

**CITY OF PORTSMOUTH**

**LEGAL DEPARTMENT**

**MEMORANDUM**

DATE: JUNE 16, 2019  
TO: JULIET T.H. WALKER, PLANNING DIRECTOR  
FROM: TREVOR P. MCCOURT, STAFF ATTORNEY  
RE: PLANNING BOARD AGENDA ITEM  
PLEASANT STREET SIDEWALK EASEMENT  
FROM PORTSMOUTH HOUSING AUTHORITY

---

The Department of Public Works has been improving the sidewalks on Pleasant Street, including the sidewalk in front of the Portsmouth Housing Authority (PHA) building at 444 Pleasant Street. Over the course of completing these improvements, City surveyors discovered a 566 square foot of the sidewalk was not within the public right of way. PHA has agreed to convey this small parcel of land in order to clear the City's chain of title.

The Legal Department has reviewed the form of the easement, and the final version is attached along with the Easement Plan.

**Proposed Motion:** Recommend that the City Council authorize the City Manager to accept a sidewalk easement over land at 444 Pleasant Street from Portsmouth Housing Authority (Tax Map 102 Lot 54).

Attachments

cc: Dave Desfosses, Project Manager  
Robert P. Sullivan, City Attorney  
Suzanne M. Woodland, Deputy City Attorney

Return To:  
Legal Department  
City Hall  
1 Junkins Ave.  
Portsmouth, NH 03801

### **SIDESWALK EASEMENT DEED**

The Portsmouth Housing Authority, a body corporate created by law, with a mailing address of 245 Middle Street, Portsmouth, County of Rockingham, State of New Hampshire 03801, hereinafter "Grantor," for consideration paid, grants to the **CITY OF PORTSMOUTH**, a municipal body politic, having a mailing address of 1 Junkins Avenue, Portsmouth, New Hampshire 03801, hereinafter, "Grantee," with QUITCLAIM COVENANTS, the following easement with respect to Grantor's real property situate on the south side of Pleasant Street and currently addressed as 444 Pleasant Street in the City of Portsmouth, State of New Hampshire :

1. **Permanent Easement Area:** A permanent easement for the purpose of maintaining, repairing, and replacing a public sidewalk over the area ("Permanent Easement Area") on the land of Grantor, being a 566 square foot sidewalk easement located on the southerly side of Pleasant Street at the intersection of Marcy Street in the City of Portsmouth, County of Rockingham, State of New Hampshire. Said easement being shown on a plan entitled "Tax Map 102 Lot 54 Sidewalk Easement Plan Portsmouth Housing Authority 444 Pleasant Street Portsmouth, New Hampshire, County of Rockingham Owned by Portsmouth Housing Authority" prepared by MSC, a division of TFMoran, Inc. dated October 28, 2019 with revision 1 dated 2/18/2020 and is recorded at the Rockingham County Registry of Deeds as Plan # \_\_\_\_\_. Said Easement lays within a portion of land now or formerly owned by Portsmouth Housing Authority recorded at the Rockingham County Registry of Deeds (the "Registry") at Book 1621 Page 43 and is bounded northerly by land now or formerly of the City of Portsmouth recorded at the Registry at Book 1637 Page 140 and northeasterly and southeasterly by the southerly sideline of Pleasant Street and is more particularly described as follows:

BEGINNING at an iron rod, said iron being located S65°29'22"E a distance of 58.76 feet from an iron rod in the easterly line of land now or formerly of 428 Pleasant Street Condominium recorded at the Registry at Book 5566 Page 679, at the northwest corner of said land of Portsmouth Housing Authority and the southwest corner of said land of the City of Portsmouth, said iron rod being located S 25°39'20" W 10.00 feet from a granite

post at the northwest corner of said land of the City of Portsmouth in the said southerly sideline of Pleasant Street; thence along said land of the City of Portsmouth S 65°29'22" E a distance of 51.67 feet to a spike in the pavement; thence along said Pleasant Street the following three courses:

S 46°34'57" E a distance of 22.62 feet to a drill hole in the brick sidewalk;

