distance of Eighty-Four and 11/100 (84.11) feet to a point;

thence S 22° 37' 24" E a distance of Forty-One and 11/100 (41.11) feet to a point;

thence southerly, along a curve concave to the left having a radius of Thirty-Five and 00/100 (35.00) feet and an arc distance of Twenty-Eight and 60/100 (28.60) feet to the northerly sideline of said Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of said Warren Avenue a distance of Seventy-Three and 45/100 (73.45) feet to the point of beginning.

EXHIBIT D

(Legal Description of Sewer Line Easement Area)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Utility Easement for Lot 314-3-A" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine; Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002, being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Ten and 18/100 (10.18) feet to a point;

thence N 83° 43' 00" E a distance of Two Hundred Sixty-Two and 15/100 (262.15) feet to a point on the easterly boundary of Parcel A (as that term is defined in the instrument to which this Exhibit is attached);

thence S 05° 39' 10" E along the easterly boundary of said Parcel A a distance of Ten and 00/100 (10.00) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of Warren Avenue a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet to the point of beginning.

EXHIBIT E

(Legal Description of Access Easement to Benefit Parcel A)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Access Easement for Lot 314-3-A-2" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002, being bounded and described as follows:

Beginning at a point on the northerly sideline of Warren Avenue at the southeasterly corner of Parcel A (as that term is defined in the instrument to which this Exhibit is attached), said point of beginning being located N 83° 43' 00" E a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet from a southeasterly corner of Lot 2 as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 05° 39' 10" W a distance of Sixty and 00/100 (60.00) feet;

thence N 83° 43' 00" E a distance of Seventy-Eight and 27/100 (78.27) feet;

thence S 06° 17' 00" E a distance of Thirty and 04/100 (30.04) feet;

thence southwesterly along a curve concave to the left having a radius of Fifteen and 00/100 (15.00) feet, and an arc distance of Twenty-Eight and 99/100 (28.99) feet;

thence southerly along a curve concave to the left having a radius of Thirty-Five and 00/100 (35.00) feet and an arc distance of Eleven and 17/100 (11.17) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along said northerly sideline of Warren Avenue a distance of Seventy and 44/100 (70.44) feet to the point of beginning.

EXHIBIT F

(Legal Description of Stormwater Easement Area)

A certain parcel of land situated on the northerly side of, but not adjacent to, Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Drainage Easement" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc.; Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002, being bounded and described as follows:

Beginning at the northwesterly corner of Parcel A (as that term is defined in the instrument to which this Exhibit is attached), said point of beginning being located N 04° 24' 12" E a distance of Two Hundred Seventeen and 97/100 (217.97) feet from a southeasterly corner of Lot 2 as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence continuing N 04° 24' 12" E along the easterly boundary of said Lot 2 a distance of Seventy-Four and 10/100 (74.10) feet;

thence N 83° 42' 58" E a distance of Two Hundred Fifty and 00/100 (250.00) feet;

thence S 06° 17' 02" E a distance of Forty-Five and 00/100 (45.00) feet;

thence S 45° 04' 27" W a distance of Forty-Eight and 53/100 (48.53) feet;

thence S 84° 20' 50" W a distance of Two Hundred Twenty-Five and 85/100 (225.85) feet to the point of beginning.

Received
Recorded Register of Deeds
Sep 25 2002 02:26:19P
Cumberland County
John B. O'Brien

18956-1

CORRECTIVE QUITCLAIM DEED
(Maine Statutory Short Form)

KNOW ALL BY THESE PRESENTS, that **OLDER BROTHER LLC**, a Maine limited liability company and **YOUNGER BROTHER LLC** a Maine limited liability company (collectively "Grantor"), for consideration paid, GRANT to **WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.**, an Ohio corporation whose mailing address is P.O. Box 256, 4288 West Dublin-Granville Road, Dublin, Ohio 43017 ("Grantee"), with QUITCLAIM COVENANT, certain real estate located in Portland, County of Cumberland and State of Maine, which is more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as "Parcel A").

EXCEPTING AND RESERVING to Grantor its successors and assigns, a non-exclusive, perpetual easement, appurtenant to Grantor's remaining land which is more particularly described in Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Parcel B"), for the purpose of a paved road for continuous and uninterrupted vehicular and pedestrian ingress, egress and access, and the installation, operation, maintenance, repair, and replacement of overhead and/or underground utilities, to and from Parcel B and Warren Avenue, over, upon, across, and through the area described in Exhibit C, attached hereto and made a part hereof (the "Easement Area"). This easement shall include the right to enter upon such other portions of Parcel A as abut the Easement Area to the extent reasonably necessary for the purpose of constructing and maintaining said Easement Area and installing such utilities, provided however, Grantor, its successors and assigns, agree (i) that such use of such other portions of Parcel A shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof. This easement is subject to and benefited by the covenants and conditions set forth in a Road Construction, Maintenance and Easement Agreement by and between Grantor and Grantee, dated September 24, 2002, and recorded in the Cumberland County Registry of Deeds in Book 18138, Page 182, as affected by Corrective Road Construction, Maintenance and Easement Agreement between Grantor and Grantee of even or near date and to be recorded in the Cumberland County Registry of Deeds.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, the right to relocate to the Easement Area, a portion of the existing easement burdening the real estate comprised of Parcel A and Parcel B, which easement is more particularly described in instruments recorded in said Registry of Deeds in Book 3551, Page 190 and Book 7183, Page 127, as amended by Easement Amendment Agreement (Corrective) dated March 24, 2000 and recorded in said Registry of Deeds in Book 15434, Page 232.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, a non-exclusive, assignable easement in gross for continuous and uninterrupted vehicular and pedestrian ingress, egress and access over, upon, across, and through the Easement Area. The assigns of the Grantor with respect to the in gross easement described in this paragraph shall be limited to those persons and entities owning or occupying that certain parcel of real estate located adjacent to and easterly of Parcel B, and identified as "N/F Maine Turnpike Authority, 430 Riverside St, Portland, Maine 6522/343" and "N/F Maine Turnpike Authority, 430 Riverside St, Portland, Maine 2282/77" (collectively, the "MTA Parcel") on a plan entitled "ALTA/ACSM

Land Title Survey on Warren Avenue, Portland, Maine Made For Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001, and revised through December 2, 2002. The assignment of the easement in gross as set forth in this paragraph shall not be construed to affect or impair the other rights and easements reserved by Grantor as set forth in this instrument.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns a perpetual easement, appurtenant to Parcel B, for drainage from Parcel B over, under and across Parcel A and the use, maintenance and repair of any stormwater detention facilities now or hereafter located on Parcel A by Grantee, its successors or assigns. This easement shall include the right to enter upon such other portions of Parcel A as abut this easement area and as are reasonably necessary for the purpose of maintaining, repairing, and replacing said stormwater detention facilities or any culverts or other drainage apparatus as are reasonably necessary in connection with the development of Parcel B, provided however, Grantor, its successors and assigns, agree (i) that such use shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, a perpetual easement appurtenant to Parcel B, to erect a sign, subject to requisite governmental approvals, on any sign pylon hereafter erected on Parcel A by Grantee, its successors or assigns, provided however, that for so long as a Wendy's Old Fashioned Hamburgers hamburger restaurant is continuously operated by Grantee on Parcel A, any sign erected for the benefit of Parcel B on such pylon shall be smaller in square footage than the primary sign erected by Grantee on such pylon to advertise the Wendy's Old Fashioned Hamburgers hamburger restaurant on Parcel A. This easement shall include the right to enter upon such other portions of Parcel A as abut this easement area and as are reasonably necessary for the purpose of installing, maintaining, repairing and replacing said sign, provided however, Grantor, its successors and assigns agree (i) that such use shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof. By acceptance of this deed Grantee agrees that the sign pylon will be physically designed and constructed in a manner so as to reasonably accommodate a commercially reasonable sign relating to the current or future use of Parcel B.

