

2016 Internal Performance Guarantee

**PERFORMANCE GUARANTEE
with the City of Portland**

Developer's Tax Identification Number: 55-0829997

Developer's Name and Mailing Address: 1039 Riverside, LLC

Lot # 2 Second Tee Buisness Park Drive

1039 Riverside Street, Portland, Maine

City Account Number: 710-0000-233.98-01

Application ID #: #2016-055
(from Site Plan Application form)

Application of 1039 Riverside, LLC for the Lot # 2 Second Tee Business Park Project at 1039 Riverside Street, Portland, Maine.

The City of Portland (hereinafter the "City") will hold the sum of \$102,106.31 on behalf of 1039 Riverside, LLC in a non-interest bearing account established with the City. This account shall represent the estimated cost of installing Site Plan Improvements as depicted on the subdivision/site plan, approved on May 9, 2016 as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Applicant's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account in the event that:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the site plan approval, dated May 9, 2016; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Developer has failed to notify the City for inspections in conjunction with the installation of improvements noted in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option, either thirty days prior to the expiration date contained herein, or s/he may draw against this

2016 Internal Performance Guarantee

escrow for a period not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its representative, will give the City written notice, by certified mail (restricted delivery to the Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of this escrow within sixty (60) days prior thereto.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Works, and the Department of Planning and Urban Development, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the City to reduce the available amount of the escrowed money by a specified amount.

This Guarantee will automatically expire on **September 30, 2017** (“Expiration Date”) or on the date when the City determines that all improvements guaranteed by this Performance Guarantee are satisfactorily completed, whichever is later. At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to **1039 Riverside, LLC**. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the **Site Plan** approval, dated **May 9, 2016** as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the approved **Site Plan**.

2016 Internal Performance Guarantee

Seen and Agreed to:

By: 
1039 Riverside, LLC

Date: 10-3-16

By: 
**Planning Division Director

Date: 10/6/16

By: 
Development Review Coordinator

Date: 10/4/16

Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

Distribution

1. This information will be completed by Planning Staff.
2. The account number can be obtained by calling Kathy Ricker, ext. 8665.
3. The Agreement will be executed with one original signed by the Developer.
4. The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, together with a copy of the Report of Receipts form.
5. **Signature required if over \$50,000.00.
Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

PREPARED 10/06/16, 13:04:34
PROGRAM CR400L
CITY OF PORTLAND, ME

CASH EDIT LISTING

BATCH ID - DMK 10/06/16 00 OVER THE COUNTER DRAWER #: 1

RECEIPT	TOTAL PAYMENT	CUSTOMER	LOCATION NAME/ADDRESS	CUST TP	DETAIL AMOUNT	PT	SV +- LIEN +- TM	CHECK#	TOTAL TENDERED
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0047851	102106.31	GM-MISC (NEED ACCT #)			102106.31	GM			102106.31
CR=71000002339801		2017 Performance Guarante			/ 1039	RI			

CK PG #2016-055

ERROR / WARNING MESSAGES

BATCH ID - DMK 10/06/16 00 OVER THE COUNTER DRAWER #: 1

DETAIL TOTALS

PYMT TYPE	DESCRIPTION	COUNT	AMOUNT	ZERO/VOID COUNT	NON-CASH AMOUNT
GM	GM-MISC (NEED ACCT #)	1	102,106.31	0	
TENDER METHOD	DESCRIPTION	COUNT	TENDERED AMOUNT	TENDERED AMOUNT	NON-CASH AMOUNT
CK	CHECK	1	102,106.31	102,106.31	102,106.31
	TENDERED TOTAL		102,106.31	NON-CASH TOTAL	102,106.31
	CHANGE		.00	CASH IN DRAWER	.00
	GRAND TOTAL		102,106.31	GRAND TOTAL	102,106.31

ENDORSEMENT

CODES	DESCRIPTION	COUNT	AMOUNT
**	DEFAULT ENDORSEMENT . . .	1	102,106.31

BANK CODE TOTALS

CODE	DESCRIPTION	AMOUNT
00	DEFAULT BANK CODE	102,106.31

VOIDED OR ZERO RECEIPTS

0	ENTERED TOTAL	.00
0	COMPUTED NON-ZERO RCPTS	.00
1	COMPUTED NON-ZERO RCPTS	102,106.31

**** OUT OF BALANCE ****

1039 Riverside, LLC

C/O Bibeau & Company, Inc
340 Fore Street
Portland, ME 04101
(207) 772-5161



Bank

America's Most Convenient Bank®

52-7445/2112

2603

9/28/2016

BY
ORDER OF

City of Portland, ME

\$ **102,106.31

One Hundred Two Thousand One Hundred Six and 31/100 ***** DOLLARS

Security features included. Details on back.