S 41°03'54" E a distance of 64.99 feet to a drill hole in the brick sidewalk near South Mill Pond; thence

S 71°48'29" W a distance of 2.67 feet to a point at a concrete retaining wall near South Mill Pond, said point being located N 71°48'29" E a distance of 26.46 feet from an iron rod;

thence through said land of Portsmouth Housing Authority the following three courses:

N 37°36'12" W a distance of 34.67 feet to an iron rod;

thence along a non-tangent curve to the left with a radius of 88.79 feet, an arc length of 35.36 feet, a chord bearing of N 49°13'51" W and a chord length of 35.13 feet to an iron rod;

N 61°03'54" W a distance of 66.39 feet to an iron rod;

thence N 27°51'05" E a distance of 4.85 feet to the point of BEGINNING....containing 566 square feet, more or less.

2. **Purpose and Rights:** The Grantee shall have a permanent and exclusive easement and right of way in, under, across and over the Permanent Easement Area for the purpose of installing and maintaining a public sidewalk. The Grantee shall have the right to remove trees, bushes, undergrowth and other obstructions interfering with the activities authorized herein and to take such other actions as may be necessary, useful or convenient for the enjoyment of the easement rights herein granted. The Grantee shall have exclusive responsibility for maintaining the public sidewalk.
3. **Grantee's Responsibility to Restore:** Disturbed areas within the Temporary Easement Area shall be restored at the Grantee's expense.
4. **Grantor's Retained Rights:** Grantor retains the right to freely use and enjoy its interest in the Permanent Easement Area and the Temporary Easement Area insofar as the exercise thereof does not endanger or interfere with the purpose of this instrument. Grantor shall not, however, erect any building, shed, deck or other structure within the Permanent Easement Area or change the grade or slope. Grantor shall not install any pipes under Permanent Easement Area without prior written consent of the Grantee.
5. **Personal Property.** It is agreed that any facilities installed by the Grantee within the Permanent Easement Area, whether fixed to the realty or not, shall be and remain the property of the Grantee.
6. **Easement to Run with Land:** All rights and privileges, obligations and liabilities created by this instrument shall inure to the benefit of, and be binding upon, the heirs, devisees, administrators, executor, successors and assignees of the Grantee and of the Grantor, the parties hereto and all subsequent owners of the Premises and shall run with the land.

MEANING AND INTENDING to convey an easement over a portion of the premises conveyed to the within Grantor by deed of John H. Hodgdon and Goldie W. Hodgdon dated April 9, 1962 and recorded in Book 1621, Page 43 of the Rockingham County Registry of Deeds.

This is an exempt transfer per RSA 78-B:2(I).

DATED this 11 day of June, 2020.

PORTSMOUTH HOUSING AUTHORITY

By: Craig W. Welch  
Print: Craig W. Welch  
Its: Executive Director

STATE OF NEW HAMPSHIRE  
COUNTY OF Rockingham

The foregoing instrument was acknowledged before me this 11 day of June, 2020.

Mary A. Kelliher  
Justice of the Peace/Notary Public  
Printed Name: Mary Kelliher  
My Commission Expires: 08/28/2024

**MARY A. KELLIHER**  
**NOTARY PUBLIC**  
**State of New Hampshire**  
**My Commission Expires**  
**August 28, 2024**

CITY OF PORTSMOUTH

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Its: \_\_\_\_\_

Authorized by vote of City Council on \_\_\_\_\_

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

Personally appeared the above-named \_\_\_\_\_ as \_\_\_\_\_ of the City of  
Portsmouth, and acknowledged the foregoing instrument to be her free act and deed in  
his/her said capacity, before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

