

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH

DATE: MONDAY, MAY 1, 2023

TIME: 5:30PM

*Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

[https://us06web.zoom.us/webinar/register/WN\\_DOXqsut5SHWzqrd5eJBXPg](https://us06web.zoom.us/webinar/register/WN_DOXqsut5SHWzqrd5eJBXPg)

**5:30PM - ANTICIPATED NON-PUBLIC SESSIONS ARE BEING HELD IN CONFERENCE ROOM A**

1. COLLECTIVE BARGAINING AGREEMENT – RSA 91-A:3, II (a)

2. CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3, II (I)

## AGENDA

*\*Regular portion of City Council meeting to begin at 7:00 p.m.*

- I. **WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION** [when applicable – every other regularly scheduled meeting] – **N/A**
- III. **CALL TO ORDER** [7:00 p.m. or thereafter]
- IV. **ROLL CALL**
- V. **INVOCATION**
- VI. **PLEDGE OF ALLEGIANCE**

### PROCLAMATION

1. Jewish American Heritage Month

- VII. **ACCEPTANCE OF MINUTES – APRIL 3, 2023 CITY COUNCIL MEETING**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION** (*This session shall not exceed 45 minutes*) – (*participation may be in person or via Zoom*)
- X. **PUBLIC HEARINGS AND VOTE ON ORDINANCES AND/OR RESOLUTIONS**

### Public Hearing/Second Reading of Ordinance:

- A. Public Hearing/Second Reading of Ordinance amending Chapter 10 – Accessory Dwelling Unit, Section 10.430 – Use Regulations – Use is permitted by right through Administrative Approval, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts – Administrative Approval, Section 10.814 – Accessory Dwelling Units – Purpose and Eligibility, Section 10.814.40 – Additional Standards for Detached Accessory Dwelling Units, Section 10.814.50 – Architectural Design Standards, Section 10.814.60 – Review and Approval Process, Section 10.814.70 – Post-Approval Requirements, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking – Location of Parking Facilities on a Lot, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability – Accessory Building or Structure, Accessory Dwelling Unit (ADU), Deletion of Garden Cottage and Addition of Gross Living Area (GLA)

- PRESENTATION
- CITY COUNCIL QUESTIONS
- PUBLIC HEARING SPEAKERS
- ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

*(Sample motion – move to pass second reading and hold third and final reading at the May 15, 2023 City Council meeting)*

Third and Final Reading of Ordinance:

- B. Third and Final Reading of Ordinance amending Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term *(Sample motion – move to pass third reading of the ordinance as presented)*

**XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION**

**A. CITY MANAGER CONARD**

**City Manager’s Items Which Require Action:**

1. Report Back on Negotiated Sale Process and Fair Market Value for Acquisition of McIntyre Property *(Sample motions: 1) move to authorize the City Manager to communicate to the GSA that the City is not interested in participating in a negotiated sale process; or 2) move to authorize the City Manager to communicate to the GSA that the City is interested in participating in a negotiated sale process and is prepared to commit to taking the necessary procedural steps in the next ninety days to borrow the sum of up to \$25 million for the purchase price)*
2. \*Approval of License Agreement with GSA *(Sample motion – move to authorize the City Manager to execute the proposed license agreement with GSA)*
3. Resolution for the Authorization for Transfer of Balance of Bond Proceeds After Completion of the Project
4. Month-to-Month South Meeting House Lease Agreement for Portsmouth Public Media, Inc. (PPMtv)
5. Bicycle Pedestrian Path Easement for Property Located at 2255 Lafayette Road

**XII. CONSENT AGENDA**

*(Proper Motion for Adoption of Consent Agenda – move to adopt the Consent Agenda)*

- A. Request from Joe Kelley, Thirsty Moose Taphouse, to install a Projecting Sign at 15 Congress Street *(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability Director, and further, authorize the City Manager to execute the License Agreement for this request)*

**Planning Director’s Stipulations:**

- *The license shall be approved by the Legal Department as to content and form;*

- ***Any removal or relocation of projecting sign, for any reason, shall be done at to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