ALSO EXCEPTING AND RESERVING to Grantor, its successors and assigns, two (2) perpetual easements (one of which shall be appurtenant to Parcel B and one of which shall be in gross and assignable to those persons and entities owning or occupying the MTA Parcel, and the assignment of such easement in gross as aforesaid shall not be construed to impair the appurtenant easement set forth in this paragraph) for the installation, operation, maintenance, repair, and replacement of overhead and/or underground utilities (expressly including an underground sewer line to serve Parcel B and/or the MTA Parcel, said sewer line to run across the portion of Parcel A which is described on Exhibit D, attached hereto and made a part hereof) necessary or desirable for the development, use and occupancy of Parcel B and/or the MTA Parcel, subject, however, to the prior approval by Grantee of the location of such utilities (other than said sewer line,

the location of which is described on Exhibit D), which approval shall not be unreasonably withheld, conditioned or delayed, together with the right to enter upon such other portions of Parcel A as are reasonably necessary for the purpose of installing, maintaining, repairing and replacing said utilities, provided however, that Grantor, its successors and assigns agree (i) that such use shall not unreasonably interfere with the then-existing use or occupancy of Parcel A; and (ii) to repair any damage to Parcel A that results from such use thereof.

AND GRANTOR DOES HEREBY COVENANT AND AGREE with Grantee that Parcel B shall not be used for a drive-through, quick service restaurant which sells hamburger products if such hamburger products exceed fifteen percent (15%) of its gross sales or which sells chicken products if such chicken products exceed fifteen percent (15%) of its gross sales. The foregoing restriction shall not apply to sit-down restaurants with waiter/waitress service, which may sell hamburger products exceeding the foregoing fifteen percent (15%) limitation and/or chicken products exceeding the foregoing fifteen percent (15%) limitation, so long as the restaurant does not have a drive-through facility. This restriction shall burden and run with Parcel B for a period of twenty (20) years from September 24, 2002, and shall benefit Parcel A, and the owners, successors, and assigns thereof and shall automatically expire at the expiration of said twenty (20) year period. In the event of any transfer of Parcel B, Grantor shall be relieved from, and have no further responsibility for, the enforcement of the foregoing restriction but such sale shall not preclude Grantee from enforcing the foregoing restriction against any transferee of Parcel B.

ALSO HEREBY GRANTING to Grantee, its successors and assigns, a perpetual non-exclusive easement, appurtenant to Parcel A, over the portion of Parcel B that is described on Exhibit E, attached hereto and made a part hereof, for the purpose of a paved road for vehicular and pedestrian ingress and access to (but not egress from) Parcel A. This easement shall include the right to enter upon such other portions of Parcel B as about the Easement Area to the extent reasonably necessary for the purpose of constructing and maintaining said Easement Area, provided however, Grantee, its successors and assigns, agree, by their acceptance hereof, (i) that such use of such other portions of Parcel B shall not unreasonably interfere with the then-existing use or occupancy of Parcel B; and (ii) to repair any damage to Parcel B that results from such use thereof. This easement is subject to and benefited by the covenants and conditions set forth in a Road Construction, Maintenance and Easement Agreement by and between Grantor and Grantee, dated September 24, 2002, and recorded in the Cumberland County Registry of Deeds in Book 18138, Page 182, as affected by Corrective Road Construction, Maintenance and Easement Agreement between Grantor and Grantee of even or near date and to be recorded in the Cumberland County Registry of Deeds.

ALSO HEREBY GRANTING to Grantee, its successors and assigns, a perpetual non-exclusive easement, appurtenant to Parcel A, over the portion of Parcel B that is described on Exhibit F, attached hereto and made a part hereof, for the installation, operation, maintenance, repair and replacement of a stormwater detention pond or stormwater drainage area (including any underground pipes and culverts in such area for

the drainage of stormwater from Parcel A to the foregoing easement area), provided however, that the foregoing stormwater detention and/or drainage facilities shall not interfere in any way with the Grantor's installation, operation, maintenance, repair, or replacement of a paved driveway or roadway, for pedestrian and vehicular passage, over a strip of land on Parcel B that is at least twenty-four (24) feet wide running in a generally east-west direction, parallel with the northerly boundary of Parcel A, to provide full ingress and egress to and from the easterly portions of Parcel B via (i) that certain 50.88-foot-wide right of way described and reserved in a deed from Michael Scarks to Francis P. Drake dated March 31, 1988, recorded in the Cumberland County Registry of Deeds in Book 8229, Page 47; and (ii) the Easement Area. Grantor, its successors, and assigns, shall have the right to use, in common with Grantee, any stormwater detention and/or drainage facilities installed by Grantee in connection with the foregoing easement and shall also have the right to modify or enlarge the same, at Grantor's sole expense, to accommodate additional drainage, detention, and/or treatment of stormwater from Parcel B and/or the MTA Parcel, provided that such use, modification, or enlargement does not adversely impact the use of the same for the stormwater from Parcel A. By acceptance of this deed, Grantee agrees that Grantee, its successors, and assigns shall be responsible, at Grantee's sole expense, for maintaining and repairing the stormwater detention and drainage facilities to keep the same in good order, condition, and repair and in compliance with applicable laws, until such time, if any, as Grantor, its successors or assigns, develop Parcel B and/or the MTA Parcel and make use of the stormwater detention and drainage facilities installed by Grantee on Parcel B. If Grantor, its successors or assigns develop Parcel B and/or the MTA Parcel and make use of the stormwater detention and drainage facilities installed by Grantee on Parcel B, either party shall have the right to maintain and repair the same, but the costs of maintenance and repair shall be shared equally by the parties, except to the extent such is done at the request of Grantor, its successors or assigns to modify or enlarge such facilities to accommodate additional drainage, detention and/or treatment of stormwater from Parcel B and/or the MTA Parcel, in which event such costs shall be paid solely by Grantor, its successors or assigns. Nothing herein contained shall be construed to preclude Grantor, its successors or assigns from granting rights to others to use any portion of Parcel B (including that portion described on Exhibit F) for drainage, detention and/or treatment of stormwater.

The purpose of this corrective deed is as follows: There were erroneous City of Portland tax map and lot references contained in the labeling of easement areas set forth on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine Made For Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001, as revised through September 12, 2002. The opening paragraphs of Exhibits C, D, and E to that certain deed from Grantor to Grantee dated September 24, 2002 and recorded in the Cumberland County Registry of Deeds in Book 18138, Page 171, described various easement areas by reference to said plan and thereby perpetuated the erroneous tax map and lot references contained in the labeling of the easement areas on said plan. Said ALTA/ACSM Land Title Survey has been amended by revision dated December 2, 2002, to correct the tax map and lot references contained in the labeling of the easement areas and the City of Portland has requested that the

Grantor execute this corrective deed so that the Exhibits hereto will conform to said revised plan.

IN WITNESS WHEREOF, each Grantor has caused this instrument to be executed on its behalf by its duly authorized undersigned representative, this 27 day of February 2003.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]

OLDER BROTHER LLC

By: [Signature]
Joseph F. Boulos
Its Manager

[Signature]

YOUNGER BROTHER LLC

By: [Signature]
Gregory W. Boulos
Its Manager

STATE OF MAINE
County of Cumberland, SS.

February 27, 2003

Then personally appeared the above-named Joseph F. Boulos, Manager of Older Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Older Brother LLC.

Before me,

[Signature]
Notary Public/Maine Attorney-at-Law
Printed Name: Janna A. Merritt

SEAL

STATE OF MAINE
County of Cumberland, SS.