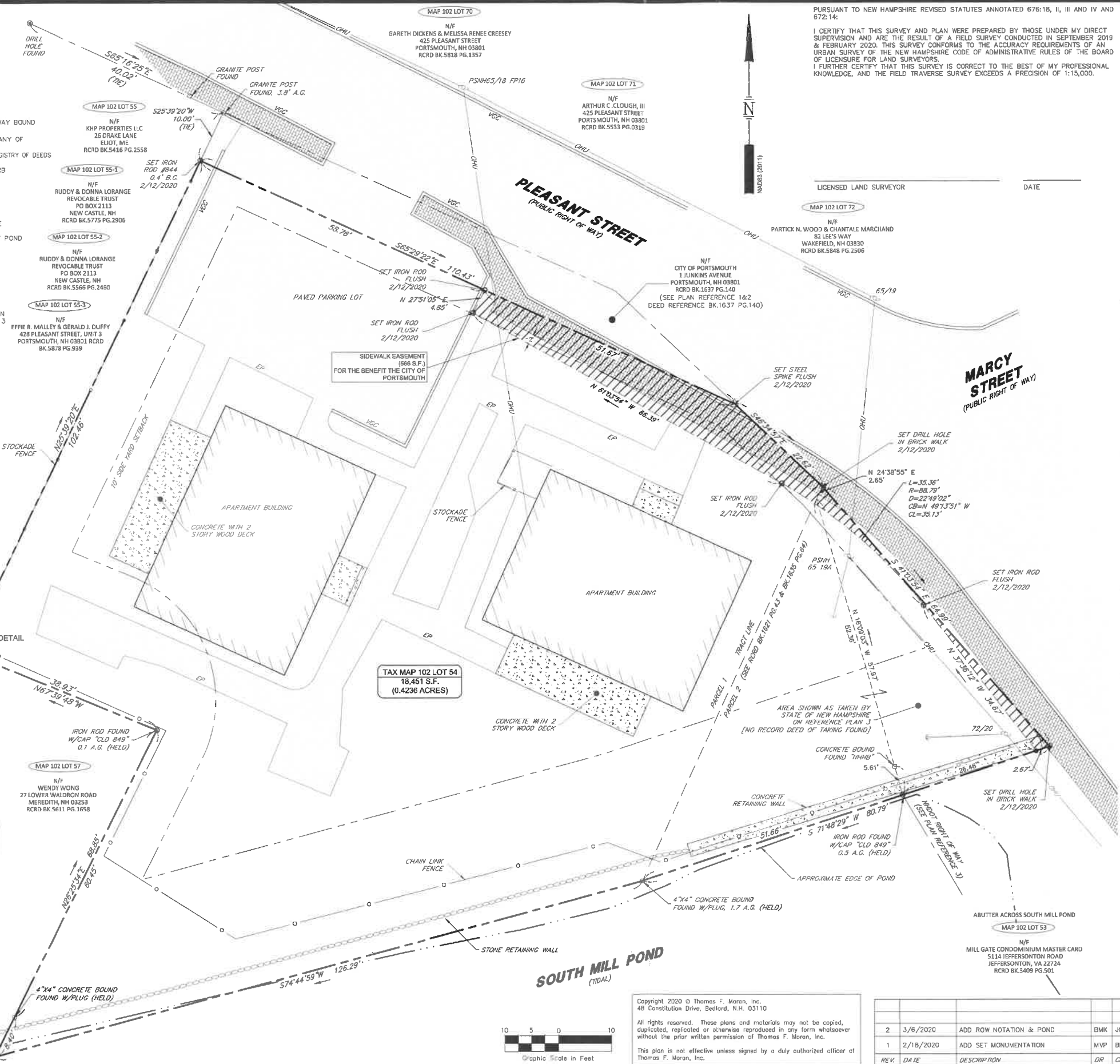
\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**LEGEND:**

- MAP 13 LOT 68
- A.C. ABOVE GRADE
- B.G. BELOW GRADE
- BK. PG. BOOK / PAGE
- CL. CHORD LENGTH
- CB. CHORD BEARING
- D. DELTA
- EP. EDGE OF PAVEMENT
- R. RADIUS
- L. ARC LENGTH
- NH-HB. NEW HAMPSHIRE HIGHWAY BOUND
- N/F. NOW OR FORMERLY
- PSNH. PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
- RCRD. ROCKINGHAM COUNTY REGISTRY OF DEEDS
- S.F. SQUARE FEET
- VGC. VERTICAL GRANITE CURB
- U. UTILITY
- UW. UTILITY WIRE
- UL. UTILITY POLE
- AL. ABUTTER LINE
- PL. PROPERTY LINE
- CF. CHAINLINK FENCE
- OF. OVERHEAD UTILITY LINE
- SW. STONEWALL
- AP. APPROXIMATE EDGE OF POND