B. Request from Aaron Smith, Salud LLC, to install a Projecting Sign at 90 Fleet Street (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability Director, and further, authorize the City Manager to execute the License Agreement for this request***)

**Planning Director’s Stipulations:**

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of projecting sign, for any reason, shall be done at to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

C. Request from Alex Budd, OTTO Portsmouth, to install a Projecting Sign at 110 Brewery Lane (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability Director, and further, authorize the City Manager to execute the License Agreement for this request***)

**Planning Director’s Stipulations:**

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of projecting sign, for any reason, shall be done at to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

D. Letter from Tina Sawtelle, The Music Hall, requesting permission for the closure of Chestnut Street on Friday, May 12, 2023 for TEDxPortsmouth and Tuesday, May 16, 2023 for Primex3 Making Waves Summit (***Anticipated action – move to refer to the City Manager with Authority to Act***)

- E. Letter from Allan Scholtz, Portsmouth Professional Firefighters Local 1313, requesting permission to hold a boot drive for Muscular Dystrophy Association on Saturday, August 12, 2023 (***Anticipated action – move to refer to the City Manager with Authority to Act***)

### **XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS**

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Letter from Tom Taylor, Honored American Veterans Afield (HAVA), requesting permission to reserve space at the Prescott Park Dock on July 12, 2023 for event to promote awareness of veterans' mental health & suicide issue

### **XIV. MAYOR McEACHERN**

1. Reappointments to be Voted to the Cemetery Committee
  - Eva Boice
  - Celeste Brooks
  - Deirdre (Dee) Forte
  - Michael Griffin
  - Duncan MacCallum
  - Sue Polidura
  - Susan Sterry
2. Appointment to be Considered:
  - Peter Splaine to the Cemetery Committee
3. Acceptance of Resignations
  - Jason Huett from the Cable and Broadband Internet Commission (***Sample motion – move to accept with regret and to send a letter of thanks and appreciation for his service to the city***)
  - Dave McDonald from the Zoning Board of Adjustment (***Sample motion – move to accept with regret and to send a letter of thanks and appreciation for his service to the city***)

### **XV. CITY COUNCIL MEMBERS**

#### **A. COUNCILOR DENTON**

1. Climate Action Plan Event Flier

#### **B. COUNCILOR COOK**

1. Donation Policy (***Postponed from the April 3, 2023 City Council meeting***) (***Sample motion – move to adopt the amended policy as presented***)
2. \*Review and Recommend Changes to Parking Requirements in City Ordinance (***Sample motion – move to request a review by the Land Use and the Parking, Traffic & Safety Committees of the City parking requirements, and request a report back by the August 7<sup>th</sup> City Council meeting on recommendations that would increase housing affordability and reduce dependency on motor vehicles***)



**XVI. APPROVAL OF GRANTS/DONATIONS**

*(There are no items under this section of the agenda this evening)*

**XVII. CITY MANAGER'S INFORMATIONAL ITEMS**

1. \*Pease Development Authority Update

**XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

**XIX. ADJOURNMENT [at 10:30 p.m. or earlier]**

*\*Indicates verbal report*

**KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK**

**The Council Chambers**  
**City Hall**  
**Portsmouth, New Hampshire**

**A Proclamation**

- Whereas:** Jewish American Heritage Month was created in 2006 and, since 2007, Presidents Bush, Obama, Trump, and Biden have all issued proclamations which celebrate Jewish Americans and encourage all Americans to learn more about Jewish heritage and contributions to the United States; and
- Whereas:** The American Jewish community dates back to 1654 when a group of 23 Jews fleeing persecution at the hands of the Portuguese Inquisition found refuge in New Amsterdam (now New York); and
- Whereas:** According to local history, the City's first Jewish family – Abraham and Rachel Isaac – settled in Portsmouth around 1780 after arriving in America from Prussia; and
- Whereas:** One of the oldest continuing Jewish congregations in NH was founded in Portsmouth in 1905, after the Russian-Jewish community had welcomed Russian diplomats attending the Portsmouth Peace Treaty negotiations despite the pogroms at home that had driven their families to flee to the US; and
- Whereas:** During the City's 400<sup>th</sup> anniversary, Portsmouth is reaffirming the motto, "The City of the Open Door," first adopted in 1923 at a time of social unrest and discriminatory nationalist movements including the rise of the KKK, but a time the community thought it important to proclaim Portsmouth to be a place where all were welcome; and
- Whereas:** Today, in the face of similar nationalist threats, the City Council more than once has made formal statements opposing hate and the community has declared together that "Love Blooms Here;" and
- Whereas:** A recent survey found that 89% of Jewish respondents believe antisemitism is a problem in the U.S., and four in ten American Jews reported changing their behavior out of fear of antisemitism