February 24, 2003

Then personally appeared the above-named Gregory W. Boulos, Manager of Younger Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Younger Brother LLC.

Before me,

[Signature]
Notary Public/Maine Attorney-at-Law
Printed Name: PAUL D. PIETROPAOLI

EXHIBIT A
(Legal Description of Parcel A)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Lot, 52,173 S.F., 1.1977 Acres" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through December 2, 2002, being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Two Hundred Seventeen and 97/100 (217.97) feet to a point;

thence N 84° 20' 50" E through land of the Grantor a distance of Two Hundred Twenty-Five and 85/100 (225.85) feet to a point;

thence S 05° 39' 10" E through land of the Grantor a distance of Two Hundred Eleven and 71/100 (211.71) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of Warren Avenue a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet to the point of beginning.

Specifically excluded from this conveyance is all right, title, or interest of Grantor in and to a certain access and utility easement over the parcel which abuts the westerly sideline of the above-described premises as set forth in a deed from Michael Scarks to Francis P. Drake dated March 31, 1988, recorded in the Cumberland County Registry of Deeds in Book 8229, Page 47, which access and utility easement is hereby excepted and reserved by Grantor for the benefit of the land described in Exhibit B to this deed.

EXHIBIT B
(Legal Description of Parcel B)

A certain lot or parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, being all of the premises described in a deed from Bridgeside Associates to Wargate Associates dated December 1, 1994, and recorded in the Cumberland County Registry of Deeds in Book 11750, Page 307, as further conveyed by Wargate Associates to Older Brother LLC and Younger Brother LLC, as tenants in common, EXCEPTING, HOWEVER, that portion thereof that is described in Exhibit A to this Quitclaim Deed with Covenant.

EXHIBIT C
(Legal Description of Easement Area)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Access Easement for Lot 314-A-7" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc.; Job No. 2001-220P, dated October 30, 2001 and revised through December 2, 2002, being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Two Hundred Seventeen and 97/100 (217.97) feet to a point;

thence N 84° 20' 50" E along the northerly boundary of Parcel A (as that term is defined in the instrument to which this Exhibit is attached) a distance of Eighty-One and 00/100 (81.00) feet to a point;

thence S 41° 02' 56" W a distance of Ninety-Four and 78/100 (94.78) feet to a point;

thence S 05° 39' 10" E a distance of Eighty-Four and 11/100 (84.11) feet to a point;

thence S 22° 37' 24" E a distance of Forty-One and 11/100 (41.11) feet to a point;

thence southerly, along a curve concave to the left having a radius of Thirty-Five and 00/100 (35.00) feet and an arc distance of Twenty-Eight and 60/100 (28.60) feet to the northerly sideline of said Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of said Warren Avenue a distance of Seventy-Three and 45/100 (73.45) feet to the point of beginning.

EXHIBIT D

(Legal Description of Sewer Line Easement Area)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Utility Easement for Lot 314-A-7" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through December 2, 2002, being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Ten and 18/100 (10.18) feet to a point;

thence N 83° 43' 00" E a distance of Two Hundred Sixty-Two and 15/100 (262.15) feet to a point on the easterly boundary of Parcel A (as that term is defined in the instrument to which this Exhibit is attached);

thence S 05° 39' 10" E along the easterly boundary of said Parcel A a distance of Ten and 00/100 (10.00) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of Warren Avenue a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet to the point of beginning.

EXHIBIT E

(Legal Description of Access Easement to Benefit Parcel A)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Access Easement for Lot 314-A-3" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through December 2, 2002; being bounded and described as follows:

Beginning at a point on the northerly sideline of Warren Avenue at the southeasterly corner of Parcel A (as that term is defined in the instrument to which this Exhibit is attached), said point of beginning being located N 83° 43' 00" E a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet from a southeasterly corner of Lot 2 as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 05° 39' 10" W a distance of Sixty and 00/100 (60.00) feet;

thence N 83° 43' 00" E a distance of Seventy-Eight and 27/100 (78.27) feet;

thence S 06° 17' 00" E a distance of Thirty and 04/100 (30.04) feet;

thence southwesterly along a curve concave to the left having a radius of Fifteen and 00/100 (15.00) feet, and an arc distance of Twenty-Eight and 99/100 (28.99) feet;

thence southerly along a curve concave to the left having a radius of Thirty-Five and 00/100 (35.00) feet and an arc distance of Eleven and 17/100 (11.17) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along said northerly sideline of Warren Avenue a distance of Seventy and 44/100 (70.44) feet to the point of beginning.

EXHIBIT F

(Legal Description of Stormwater Easement Area)

A certain parcel of land situated on the northerly side of, but not adjacent to, Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Drainage Easement" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through December 2, 2002, being bounded and described as follows:

Beginning at the northwesterly corner of Parcel A (as that term is defined in the instrument to which this Exhibit is attached), said point of beginning being located N 04° 24' 12" E a distance of Two Hundred Seventeen and 97/100 (217.97) feet from a southeasterly corner of Lot 2 as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence continuing N 04° 24' 12" E along the easterly boundary of said Lot 2 a distance of Seventy-Four and 10/100 (74.10) feet;

thence N 83° 42' 58" E a distance of Two Hundred Fifty and 00/100 (250.00) feet;

thence S 06° 17' 02" E a distance of Forty-Five and 00/100 (45.00) feet;

thence S 45° 04' 27" W a distance of Forty-Eight and 53/100 (48.53) feet;

thence S 84° 20' 50" W a distance of Two Hundred Twenty-Five and 85/100 (225.85) feet to the point of beginning.

Received
Recorded Register of Deeds
Mar 03 2003 01:58:58P
Cumberland County
John B. O'Brien

ROAD CONSTRUCTION, MAINTENANCE AND EASEMENT AGREEMENT

This Agreement is made by and between **OLDER BROTHER LLC**, a Maine limited liability company and **YOUNGER BROTHER LLC** a Maine limited liability company, both of which have a mailing address of c/o CB Richard Ellis-The Boulos Company, One Canal Plaza, Portland, Maine 04101, as parties of the first part (collectively "Owner") and **WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.**, an Ohio corporation ("Wendy's"), whose mailing address is P.O. Box 256, 4288 West Dublin-Granville Road, Dublin, Ohio 43017, party of the second part.

WITNESSETH:

WHEREAS, Owner has conveyed to Wendy's by deed of even or near even date a certain parcel of land situated on the northerly side of Warren Avenue, in the City of Portland, County of Cumberland and State of Maine as more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as "Parcel A");

WHEREAS, Owner is retaining a parcel of land abutting Parcel A, which retained parcel is more particularly described in Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Parcel B");

WHEREAS, Wendy's intends to construct certain improvements on or related to its use of Parcel A, including but not limited to, a paved access road for ingress and egress from Warren Avenue over the portion of Parcel A more particularly described in Exhibit C attached hereto and made a part hereof and over the portion of Parcel B more particularly described on Exhibit D attached hereto and made a part hereof (hereinafter referred to collectively as the "Easement Area");

WHEREAS, Owner, in its deed to Wendy's conveying Parcel A, reserved, among other things, an easement over the portion of the Easement Area described on Exhibit C and also granted to Wendy's an easement over the portion of the Easement Area described on Exhibit D;

WHEREAS, the parties wish to provide for the relocation of a portion of an existing access easement, situated in the easterly portion of Parcel B, prior to use of the Easement Area for access.