City of Portland Maine
389 Congress St
PO Box 544
Portland, ME 04112-0544

EMO

Attention Philip DiPierro - Planning Department



VOID AFTER 90 DAYS
[Signature]

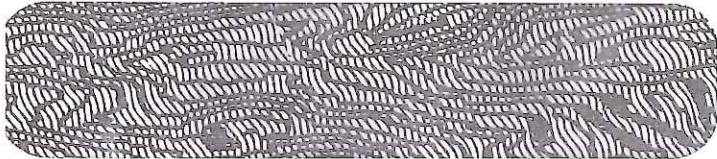
AUTHORIZED SIGNATURE

MP

⑈002603⑈ ⑆211274450⑆ 0240801317⑈

ED TO SEAL

lot 2
1067 Riverside St





Tuck O'Brien
City Planning Director, Planning Division

May 9, 2016

Bob Gaudreau, 1039 Riverside LLC
c/o Hardy Pond Construction
7 Tee Drive
Portland, ME 04103

Stephen R. Bushey, PE
Stantec
778 Main Street, Suite 8
South Portland, ME 04106

Project Name: **Lot #2 Second Tee Business Park (1039 Riverside Street) – new building**
Project ID: #2016-055
Address: Unit #2- 1067 Riverside Street (also accessed from Tee Drive)
CBL: 331 A001 002
Applicant: 1039 Riverside LLC
Planner: Jean Fraser

Dear Sirs:

On May 9, 2016, the Planning Authority approved with conditions a Level II site plan for the construction of a 7,500 sq ft building with 15 parking spaces, for Lot #2 in the Second Tee Business Park. The decision is based upon the application, documents and plans as submitted by the applicant and prepared by Stantec Consulting Services Inc. (C-1 to C-10 dated 5.4.2016) and Elevations A-2 dated 4.26.2016 by Biskup Construction Inc. The proposal was reviewed for conformance with the standards of Portland's site plan ordinance.

SITE PLAN REVIEW

The Planning Authority found the plan is in conformance with the Site Plan Standards of the Land Use Code subject to the following conditions of approval and the standard conditions of approval:

- i. That if the at-grade overhead door opening directly onto Tee Drive is to be used frequently, the parking spaces on Tee Drive shall be removed and similar pavement markings to that used at the loading dock entrance shall be installed; and
- ii. That the roof line drip strip filter cannot be paved over or altered in any way and that no gutter may be installed on the roof line, as per Chapter 7.6 of Volume III of the MaineDEP Stormwater BMP Manual; and
- iii. Storm Water Management: The developer/contractor/subcontractor shall comply with conditions of the submitted construction *Stormwater Inspection and Maintenance Manual for Stormwater Management and Related Stormwater Facilities Unit 2* dated April 2016 and prepared by Stantec consulting Services, Inc., which shall be amended to include the roof line drip strip prohibitions referenced in Condition ii, and based on City standards and state guidelines. The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

- iv. The stormwater maintenance agreement for the stormwater drainage system, as submitted on April 15, 2016, shall have attached the Recorded Fourth Amended Plat; Plan C-5 and the *Stormwater Inspection and Maintenance Manual for Stormwater Management and Related Stormwater Facilities Unit 2* (April , 2016) and shall be signed and recorded prior to the issuance of a building permit with a copy to the Department of Public Works and to the Planning Division.
- v. That the applicant shall submit the City of Portland Water District confirmation of ability to serve, prior to the issuance of a building permit; and
- vi. That separate permits from the Inspections Division shall be required for any new or revised signage.

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

Please note that any proposed development of the two undeveloped lots within this subdivision (Lots #1 and #15) are subject to review under Site Plan (Level II). The Site Plan applications would need to include traffic information showing whether or not they require a Traffic Movement Permit, and would need to meet current site plan standards (whether or not the footprint is changed from that shown on the plat).

STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Works Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
5. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
6. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Work's representative and owner to review

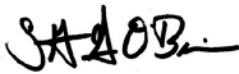
the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

7. **Department of Public Works Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
8. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at (207) 874- 8728, or at jf@portlandmaine.gov

.Sincerely,



Stuart O'Brien
Planning Division Director

Attachments:

1. Chapter 32 – Storm Water
2. Performance Guarantee Packet

Electronic Distribution:

cc

Jeff Levine, AICP, Director of Planning and Urban Development
Stuart O'Brien, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Jean Fraser, Planner
Philip DiPierro, Development Review Coordinator, Planning
Ann Machado, Zoning Administrator, Inspections Division
Tammy Munson, Inspections Division Director
Jonathan Rioux, Inspections Division Deputy Director
Jeanie Bourke, Plan Reviewer/CEO, Inspections Division
Brad Saucier, Administration, Inspections Division
Katherine Earley, Engineering Services Manager, Public Works
Bill Clark, Project Engineer, Public Works
David Margolis-Pineo, Deputy City Engineer, Public Works
Doug Roncarati, Stormwater Coordinator, Public Works

Greg Vining, Associate Engineer, Public Works
Michelle Sweeney, Associate Engineer
John Low, Associate Engineer, Public Works
Rhonda Zazzara, Field Inspection Coordinator, Public Works
Mike Farmer, Project Engineer, Public Works
Jane Ward, Administration, Public Works
Jeff Tarling, City Arborist
Jeremiah Bartlett, Public Works
Keith Gautreau, Fire Department
Jennifer Thompson, Corporation Counsel
Thomas Errico, P.E., TY Lin Associates
David Senus, P.E., Woodard and Curran
Rick Blackburn, Assessor's Department
Approval Letter File