Now, therefore, I, Deaglan McEachern, Mayor of the City of Portsmouth, on behalf of the members of the City Council and the citizens of Portsmouth, do hereby proclaim May 2023

***Jewish American Heritage Month***

And call upon our community to reaffirm our conviction that the strength of a society can be measured by how we protect our minority populations and celebrate their contributions. I encourage all citizens and residents to learn more about the heritage and contributions of Jewish Americans and to observe this month with appropriate programs, activities, and ceremonies.

Given with my hand and the  
Seal of the City of Portsmouth,  
on this 1st day of May 2023.



Deaglan McEachern, Mayor of Portsmouth

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, APRIL 3, 2023

PORTSMOUTH, NH  
TIME: 7:00PM

**On a unanimous voice vote 9-0, Assistant Mayor Kelley moved to close the Non-Public Session and seal the minutes. Seconded by Councilor Tabor and voted.**

### **III. CALL TO ORDER**

Mayor McEachern called the meeting to order at 7:05 p.m.

### **IV. ROLL CALL**

**PRESENT:** Mayor McEachern, Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Bagley, Lombardi, Blalock (7:10 p.m.) and Cook

### **V. INVOCATION**

Mayor McEachern asked everyone to join him in a moment of silent prayer.

### **VI. PLEDGE OF ALLEGIANCE**

Mayor McEachern led in the Pledge of Allegiance to the Flag.

### **PROCLAMATIONS**

#### 1. Volunteer Appreciation Month

Mayor McEachern read the Proclamation declaring April as Volunteer Appreciation Month and urged all citizens to celebrate the essential contributions of citizen volunteers to the past, present, and future of Portsmouth.

#### 2. Sexual Assault Awareness Month

Assistant Mayor Kelley read the Proclamation that declared April as Sexual Assault Awareness Month in Portsmouth and called upon the residents to learn more about this problem, the help available to victims and how to be part of the solution to ending this tragedy.

### **VII. ACCEPTANCE OF MINUTES – FEBRUARY 6, 2023; FEBRUARY 21, 2023; MARCH 6, 2023 AND MARCH 20, 2023**

**Assistant Mayor Kelley moved to accept and approve the minutes of the February 6, 2023, February 21, 2023, March 6, 2023, and March 20, 2023 City Council meetings. Seconded by Councilor Bagley and voted.**

### **VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

#### A. Mortimer Scholarship Funds

Mayor McEachern recognized William “Bill” Mortimer for his years of service to this community, and the generous gift recently received from his family. He spoke to the two Scholarship funds administered by the Trustees of Trust Funds, The William and Irene Mortimer Scholarships. He reported that the Trustees received a bequest from Bill’s estate of nearly \$912,000.00. Mayor McEachern said we hope that Bill’s record of service and generosity of spirit will inspire others to give to the scholarship funds.

B. Great Bay Community College Men's Basketball Team – United State Collegiate Athletic Association Final Four Appearance

Mayor McEachern recognized the achievement of Great Bay Community College's Men's Basketball Team, for having their best season in program history. He stated after making it to the conference finals, they finished the season winning 22 games, and then moved on to a national tournament run and into the Final Four of the United States Collegiate Athletic Association (USCAA). Mayor McEachern acknowledged Theodore Wolfe who was named to the USCAA All-Academic Team, and Kingsley Breen named to the USCAA All American 2<sup>nd</sup> team, and both were named YSCC All Conference players. He stated the season continued to produce firsts in program history for the Herons as Alex Burt was voted USCAA National Coach of the Year! He said it is truly a shining example of the quality of our Community College here in Portsmouth.