NOW, THEREFORE, the parties agree as follows:

- 1) Wendy's agrees to construct, at its expense, in the Easement Area level, evenly paved access road, at a grade level compatible to the grade of Parcel B, for vehicular and pedestrian ingress, egress and access to Parcel A and Parcel B. The engineering plans showing gradients and other construction details shall be subject to review and consent by Owner prior to construction of the paved access, which consent shall not be unreasonably withheld, conditioned or delayed.
- 2) In the event that Parcel B is improved such that the Easement Area is used for regular access to or egress from Parcel B, the cost of maintaining the Easement Area so used shall be shared equally by Wendy's and Owner, their successors and

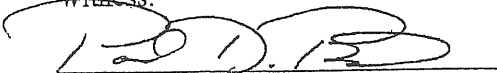
assigns. Until such time, Wendy's, its successors and assigns, shall be responsible for maintaining the Easement Area at its expense. Maintenance shall include repaving as reasonably necessary, sealing, sweeping, restriping and snow removal, but shall not include any initial construction costs, which are the responsibility of Wendy's.

- 3) Wendy's agrees, at its sole cost and expense, to relocate and repave that portion of the existing access easement (as described in instruments recorded in the Cumberland County Registry of Deeds in Book 3551, Page 190, and Book 1783, Page 127, as amended by an Easement Amendment Agreement (corrective) between Wargate Associates and Citadel Broadcasting Services, undated but acknowledged on March 24, 2000, and March 28, 2000, as affected by Notice of Relocation of Easement of even or near date to be recorded in said Registry of Deeds) such that the location of said access easement will be as depicted, and will connect with the portion of the Easement Area located on Parcel B in the manner shown, on the attached Exhibit E. Wendy's also agrees to remove the pavement from and reseed the area from which the existing access easement is relocated. Wendy's and its agents shall have the right to enter upon portions of Parcel B as necessary to relocate the existing easement as provided for in this paragraph, provided, however, such portion of Parcel B shall be restored to as reasonably close to its original condition as reasonably possible. Each of Owner and Wendy's agrees to execute such further documents as may be reasonably necessary to evidence said relocated easement and to confirm the easement rights of the holder thereof in such new location.


The covenants contained herein are intended to be real covenants, the benefits and burdens of which shall run with Parcel A and Parcel B, respectively, and be binding on, enforceable against, and inure to the benefit of, the successors and assigns of the parties, in law and in equity.

IN WITNESS WHEREOF, Owner and Wendy's have caused this instrument to be executed on their behalf by their duly authorized undersigned representatives on this 24th day of September, 2002.

Witness:



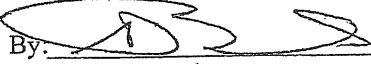
OWNER:
OLDER BROTHER LLC

By: 
Joseph F. Boulos
Its Manager

Witness:



YOUNGER BROTHER LLC

By: 
Gregory W. Boulos
Its Manager

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named Joseph F. Boulos, Manager of Older Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Older Brother LLC.

Before me,

Notary Public/Maine Attorney-at-Law

Printed Name: Pam D. PETRAPAN

STATE OF MAINE
County of Cumberland, SS.

September 24, 2002

Then personally appeared the above-named Gregory W. Boulos, Manager of Younger Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Younger Brother LLC.

Before me,

Notary Public/Maine Attorney-at-Law

Printed Name: Pam D. PETRAPAN

WENDY'S OLD FASHIONED
HAMBURGERS OF NEW YORK, INC.

JOANNE B. KRIMM

By:

Printed Name: RONALD E. WALLACE
Its Vice President

CAROLYN A. LOEFFLER

By:

Printed Name: RAYMOND W. BAKER
Its Vice President

WWS

Legal

STATE OF Ohio
County of Franklin, SS.

September 20, 2002

Then personally appeared the above-named RONALD E. WALLACE
Vice President,
of Wendy's Old Fashioned Hamburgers of New York, Inc., and
acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity,
and the free act and deed of said Wendy's Old Fashioned Hamburgers of New York, Inc..

Before me,

Joanne B. Krimm

Notary Public/Maine Attorney at Law
Printed Name: _____

STATE OF Ohio
County of Franklin, SS.

September 20, 2002

Then personally appeared the above-named RAYMOND W. BAKER
Vice President,
of Wendy's Old Fashioned Hamburgers of New York, Inc., and
acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity,
and the free act and deed of said Wendy's Old Fashioned Hamburgers of New York, Inc..

Before me,

Joanne B. Krimm

Notary Public/Maine Attorney at Law
Printed Name: _____



JOANNE B. KRIMM
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 23, 2006

EXHIBIT A

(Legal Description of Parcel A)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Lot, 52,173 S.F., 1.1977 Acres" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002, being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Two Hundred Seventeen and 97/100 (217.97) feet to a point;

thence N 84° 20' 50" E through land of the Grantor a distance of Two Hundred Twenty-Five and 85/100 (225.85) feet to a point;

thence S 05° 39' 10" E through land of the Grantor a distance of Two Hundred Eleven and 71/100 (211.71) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of Warren Avenue a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet to the point of beginning.

EXHIBIT B

(Legal Description of Parcel B)

A certain lot or parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, being all of the premises described in a deed from Bridgeside Associates to Wargate Associates dated December 1, 1994, and recorded in the Cumberland County Registry of Deeds in Book 11750, Page 307, as further conveyed by Wargate Associates to Older Brother LLC and Younger Brother LLC, as tenants in common, EXCEPTING, HOWEVER, that portion thereof that is described in Exhibit A to this instrument.

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
Planning Copy**

2005-0171

Application I. D. Number

7/26/2005

Application Date

Amendment to Plan - Dunkin Donuts

Project Name/Description

Kimco Realty, LLC

Applicant

65 Gray Street, Falmouth, ME 04105

Applicant's Mailing Address

Consultant/Agent

Applicant Ph: (207) 797-7600 Applicant Fax: (207) 797-4300

Applicant or Agent Daytime Telephone, Fax

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail

Manufacturing Warehouse/Distribution Parking Lot

Other (specify) **Amendment to Plan**

1,840 s.f.

Proposed Building square Feet or # of Units

Acreage of Site

B4

Zoning

Check Review Required:

Site Plan
(major/minor)

Subdivision
of lots _____

PAD Review

14-403 Streets Review

Flood Hazard

Shoreland

Historic Preservation

DEP Local Certification

Zoning Conditional
Use (ZBA/PB)

Zoning Variance

Other _____

Fees Paid:

Site Pla

\$250.00

Subdivision

Engineer Review

Date **7/26/2005**

Planning Approval Status:

Reviewer _____

Approved

Approved w/Conditions
See Attached

Denied

Approval Date _____

Approval Expiration _____

Extension to _____

Additional Sheets
Attached

OK to Issue Building Permit

signature

date

Performance Guarantee

Required*

Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

Performance Guarantee Accepted

date

amount

expiration date

Inspection Fee Paid

date

amount

Building Permit Issue

date

Performance Guarantee Reduced

date

remaining balance

signature

Temporary Certificate of Occupancy

date

Conditions (See Attached)

expiration date

Final Inspection

date

signature

Certificate Of Occupancy

date

Performance Guarantee Released

date

signature

Defect Guarantee Submitted

submitted date

amount

expiration date

Defect Guarantee Released

date

signature

NORMAN, HANSON & DETROY, LLC

ATTORNEYS AT LAW
415 CONGRESS STREET

P.O. BOX 4600
PORTLAND, MAINE 04112-4600

AREA CODE 207
774-7000
FAX
775-0806

E-Mail
pdriscoll@nhdlaw.com

Website
www.nhdlaw.com

ROBERT F. HANSON
(1944 - 2004)

PETER J. DETROY
STEPHEN HESSERT
RODERICK R. ROVZAR
THEODORE H. KIRCHNER
MARK G. LAVOIE
STEPHEN W. MORIARTY
JAMES D. POLIQUIN
JOHN H. KING, JR.
PAUL F. DRISCOLL
WILLIAM O. LACASSE
MARK E. DUNLAP
ROBERT W. BOWER, JR.
JONATHAN W. BROGAN
CHRISTOPHER C. TAINTOR
DAVID P. VERY
DANIEL L. CUMMINGS