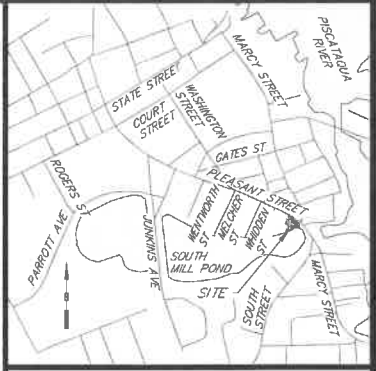
- CONCRETE
- EASEMENT
- AREA SHOWN AS TAKEN PER REFERENCE PLAN 3
- BRICK WALK
- PAVEMENT

- MAP 102 LOT 55
- N/F KHP PROPERTIES LLC  
26 DRAKE LANE  
ELIOT, ME  
RCRD BK.5416 PG.2558
- MAP 102 LOT 55-1
- N/F RUDDY & DONNA LORANGE  
REVOCABLE TRUST  
PO BOX 2113  
NEW CASTLE, NH  
RCRD BK.5775 PG.2906
- MAP 102 LOT 55-2
- N/F RUDDY & DONNA LORANGE  
REVOCABLE TRUST  
PO BOX 2113  
NEW CASTLE, NH  
RCRD BK.5566 PG.2460
- MAP 102 LOT 55-3
- N/F EFFIE R. MALLEY & GERALD J. DUFFY  
428 PLEASANT STREET, UNIT 3  
PORTSMOUTH, NH 03801  
RCRD BK.3878 PG.939



PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 676:16, II, III AND IV AND 672:14:  
I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY THOSE UNDER MY DIRECT SUPERVISION AND ARE THE RESULT OF A FIELD SURVEY CONDUCTED IN SEPTEMBER 2019 & FEBRUARY 2020. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS.  
I FURTHER CERTIFY THAT THIS SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, AND THE FIELD TRAVERSE SURVEY EXCEEDS A PRECISION OF 1:15,000.

LICENSED LAND SURVEYOR DATE



**LOCATION PLAN**

**NOTES:**

1. THE PARCEL IS LOCATED IN THE GENERAL RESIDENCE B (GRB) ZONING DISTRICT AND THE HISTORIC OVERLAY DISTRICT.
2. THE PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 102 AS LOT 54.
3. THE PARCEL IS LOCATED IN ZONE X AND AE (EL-9), AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM (NFIP), FLOOD INSURANCE RATE MAP (FIRM) ROCKINGHAM COUNTY, NEW HAMPSHIRE, PANEL 259 OF 681, MAP NUMBER 3301500259E, WITH AN EFFECTIVE DATE OF MAY 17, 2008.
4. **DIMENSIONAL REQUIREMENTS:**  

MINIMUM LOT DIMENSIONS:	REQUIRED:
LOT SIZE:	5,000 S.F.
LOT AREA PER DWELLING UNIT:	5,000 S.F.
CONTINUOUS STREET FRONTAGE:	80'
LOT DEPTH:	60'
<b>MINIMUM YARD DIMENSIONS:</b>	
FRONT:	5'
SIDE:	10'
REAR:	25'
<b>MAXIMUM STRUCTURE DIMENSIONS:</b>	
STRUCTURE HEIGHT: (SLOPED ROOF)	35'
(FLAT ROOF)	30'
BUILDING COVERAGE:	30%
MINIMUM OPEN SPACE:	25%
5. OWNER OF RECORD:  
MAP 102 LOT 54:  
PORTSMOUTH HOUSING AUTHORITY  
245 MIDDLE STREET  
PORTSMOUTH, NH 03801  
RCRD BK.1621 PG.43
6. PARCEL AREA:  
MAP 102 LOT 54:  
18,451 S.F.  
(0.4236 ACRES)
7. THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF BOUNDARIES IN ACCORDANCE WITH THE CURRENT LEGAL DESCRIPTIONS. IT IS NOT AN ATTEMPT TO DEFINE THE EXTENT OF OWNERSHIP OR DEFINE THE LIMITS OF TITLE.
8. THE PURPOSE OF THIS PLAN IS TO SHOW THE BOUNDARY LINES AND THE SIDEWALK EASEMENT FOR THE BENEFIT OF THE CITY OF PORTSMOUTH.
9. FIELD SURVEY COMPLETED BY TODD C. EMERSON IN USING A TOPCON DS10J AND A TOPCON FC-5000 DATA COLLECTOR IN SEPTEMBER 2019 & FEBRUARY 2020.
10. HORIZONTAL DATUM IS NAD83 (2011) PER STATIC GPS OBSERVATIONS.
11. EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN OR IDENTIFIED ARE THOSE WHICH WERE FOUND DURING RESEARCH PERFORMED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.