Cheryl Lesser, President of GBCC, addressed the City Council and said this is a history making event and the college rallied around the team. She expressed that these students are all role models for working together.

Coach Burt said the team strengthens the bond and relationships on the floor and at the school.

## IX. PUBLIC COMMENT SESSION

Irish Mike spoke to the safety of children in our schools and how you can walk into these buildings without metal detectors. He stated we need to do better because schools are soft targets.

Sue Sterry addressed flash vote and asked who will oversee the program and how will the city know the people that sign up are residents. She also asked how the city will know there is not a voting block to influence what will happen in the city and feels there needs to be more information provided to the residents.

Dave Cosgrove said the Skateboard Park Committee acknowledges the hard work and information put out to bid on the park by the city. He stated this is a critical need for the community and children as well as adults. He said the park is vital to the residents and expressed his support for additional funding to be approved by the City Council to move the project forward. He also spoke regarding lighting for the park being a critical component.

Amy Mae Court spoke to the various events held by the Skateboard Park Committee to raise funds for the lighting. She said that a fundraiser and festival will be held to lessen the additional funding needed for the lights at the park. She stated that lights are for the safety of the park and its users.

Rich DiPentima spoke to the recent rail derailments that have occurred in the United States. He said the trains that come through our city are located in compacted areas and if an event was to occur it would be a serious accident that might require evacuation up to 1 mile of the incident. He stated there is a plan in place, but we need to make sure that the plans have been updated with the new developments in the city. He urged the City Council to make sure the plans are updated, and that the city can respond to the public as necessary.

Liza Hewitt asked why the public hearing on the Accessory Dwelling Unit Ordinance is being derailed. She said the process is not being followed and the suggested changes by the City Council were to be part of the packet. She asked why it is necessary to hold a work session prior to the public hearing. She said the work session should include the Planning Board as well as the City Council.

Petra Huda spoke regarding why there was not a public hearing this evening regarding the Accessory Dwelling Unit Ordinance. She asked why we are putting amendments forward without being part of the public hearing that was due to take place this evening. She spoke to community power and asked when the city will start getting consent from residents to release data. She said the process needs to be followed and all data from residents needs to be secure.

Jim Hewitt stated that the Planning Board has never approved the Workforce Housing Covenant for 2454 Lafayette Road. He urged the City Council not to approve the covenant.

Esther Kennedy spoke in support of the Skateboard Park and the funding for the lighting. She said that there have been hundreds of meetings regarding the Accessory Dwelling Units and asked why we are making changes and not moving forward with the public hearing for this evening.

Paige Trace congratulated the Water and Sewer Departments for the award of the \$35 million dollar grant for Peirce Island Wastewater Treatment Facility Upgrade. She asked how much the grant would affect the water and sewer bills and what if any percentage will decrease resident's bills. She thanked City Manager Conard and City Attorney Morrell for their comments on McIntyre. She asked the city to proceed with caution with McIntyre.

Francis Cormier spoke regarding what democracy looks like now compared to in the past.

Julia Sinelnikova (via zoom), New York, spoke regarding the Portsmouth 400NH sculpture and her design that was submitted. She stated that her design was plagiarized and demanded that the process start over.

**Councilor Cook moved to suspend the rules to bring forward XIII.C. – Letter from Julia Sinelnikova regarding PNH400 artwork. Seconded by Assistant Mayor Kelley and voted.**

### **XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS**

#### **C. Letter from Julia Sinelnikova regarding PNH400 artwork**

**Councilor Cook moved to suspend the rules to allow Valerie Rochon, Managing Director, Portsmouth NH 400<sup>th</sup>, Inc. to speak on the PNH400 Sculpture. Seconded by Councilor Moreau and voted.**

Valerie Rochon, Managing Director, Portsmouth NH 400<sup>th</sup>, Inc., provided a thorough review of the process. She reported that the Review Team reviewed all 47 proposals from 35 artists and evaluated them based on the criteria outlined in the RFP. She stated that seven artists were interviewed and were asked for additional information. Managing Director Rochon said Sijia Chen was the artist selected and her concept rose to the top in all categories. She then read a statement from Ms. Chen regarding her sculpture *Endeavor* based on Portsmouth's maritime history and culture, which she researched extensively.