RUSSELL B. PIERCE, JR.
ANNE M. CARNEY
DAVID L. HERZER, JR.
THOMAS S. MARJERISON
ADRIAN P. KENDALL
EMILY A. BLOCH
ANNE H. JORDAN
AARON K. BALTES
JOHN R. VEILLEUX
LANCE E. WALKER
DORIS V. R. CHAMPAGNE
NOAH D. WUESTHOFF
C. LINDSEY MORRILL
JENNIFER A.W. RUSH
DANIEL J. EDWARDS

OF COUNSEL
DAVID C. NORMAN

July 22, 2005

Kandi Talbot, Assistant Planner
Planning and Development Department
City of Portland
389 Congress Street
Portland, ME 04101

Re: Application for Amendment to
Site Plan Approval for Kimco
Realty, LLC's Warren Avenue Project

Dear Ms. Talbot:

Thank you for meeting with Dan Edwards of my office on Monday, July 18, 2005. This cover letter and the associated enclosures represent Kimco Realty, LLC's request for an administrative approval of a minor site plan amendment to the above-referenced project. A copy of the approved site plan is enclosed for your review as Exhibit A. We are making this application with the approval of Kimco Realty, LLC and its legal counsel, Dennis Keeler of Pierce Atwood, pursuant to the terms of an agreement between Kimco Realty, LLC, Casey & Paige, LLC and CP & S Associates, LLC. A copy of this agreement is attached as Exhibit B.

The enclosed materials represent changes consistent with those recommended by Tom Errico during a meeting including you, Mr. Errico, Peter Bouchard of CP&S and Dan Edwards earlier this summer. The pertinent changes, which are reflected on the enclosed Exhibit C (anticipated CP&S site plan) and Exhibit D (proposed Kimco Amended Site Plan), are as follows:

- Kimco Realty, LLC has agreed to grant CP&S Associates, LLC an ingress easement, which will permit direct access from the Kimco entrance into the

Kandi Talbot, Assistant Planner
July 22, 2005
Page 2

CP&S parcel in anticipation of the proposed development of a car wash on the CP&S parcel and to grant CP&S a rear access easement which will permit all traffic from both the CP&S and Casey & Paige LLC parcels to exit via the egress route shared by the existing Wendy's and the proposed Dunkin' Donuts; and

- CP&S and Kimco have agreed to revise the property line between their adjacent parcels to permit Kimco to add three additional parking spaces along the Kimco/CP&S property line. Pursuant to this agreement, CP&S will deed a small triangular parcel of its lot to Kimco.

The objective of these changes is to satisfy the City's desire to limit curbs cuts and points of egress onto Warren Avenue. At a later date, CP&S plans to submit a site plan application for its proposed car wash, which -- also consistent with Tom Errico's recommendations -- will include a right-turn-only entrance to the car wash parcel from Warren Avenue.

Because this approval is required to satisfy the terms of a time-sensitive agreement between Kimco Realty, LLC, CP&S Associates, LLC and Casey & Paige, LLC, we would very much appreciate your response as soon as possible.

Naturally, if there are any questions or comments, please feel free to contact me. Thank you very much for your time and assistance in this matter.

Very truly yours,



Paul F. Driscoll

PFD/pfd

cc: Daniel J. Edwards, Esq. (w/encl.)
Dennis C. Keeler, Esq. (w/encl.)
Mr. Peter R. Bouchard (w/encl.)

MEMORANDUM OF
UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, effective as of July 14, 2005, is by and among KIMCO REALTY, LLC, a Maine limited liability company located in Falmouth, Maine ("Kimco"), CASEY & PAIGE, LLC, a Maine limited liability company located in Portland, Maine ("Casey & Paige"), and CP&S ASSOCIATES, LLC, a Maine limited liability company located in Portland, Maine ("CP&S").

R E C I T A L S :

A. Kimco owns a parcel of land on Warren Avenue being approximately 1.36 acres (the "Kimco Parcel") as shown on the plan entitled "Approved Kimco Site Plan" prepared by Sebago Technics, dated July 12, 2005, a copy of which is attached hereto as Exhibit A (the "Kimco Parcel"). Kimco owns a private sewer force main that runs under and along Warren Avenue and connects to the public sewer maintained by the City of Portland and/or the Portland Water District (the "Private Force Main"). Wendy's Old Fashioned Hamburgers of New York, Inc. ("Wendy's") owns the parcel adjacent to, and westerly of, the Kimco Parcel (the "Wendy's Parcel"). The Wendy's Parcel is shown on Exhibit A and labeled as "Existing Wendy's Site". In connection with the acquisition of the Kimco Parcel, Kimco received a right to assign an easement in gross benefiting the owners of the "CP&S Parcel" (defined below) allowing access over the Wendy's Parcel (the "Easement in Gross").

B. Casey & Paige owns a parcel of land adjacent to, and northeasterly of, the Kimco Parcel as partially shown on Exhibit B, being the land on which the building identified as "Pioneer Telephone" is located (the "Casey & Paige Parcel"). The Casey & Paige Parcel is benefited by an access easement over the Kimco Parcel and the Wendy's Parcel to Warren Avenue (the "Access Easement"). The Casey & Paige Parcel is also benefited by a copper radial field easement over a portion of the Kimco Parcel, as depicted on Exhibit C (the "Copper Radial Field Easement").

C. CP&S owns a parcel of land adjacent to, and easterly of the Kimco Parcel as shown on Exhibit B and labeled as land "N/F CP&S Associates, LLC" (the "CP&S Parcel"). The CP&S Parcel is adjacent to, and southerly of, the Casey & Paige Parcel.

D. Kimco has received site plan approval from the City of Portland to develop the Kimco Parcel as a Dunkin' Donuts store generally consistent with the site plan attached as Exhibit A (the "Approved Kimco Site Plan").

E. CP&S is in the process of obtaining required approvals from the City of Portland to construct a brushless car wash on the CP&S Parcel in accordance with the plan attached as Exhibit B (the "CP&S Site Plan").



F. In connection with the development of CP&S Parcel and the Casey & Paige Parcel, CP&S and Casey Paige have requested that Kimco accept a modification of the Approved Kimco Site Plan. Kimco is willing to accept certain modification to its Approved Kimco Site Plan, as depicted on the amended Site Plan attached hereto as **Exhibit C** (the "Proposed Kimco Amended Site Plan").

G. The parties desire to cooperate in the development of the Kimco Parcel, the continued use of the Casey & Paige Parcel and the development of the CP&S Parcel. Accordingly, the parties agree to exchange certain rights and easements, and to cooperate in the permitting and planning processes as set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties hereby agree as follows:

1. Kimco agrees to provide CP&S Parcel with the right to connect to the Private Force Main (including the right to discharge no more than 2,000 gallons per day of sewerage into the Private Force Main), provided that CP&S will be solely responsible for the installation, maintenance and repair of any pipes, connections or other equipment serving only the CP&S Parcel, and CP&S will be responsible for its pro rata share of usage charges, maintenance and repair of the Private Force Main.
2. Kimco agrees to grant to CP&S an easement appurtenant to the CP&S Parcel for vehicular and pedestrian ingress, but not egress (the "CP&S Ingress Easement") together with an easement appurtenant to the CP&S Parcel for vehicular and pedestrian ingress and egress over the rear portion of the Kimco Parcel (the "CP&S Rear Access Easement"). Both the CP&S Ingress Easement and the CP&S Rear Access Easement will be located generally as shown on **Exhibit C**.
3. Kimco agrees to assign the Easement in Gross to CP&S so that vehicles may exit from the CP&S Parcel across the Wendy's Parcel, by way of the CP&S Rear Access Easement.
4. Casey & Paige and CP&S agree not to oppose Kimco's development of the Kimco Parcel as a Dunkin' Donuts store, provided that Casey & Paige and CP&S shall not be obligated to incur out of pocket expenses.
5. Kimco agrees not to oppose CP&S's development of the CP&S Parcel as a car wash in accordance with the CP&S Site Plan, provided that (a) Kimco shall not be obligated to incur out of pocket expenses; and (b) nothing herein shall prevent Kimco from opposing any portion of CP&S's application for approval – including, without limitation, facts shown on the CP&S Site Plan – that Kimco determines in its reasonable judgment, raise concerns regarding (i) safety, (ii) traffic or (iii) stormwater. Kimco agrees not to object to the right turn in only entrance onto the CP&S Parcel from Warren Avenue, as shown on the CP&S Site Plan; provided that Kimco reserves the right to object to design or layout issues with such entrance to the extent that Kimco reasonably determines that such design raises a risk of left turning traffic into the

A handwritten signature consisting of the letters "RB" inside a circle, with a flourish underneath.