**PLAN REFERENCES:**

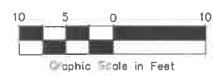
1. "PROPERTY LINE MAP SITE 'B' PORTSMOUTH HOUSING AUTHORITY, PORTSMOUTH, ROCKINGHAM COUNTY, NEW HAMPSHIRE" BY WRIGHT & PIERCE, C.E., PORTSMOUTH, N.H. FILED DATE APRIL 9, 1962. RCRD PLAN# 03310.
2. "BOUNDARY PLAN PORTSMOUTH HOUSING AUTHORITY TAX MAP U-2/LOT 54 444 PLEASANT STREET PORTSMOUTH, NEW HAMPSHIRE" BY CLD CONSULTING ENGINEERS, INC. DATED FEBRUARY 2000. PLAN NOT RECORDED.
3. "STATE OF NEW HAMPSHIRE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS RIGHT-OF-WAY PLANS OF PROPOSED FEDERAL AIR PRIMARY PROJECT BRM-M-5379(009) N.H. PROJECT NO. C-2441-1-MARCY STREET" BY WRIGHT-PIERCE ARCHITECTS & ENGINEERS DATED JUNE 1983. ON FILE AT THE NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION.
4. "428 PLEASANT STREET CONDOMINIUM SITE & FLOOR PLAN FOR PROPERTY AT 428 PLEASANT STREET, PORTSMOUTH, ROCKINGHAM COUNTY, NEW HAMPSHIRE OWNED BY KHP PROPERTIES LLC" BY NORTH EASTERLY SURVEYING, INC. DATED OCTOBER 3, 2014. RCRD PLAN# D-38488.

TAX MAP 102 LOT 54  
**SIDEWALK EASEMENT PLAN**  
**PORTSMOUTH HOUSING AUTHORITY**  
444 PLEASANT STREET  
PORTSMOUTH, NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM  
OWNED BY  
**PORTSMOUTH HOUSING AUTHORITY**

SCALE: 1" = 10' (22x34)  
1" = 20' (11x17) OCTOBER 28, 2019

<b>TFM</b>	<b>MSC</b>	Civil Engineers	170 Commerce Way, Suite 102
		Structural Engineers	Portsmouth, NH 03801
		Traffic Engineers	Phone (603) 431-2222
		Land Surveyors	Fax (603) 431-0910
		Landscape Architects	www.tfmoran.com
		Scientists	
A Division of TFMoran, Inc.			
FILE #	DR	EJS	FB
47239-01	CK	JCC	CADFILE
			561
			47239-01
			S-1

Copyright 2020 © Thomas F. Moran, Inc.  
48 Constitution Drive, Bedford, N.H. 03110  
All rights reserved. These plans and materials may not be copied, duplicated, replicated or otherwise reproduced in any form whatsoever without the prior written permission of Thomas F. Moran, Inc.  
This plan is not effective unless signed by a duly authorized officer of Thomas F. Moran, Inc.



Mar 06, 2020 - 4:47pm  
 F:\MSC Projects\47239 - Pleasant St - Portsmouth\47239-01 - City of Portsmouth DPW - Pleasant St\Carlson Survey\DWG\47239-01 survey.dwg