Councilor Bagley said the artists have different artworks and he stands behind the committee and the artist selected.

**Councilor Blalock moved to place Item XIII. C. on file. Seconded by Councilor Tabor and voted.**

**Assistant Mayor Kelley moved to suspend the rules to bring forward Item XVII.1. – McIntyre Update. Seconded by Councilor Blalock and voted.**

## **XVII. CITY MANAGER’S INFORMATIONAL ITEMS**

### 1. McIntyre Update

City Manager Conard reported that staff had a zoom conversation with the GSA this afternoon. She read the message provided by the GSA which provided a decision regarding the City’s efforts to acquire the Thomas J. McIntyre Federal Building through the Historic Monument public benefit conveyance program sponsored by the National Park Service.

“Pursuant to the License Agreement executed between GSA and the City of Portsmouth on January 11, 2023, and due the City’s failure to submit an application to the National Park Service to acquire the property through the Historic Monument public benefit conveyance program by the established deadline, GSA will no longer support this conveyance option. The GSA intends to move forward with the disposal of the property through a sale alternative. We look forward to discussing the sale process with you in the coming days.”

City Attorney Morrell stated that the City Manager requests the City Council vote to continue discussing the McIntyre Property with the GSA.

**Councilor Tabor moved to authorize the City Manager to discuss a negotiated sale with the GSA. Seconded by Councilor Moreau.**

Councilor Cook made extensive comments regarding McIntyre and the process.

Councilor Bagley said he is not in support of the motion. He stated he believes the city’s role is to provide the best and safest place for the city. He said he has a strong interest in city streets and infrastructure. He regrets the amount of time the city has spent on this matter and feels it is time for the private sector to purchase the site.

Councilor Moreau said she would support the motion and we need to know what the process is for moving forward.

Councilor Blalock said the City of Portsmouth first tried to purchase the building and the Federal Government came forward and said we could purchase the building for \$1.00.

Mayor McEachern said he would support the motion for City Manager Conard to meet and discuss a negotiated sale for the McIntyre. He stated he would like to know what the price would be and what we would offer for the building. He echoed the sentiments from those in the public and the City Council this evening. Mayor McEachern said in terms of opportunity, costs have been heavy for the city. He thanked everyone for the process and reflected his disappointment where we are currently.

**Motion passed. Councilor Bagley voted opposed.**

## **X. PUBLIC HEARINGS AND VOTE ON ORDINANCES AND/OR RESOLUTIONS**

### First Reading of Ordinance:

- A. First reading of Ordinance amending Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term

**Assistant Mayor Kelley moved to pass first reading and schedule a public hearing and second reading at the April 17, 2023 City Council meeting. Seconded by Councilor Cook and voted.**

### Public Hearing/Second Reading of Ordinance:

- B. Public Hearing/Second reading of Ordinance amending Chapter 10 – Accessory Dwelling Unit, Section 10.43- - Use Regulations, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 10.814 – Accessory Dwelling Units, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability

**Councilor Moreau moved to postpone public hearing and second reading and schedule a Work Session for April 10, 2023. Further, for report back from the Legal Department regarding amendments to be considered at the City Council meeting of April 17, 2023. Seconded by Councilor Bagley.**

Mayor McEachern stated that Councilor Bagley submitted his recommended amendments to the ordinance in a timely manner, but the Legal Department is requesting changes to be brought forward following the work session scheduled for April 10<sup>th</sup>. Mayor McEachern said that the Planning Board Chair would be part of the work session and public comment would take place at the end of the work session.

Councilor Moreau said it was brought to her attention that the Legal Department had questions and wanted one last review of the ordinance.