CP&S Parcel from Warren Avenue or if the incoming traffic is not channeled properly to avoid any interruption or impact on the cuing of traffic waiting for the car wash. Kimco will not object to the fact that the design provides for the flow of traffic to enter the CP&S Parcel from the common entranceway , as depicted on the Proposed Kimco Amended Site Plan to exit the CP&S Parcel to the rear of the Kimco Parcel and the Wendy's Parcel, again, subject to any safety or traffic concerns.

6. Casey & Paige hereby acknowledges and agrees that the traffic flow on the Kimco Parcel and the Wendy's Parcel, as shown on the Kimco Site Plan and the CP&S Site Plan, and the corresponding relocation and bifurcation of the Access Easement so as to provide ingress over the Kimco Parcel and egress over the Kimco Parcel and the Wendy's Parcel is permitted under the terms of the Access Easement and does not constitute an unreasonable interference with the Access Easement. Casey & Paige hereby consents to said relocation and bifurcation and use of the Access Easement, as depicted on both the Kimco Site Plan and the CP&S Site Plan..

7. Casey & Paige acknowledges and agrees that the proposed use of the Copper Radial Field Easement area on the Kimco Parcel for paved parking areas and storm water management as shown on Exhibit A is permitted under the terms of the Copper Radial Field Easement and Casey & Paige hereby consents to said use of the Copper Radial Field Easement Area. Casey & Paige agree that Kimco is hereby released of any obligation to restore any disruption to the Copper Radial Field Easement, or the copper radial field or any of the copper wiring, resulting from the installation and construction of the work shown on the Approved Kimco Site Plan or, if approved, the Proposed Kimco Amended Site Plan.

8. Casey & Paige and CP&S agree to allow Kimco to modify the existing pavement on the Casey & Paige Parcel and the CP&S Parcel as shown on Exhibit B near the northernmost corner of the CP&S Parcel.

9. The Casey & Paige Parcel and the CP&S Parcel shall be subject to the condition that neither parcel shall be used for a business that collects more than 15% of its gross sales from the sale of any one, or any combination of, the following items: coffee, bagels, donuts, baked goods, ice cream and beverages, e.g., shakes, frozen drinks or slushies, soda. Casey & Paige and CP&S agree to record deed restrictions on their respective parcels to memorialize the restrictions set forth in this paragraph.

10. The parties acknowledge that Casey & Paige and CP&S have requested Kimco to accept an amendment to the Kimco Site Plan to accommodate the changes reflected on the Proposed Kimco Amended Site Plan. Kimco is prepared to accept such changes on the following terms and conditions: (a) all such permits and approvals as may necessary to reflect such changes are obtained by CP&S or Casey & Paige, at no expense to Kimco; (b) no changes shall be permitted to the Proposed Kimco Amended Site Plan without the prior approval of Kimco and no conditions shall be imposed on the Proposed Kimco Amended Site Plan, or in connection with its approval, without the approval of Kimco; (c) CP&S shall grant to Kimco fee title to that portion of the CP&S Parcel as is necessary to accommodate all of the twelve parking spaces on the easterly side of the Kimco Parcel as reflected on the Proposed Kimco Amended



Site Plan and satisfy the permitting requirements of the City of Portland, and any approval of the Proposed Kimco Amended Site Plan shall be conditioned upon such transfer taking place within 10 days of approval;; and (d) all such permits and approvals have been obtained in compliance with this Paragraph no later than July 29, 2005. If the permits and approvals for such site plan modification have not been obtained by July 29, 2005 in accordance with the requirements of this Section, Kimco shall have the right to proceed to develop the Kimco Parcel in accordance with the Approved Kimco Site Plan attached hereto as **Exhibit A** and shall be relieved of any obligation to accept any changes thereto. In such event, the balance of the agreements set forth in this Memorandum of Understanding shall remain in full force and effect.

11. The parties acknowledge and agree to execute and record, as necessary, all such deeds, easements, agreements, consents or any other documents necessary to effectuate the agreements contained herein.

12. This Memorandum of Understanding shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

13. The Exhibits attached are hereby incorporated herein by reference.

14. This Memorandum of Understanding shall be governed by and interpreted in accordance with the laws of the State of Maine.

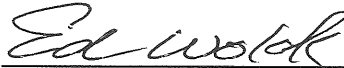
[Balance of Page is Intentionally Blank]



IN WITNESS WHEREOF, the undersigned have each caused this Memorandum of Understanding to be executed by its respective duly authorized representative, as of the date set forth across from their respective signature, to be effective for all purposes as of the date set forth in the introductory paragraph above.

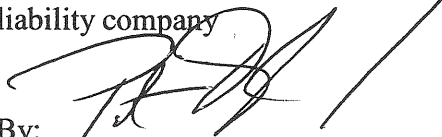
KIMCO REALTY, LLC, a Maine limited liability company

Date: July 15, 2005

By: 
Its: MEM.
Name: ED WOLAK

CASEY & PAIGE, LLC, a Maine limited liability company

Date: July 14, 2005

By: 
Its: Peter R. Bouchard
Name: Member

CP&S ASSOCIATES, LLC, a Maine limited liability company

Date: July 14, 2005

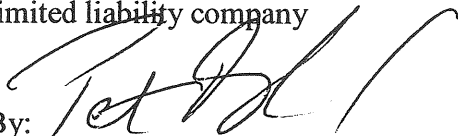
By: 
Its: Peter R. Bouchard
Name: MEMBER

EXHIBIT C

(Legal Description of Easement Area)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Access Easement for Lot 314-3-A" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002, being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Two Hundred Seventeen and 97/100 (217.97) feet to a point;

thence N 84° 20' 50" E along the northerly boundary of Parcel A (as that term is defined in the instrument to which this Exhibit is attached) a distance of Eighty-One and 00/100 (81.00) feet to a point;

thence S 41° 02' 56" W a distance of Ninety-Four and 78/100 (94.78) feet to a point;

thence S 05° 39' 10" E a distance of Eighty-Four and 11/100 (84.11) feet to a point;

thence S 22° 37' 24" E a distance of Forty-One and 11/100 (41.11) feet to a point;

thence southerly, along a curve concave to the left having a radius of Thirty-Five and 00/100 (35.00) feet and an arc distance of Twenty-Eight and 60/100 (28.60) feet to the northerly sideline of said Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of said Warren Avenue a distance of Seventy-Three and 45/100 (73.45) feet to the point of beginning.

EXHIBIT D

(Legal Description of Access Easement to Benefit Parcel A)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Access Easement for Lot 314-3-A-2" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through September 12, 2002, being bounded and described as follows:

Beginning at a point on the northerly sideline of Warren Avenue at the southeasterly corner of Parcel A (as that term is defined in the instrument to which this Exhibit is attached), said point of beginning being located N 83° 43' 00" E a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet from a southeasterly corner of Lot 2 as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 05° 39' 10" W a distance of Sixty and 00/100 (60.00) feet;

thence N 83° 43' 00" E a distance of Seventy-Eight and 27/100 (78.27) feet;

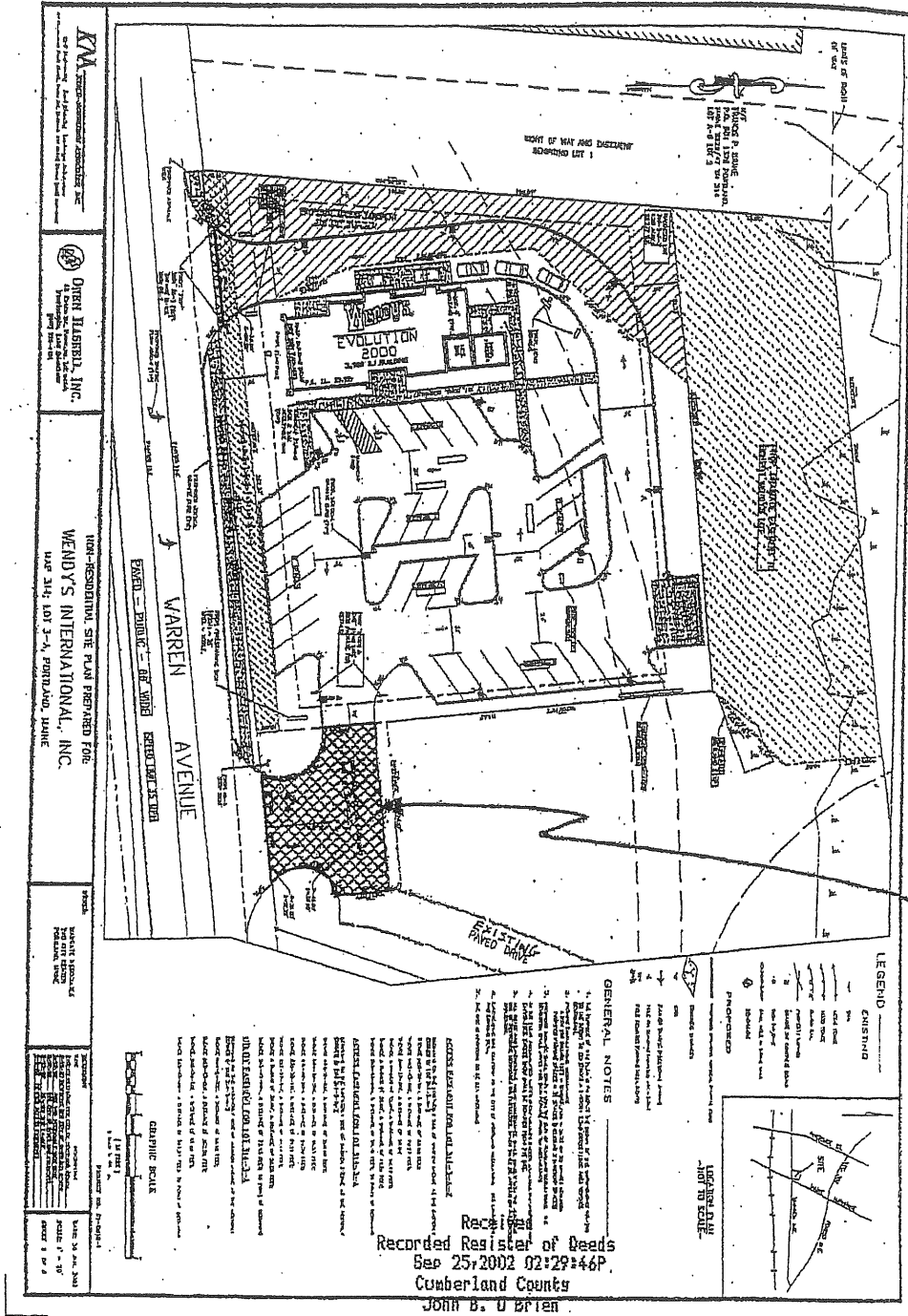
thence S 06° 17' 00" E a distance of Thirty and 04/100 (30.04) feet;

thence southwesterly along a curve concave to the left having a radius of Fifteen and 00/100 (15.00) feet, and an arc distance of Twenty-Eight and 99/100 (28.99) feet;

thence southerly along a curve concave to the left having a radius of Thirty-Five and 00/100 (35.00) feet and an arc distance of Eleven and 17/100 (11.17) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along said northerly sideline of Warren Avenue a distance of Seventy and 44/100 (70.44) feet to the point of beginning.

EXHIBIT E



EM
Engineering & Mapping
Professional Engineering Firm
4000 Park Road, Suite 100
P.O. Box 100
Perry, PA 16105
Phone: 724-838-1111
Fax: 724-838-1112

O'Brien
O'Brien, Inc.
Professional Engineer
1000 North 10th Street
P.O. Box 100
Perry, PA 16105
Phone: 724-838-1111
Fax: 724-838-1112

NON-RESIDENTIAL SITE PLAN PREPARED FOR
WENDY'S INTERNATIONAL, INC.
1425 34th LOT 3-4, PERRY, PA, 16105

PROJECT
WENDY'S INTERNATIONAL
1425 34th LOT 3-4, PERRY, PA, 16105

DATE
SEP 25, 2002

SCALE
AS SHOWN

Easement For Portion
Of Existing Paved Drive Is
Relocated To This Area
Shown in Cross-Hatching

Recorded
Registered of Deeds
Sep 25, 2002 02:29:46P.
Cumberland County
JOHN B. O'BRIEN

18 956 - 12
A. 3/3/03

CORRECTIVE ROAD CONSTRUCTION, MAINTENANCE AND EASEMENT AGREEMENT

This Agreement is made by and between **OLDER BROTHER LLC**, a Maine limited liability company and **YOUNGER BROTHER LLC** a Maine limited liability company, both of which have a mailing address of c/o CB Richard Ellis-The Boulos Company, One Canal Plaza, Portland, Maine 04101, as parties of the first part (collectively "Owner") and **WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.**, an Ohio corporation ("Wendy's"), whose mailing address is P.O. Box 256, 4288 West Dublin-Granville Road, Dublin, Ohio 43017, party of the second part.

WITNESSETH:

WHEREAS, Owner has conveyed to Wendy's by deed dated September 24, 2002, and recorded in the Cumberland County Registry of Deeds in Book 18138, Page 171, as affected by Corrective Quitclaim Deed of even or near even date, a certain parcel of land situated on the northerly side of Warren Avenue, in the City of Portland, County of Cumberland and State of Maine as more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as "Parcel A");

WHEREAS, Owner is retaining a parcel of land abutting Parcel A, which retained parcel is more particularly described in Exhibit B attached hereto and made a part hereof (hereinafter referred to as "Parcel B");

WHEREAS, Wendy's intends to construct certain improvements on or related to its use of Parcel A, including but not limited to, a paved access road for ingress and egress from Warren Avenue over the portion of Parcel A more particularly described in Exhibit C attached hereto and made a part hereof and over the portion of Parcel B more particularly described on Exhibit D attached hereto and made a part hereof (hereinafter referred to collectively as the "Easement Area");

WHEREAS, Owner, in its deeds to Wendy's conveying Parcel A, reserved, among other things, an easement over the portion of the Easement Area described on Exhibit C and also granted to Wendy's an easement over the portion of the Easement Area described on Exhibit D;

WHEREAS, the parties wish to provide for the relocation of a portion of an existing access easement, situated in the easterly portion of Parcel B, prior to use of the Easement Area for access.