Councilor Tabor said he supports a work session and stated that the master plan mentions ADU's 31 times, which indicates its importance. He said ADU's will help solve our acute housing problems and protect neighborhoods.

**Motion passed.**

## **XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

### A. CITY MANAGER CONARD

1. Request for Public Hearing Regarding Skateboard Park Additional Bond Authorization



City Manager Conard said bids were submitted on Friday which is why this is a late add to the City Council packet. She said we received two bids that were over the Council's authorized funding. She stated the bond authorization we are requesting is \$1,083,500.00 for anticipated costs and additional funds. She further stated the bonding could be accommodated under our 10% threshold.

Councilor Blalock stated that lighting is very important for the use and safety of the park.

Councilor Cook asked if there is an assumption of costs for the lighting.

Councilor Bagley said we should move forward with the best bid and alternate 2.

**Councilor Tabor moved to hold a public hearing on additional bonding for the Skateboard Park, including the Base Bid and Alternate 2 in the amount of \$1,083,500.00. Seconded by Councilor Bagley and voted.**

At 8:40 p.m., Mayor McEachern declared a brief recess. At 8:53 p.m., Mayor McEachern called the meeting back to order.

**Councilor Denton moved to suspend the rules to bring forward Items XVI A. – Approval of Donation to the Fire Department from Shirley Van Aken for use at the Fire Department's Discretion - \$100.00 and SVI. B. – Acceptance of Assistance to Firefighters Grant - \$333,294.54. Seconded by Assistant Mayor Kelley and voted.**

## **XVI. APPROVAL OF GRANTS/DONATIONS**

- A. Approval of Donation to the Fire Department from Shirley Van Aken for use at the Fire Department's Discretion - \$100.00

**Assistant Mayor Kelley moved to approve and accept the donation as presented. Seconded by Councilor Blalock and voted.**

- B. Acceptance of Assistance to Firefighters Grant \$333,294.54

**Assistant Mayor Kelley moved to approve and accept the grant as presented. Seconded by Councilor Cook and voted.**

## **XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

### **A. CITY MANAGER CONARD**

- 2. License Agreement for Seacoast Eat Local/Farmers' Market 2023

City Manager Conard presented the License Agreement with Seacoast Eat Local for the 2023 Farmers' Market.

**Councilor Moreau moved to authorize the City Manager to execute the License Agreement as presented, allowing Seacoast Eat Local to operate a Farmers' Market at the Municipal Complex on Saturdays from May 6, 2023 through November 4, 2023, and that the City Manager is further authorized to negotiate and execute any amendment to the Agreement that she deems consistent with its purpose. Seconded by Councilor Bagley.**

Councilor Moreau said as a City Councilor the Council should make themselves available on Saturdays at the market on the off Saturdays that the City Manager is in attendance.

**Motion passed.**

3. Acceptance of Easement for 170 Union Street

City Manager Conard reported that items 3 – 7 are all easements for approval. She said the first is an access easement for water service for safety purposes.

**Councilor Moreau moved to authorize the City Manager to accept and record an access easement for water services in substantially similar form to the easement deed from LSCG, LLC contained in the agenda packet. Seconded by Councilor Blalock and voted.**

4. Acceptance of Easements for 160 Court Street

City Manager Conard said that this will close out the project.

**Councilor Moreau moved to authorize the City Manager to accept and record sewer line easement in substantially similar form to the easement deed from Portsmouth Housing Authority contained in the agenda packet. Seconded by Councilor Bagley and voted.**

5. Acceptance of Easements for 2454 Lafayette Road

City Manager Conard said this project was approved by the Planning Board for construction of 95 condominium units. She said there is a great deal of material, and this has been approved by the Legal and Planning Departments.

Assistant Mayor Kelley asked how we are considering this to be affordable housing when it is at 100% median income.

Assistant City Attorney McCourt said Work Force Housing units are designed as no more than 100% of household median income. He stated the Planning Department went up to the cap and the default term is over 50 years.

Assistant Mayor Kelley said she personally struggles with this being a large swing and people will have difficulty affording the price to purchase these units.

Mayor McEachern stated a speaker at public comment who is a Planning Board member said the Planning Board did not approve the covenant. Assistant City Attorney McCourt said the issue of a covenant was approved by the Planning Board.

Councilor Cook said that this is the purview of the Planning Board, and they reached an agreement, and this is allowing the city to execute the agreement. Assistant City Attorney McCourt said a past City Council provided the Planning Board authorization to make those decisions.

Councilor Tabor said the ordinance we have has work force housing at 60% of the median price but the ordinance allows a higher percentage for the sale of the units. He stated affordable work force housing is up to 100% for condominiums.

Mayor McEachern asked if the condominiums could be rented and if they would still be restricted to the AMI number. Assistant City Attorney McCourt said that is correct, everyone living in the units must reach the AMI number.

Councilor Bagley said that these are homes, and we need to provide homes for everyone in the community.

Mayor McEachern asked what happens if the City Council does not support the vote. Assistant City Attorney McCourt said the Council would need to provide reasons for not approving the covenant, which may cause a legal challenge.

Councilor Tabor stated in the covenant it states rent shall be set at 100% and the first part refers to apartment rentals. Assistant City Attorney McCourt said an owner could rent out a unit.

**Councilor Moreau moved to authorize the City Manager to accept and record a Community Space Easement and a Workforce Housing Covenant in substantially similar form to the easement deeds from 2422 Lafayette Road Associates LLC contained in the agenda packet and subject to Councilor Moreau's corrections. Seconded by Councilor Cook.**

Mayor McEachern said the issue he has is with affordability and it is hard to imagine 100% of median income is affordable. He stated that residents want us to hold the line at 60%. He said he balances that with the literal fact that we need to take a bite at this apple. Mayor McEachern said the idea that we have a policy, and he would like to see the 100% removed and brought forward at a future City Council meeting.

Councilor Bagley said that the median house has gone up 50% and the average income in the city is not high enough.

Councilor Cook said that this is troubling to see workforce housing being called workforce at 100%. She said she feels the remedy is to request the Land Use Board revisit our policy in the ordinance.

Mayor McEachern asked what would happen if the City Council suggested a motion after this to request back an ordinance change removing community spaces and units to be at 60%. Councilor Moreau said it would need to be noticed for first reading. She said the Land Use Committee is working on this matter and has a community incentive. Mayor McEachern said we should start pulling things out and move forward with looking at what can be added back in.

Discussion followed regarding the number of units at 100%.

**Motion passed. Assistant Mayor Kelley voted opposed.**

6. Acceptance of Easement for 201 Kearsarge Way

City Manager Conard said this is expanding the driveway and turning one lot into three.

**Councilor Moreau moved to authorize the City Manager to accept and record an access easement in substantially similar form to the easement deed from Richard Fusegni contained in the agenda packet. Seconded by Councilor Blalock and voted.**

7. Acceptance of Easements and License for 444 Borthwick Avenue

City Manager Conard said that this relates to parking at Portsmouth Regional Hospital. She said this will help the city deal with drainage issues. She stated the license agreement also deals with the expansion of sidewalks.

**Assistant Mayor Kelley moved to authorize the City Manager to accept and record a stormwater easement and grant a sidewalk maintenance license in substantially similar form to the easement deed and the License Agreement from HCA Realty, Inc. contained in the agenda packet. Seconded by Councilor Moreau and voted.**

8. Finalization of Easements and a License Amendment for West End Yards

City Manager Conard spoke about the easements and the need for approval.

Assistant City Attorney Ferrini reviewed the easements and license amendment. Discussion followed on who would be responsible for the landscaping along Hodgdon Way. Assistant City Attorney Ferrini stated it would be the developer.