NOW, THEREFORE, the parties agree as follows:

- 1) Wendy's agrees to construct, at its expense, in the Easement Area level, evenly paved access road, at a grade level compatible to the grade of Parcel B, for vehicular and pedestrian ingress, egress and access to Parcel A and Parcel B. The engineering plans showing gradients and other construction details shall be subject to review and consent by Owner prior to construction of the paved access, which consent shall not be unreasonably withheld, conditioned or delayed.

- 2) In the event that Parcel B is improved such that the Easement Area is used for regular access to or egress from Parcel B, the cost of maintaining the Easement Area so used shall be shared equally by Wendy's and Owner, their successors and assigns. Until such time, Wendy's, its successors and assigns, shall be responsible for maintaining the Easement Area at its expense. Maintenance shall include repaving as reasonably necessary, sealing, sweeping, restriping and snow removal, but shall not include any initial construction costs, which are the responsibility of Wendy's.

- 3) Wendy's agrees, at its sole cost and expense, to relocate and repave that portion of the existing access easement (as described in instruments recorded in the Cumberland County Registry of Deeds in Book 3551, Page 190, and Book 1783, Page 127, as amended by an Easement Amendment Agreement (corrective) between Wargate Associates and Citadel Broadcasting Services, undated but acknowledged on March 24, 2000, and March 28, 2000, as affected by Notice of Relocation of Easement of even or near date to be recorded in said Registry of Deeds) such that the location of said access easement will be as depicted, and will connect with the portion of the Easement Area located on Parcel B in the manner shown, on the attached Exhibit E. Wendy's also agrees to remove the pavement from and reseed the area from which the existing access easement is relocated. Wendy's and its agents shall have the right to enter upon portions of Parcel B as necessary to relocate the existing easement as provided for in this paragraph, provided, however, such portion of Parcel B shall be restored to as reasonably close to its original condition as reasonably possible. Each of Owner and Wendy's agrees to execute such further documents as may be reasonably necessary to evidence said relocated easement and to confirm the easement rights of the holder thereof in such new location.

The covenants contained herein are intended to be real covenants, the benefits and burdens of which shall run with Parcel A and Parcel B, respectively, and be binding on, enforceable against, and inure to the benefit of, the successors and assigns of the parties, in-law and in equity.

The purpose of this corrective agreement is as follows: There were erroneous City of Portland tax map and lot references contained in the labeling of easement areas set forth on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine Made For Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001, as revised through September 12, 2002. The opening paragraphs of Exhibits C and D to that certain agreement from Grantor to Grantee dated September 24, 2002 and recorded in the Cumberland County Registry of Deeds in Book 18138, Page 182, described various easement areas by reference to said plan and thereby perpetuated the erroneous tax map and lot references contained in the labeling of the easement areas on said plan. Said ALTA/ACSM Land Title Survey has been amended by revision dated December 2, 2002, to correct the tax map and lot references contained in the labeling of the easement areas and the City of Portland has requested that the parties execute this corrective agreement so that the Exhibits hereto will conform to said revised plan.

IN WITNESS WHEREOF, Owner and Wendy's have caused this instrument to be executed on their behalf by their duly authorized undersigned representatives on this 27 day of February, 2003.

Witness:

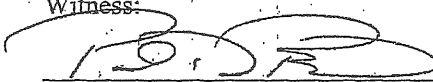


OWNER:
OLDER BROTHER LLC


By: 

Joseph F. Boulos
Its Manager

Witness:



YOUNGER BROTHER LLC

By: 

Gregory W. Boulos
Its Manager

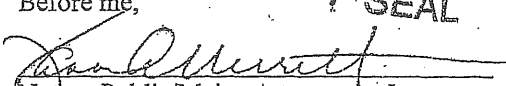
STATE OF MAINE
County of Cumberland, SS.

February 27, 2003

Then personally appeared the above-named Joseph F. Boulos, Manager of Older Brother LLC; and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Older Brother LLC.

Before me,

SEAL



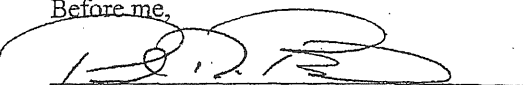
Notary Public/Maine Attorney-at-Law
Printed Name: Janna A. Merrill

STATE OF MAINE
County of Cumberland, SS.

February 24, 2003

Then personally appeared the above-named Gregory W. Boulos, Manager of Younger Brother LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Younger Brother LLC.

Before me,



Notary Public/Maine Attorney-at-Law
Printed Name: PAUL D. PIETROPAOLI

WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.

Joanne B. Krimm
JOANNE B. KRIMM

By: [Signature]
Printed Name: **RONALD E. WALLACE**
Its Vice President

Andrea M. McGeehan
ANDREA M. MCGEEHAN

By: [Signature]
Printed Name: **RAYMOND W. BAKER**
Its Vice President

WWS
Legal

STATE OF Ohio
County of Franklin, SS.

February 24, 2003

RONALD E. WALLACE
Vice President

Then personally appeared the above-named _____ of Wendy's Old Fashioned Hamburgers of New York, Inc., and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity, and the free act and deed of said Wendy's Old Fashioned Hamburgers of New York, Inc..

Before me,

Joanne B. Krimm
Notary Public/Maine Attorney at Law
Printed Name: _____



JOANNE B. KRIMM
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 23, 2006

STATE OF Ohio
County of Franklin, SS.

February 24, 2003
RAYMOND W. BAKER
Vice President

Then personally appeared the above-named _____ of Wendy's Old Fashioned Hamburgers of New York, Inc., and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity, and the free act and deed of said Wendy's Old Fashioned Hamburgers of New York, Inc..

Before me,

Joanne B. Krimm
Notary Public/Maine Attorney at Law
Printed Name: _____



JOANNE B. KRIMM
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 23, 2006

EXHIBIT A
(Legal Description of Parcel A)

A certain parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, as shown as "Proposed Lot, 52,173 S.F., 1.1977 Acres" on a plan entitled "ALTA/ACSM Land Title Survey on Warren Avenue, Portland, Maine, Made for Wendy's Old Fashioned Hamburgers of New York, Inc." prepared by Owen Haskell, Inc., Job No. 2001-220P, dated October 30, 2001 and revised through December 2, 2002, being bounded and described as follows:

Beginning on the northerly sideline of Warren Avenue at a southeasterly corner of Lot 2, as shown on a plan entitled "Plan of Neptune Properties" recorded in the Cumberland County Registry of Deeds in Plan Book 170, Page 38;

thence N 04° 24' 12" E along the easterly sideline of said Lot 2 a distance of Two Hundred Seventeen and 97/100 (217.97) feet to a point;

thence N 84° 20' 50" E through land of the Grantor a distance of Two Hundred Twenty-Five and 85/100 (225.85) feet to a point;

thence S 05° 39' 10" E through land of the Grantor a distance of Two Hundred Eleven and 71/100 (211.71) feet to the northerly sideline of Warren Avenue;

thence S 83° 43' 00" W along the northerly sideline of Warren Avenue a distance of Two Hundred Sixty-Three and 92/100 (263.92) feet to the point of beginning.

EXHIBIT B
(Legal Description of Parcel B)

A certain lot or parcel of land situated on the northerly side of Warren Avenue in the City of Portland, County of Cumberland, and State of Maine, being all of the premises described in a deed from Bridgeside Associates to Wargate Associates dated December 1, 1994, and recorded in the Cumberland County Registry of Deeds in Book 11750, Page 307, as further conveyed by Wargate Associates to Older Brother LLC and Younger Brother LLC, as tenants in common, EXCEPTING, HOWEVER, that portion thereof that is described in Exhibit A to this instrument.