**The City Council approved authorizing the City Manager to accept and record the multiple deeds and license amendment in substantially similar form as set forth in the memorandum from Attorney Ferrini.**

## XII. CONSENT AGENDA

- A. Letter from Katie Johnson, Yoga in Action, requesting permission to use the Whale Statue lawn in Prescott Park for a one-hour class each Tuesday at Noon from June through August ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Richard Mason, Veterans Count, requesting permission to hold the Pack & Boots 5K Road Race at the Pease Tradeport on Tuesday, July 4, 2023 at 8:00 a.m. ***(Anticipated action - move to refer to the City Manager with Authority to Act)***
- C. Letter from Bruce Hurley, Seacoast Half Marathon, requesting permission to hold the 18<sup>th</sup> Annual Seacoast Half Marathon on Sunday, October 29, 2023 ***(Anticipated action - move to refer to the City Manager with Authority to Act)***

**Assistant Mayor Kelley moved to adopt the Consent Agenda. Seconded by Councilor Moreau and voted.**

### **XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS**

#### **A. Email Correspondence**

**Assistant Mayor Kelley moved to accept and place on file. Seconded by Councilor Blalock.**

Councilor Denton read a letter from an eighth grader asking the city do more to move forward with the Climate Action Plan.

**Motion passed.**

#### **B. Letter from Maggie Walsh, YMCA of the Seacoast requesting permission to hold a 5K Fun Run on Saturday, June 24, 2023**

**Assistant Mayor Kelley moved to refer to the City Manager with Authority to Act. Seconded by Councilor Bagley.**

Councilor Cook said she serves on the Southern District of the YMCA which does not present a conflict of interest in her voting on the request.

**Motion passed.**

### **XIV. MAYOR McEACHERN**

#### **1. Appointments to be Voted:**

- Ernest Carrier appointment as alternate to the Planning Board
- Daniel Main reappointment to the Portsmouth Housing Authority
- Jacqueline Cali-Pitts reappointment to the Recreation Board
- Richard Duddy reappointment to the Recreation Board
- Lauren Krans reappointment to the Recreation Board
- Jessica Blasko appointment to the Blue Ribbon Sustainability Committee
- John Patrick Carty appointment to the Blue Ribbon Sustainability Committee
- Jeffrey Mattson appointment as regular member to the Zoning Board of Adjustment
- ML Geffert appointment as alternate to the Zoning Board of Adjustment
- Jody Record appointment as alternate to the Zoning Board of Adjustment

**Assistant Mayor Kelley moved to appoint Ernest Carrier as an Alternate to the Planning Board until December 31, 2024; reappointment of Daniel Main to the Portsmouth Housing Authority until April 1, 2028; reappointments of Jacqueline Cali-Pitts, Richard Duddy and Lauren Krans to the Recreation Board until April 1, 2026; appointments of Jessica Blasko and John Patrick Carty to the Blue Ribbon Sustainability Committee; appointment of Jeffrey Mattson until December 1, 2024; ML Geffert as an Alternate until December 1, 2027; and Jody Record as an Alternate to the Zoning Board of Adjustment until December 1, 2023. Seconded by Councilor Moreau.**

Mayor McEachern announced that he is bringing back a recognition event for members who have served and or resigned from various boards and commissions. He stated more information will be forthcoming at a future Council meeting.

Discussion followed on the importance of this event coming back.

**Motion passed.**

## **XV. CITY COUNCIL MEMBERS**

### **A. COUNCILOR TABOR**

1. Request for Update on the Public Engagement Report of July 22, 2022 and consideration of further public processes

**Councilor Tabor moved to request an update on the Public Engagement Report of July 22, 2022. Seconded by Councilor Moreau.**

Discussion followed regarding FlashVote and how residents are verified through the voting process.

**Motion passed.**

### **B. COUNCILOR BAGLEY**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the March 15, 2023 meeting

**Councilor Bagley moved to approve and accept the action sheet and minutes of the March 15, 2023 Parking & Traffic Safety Committee meeting. Seconded by Councilor Lombardi.**

Councilor Bagley acknowledged the work of the committee members Steve Pesci, Erica Wygonik and staff Eric Eby on speed limits in the city.

**Motion passed.**

### **C. COUNCILOR COOK**

1. City Council Donation Policy

**Councilor Cook moved to postpone consideration of the Policy until the May 1, 2023 City Council meeting. Seconded by Councilor Bagley and voted.**

## **XVI. APPROVAL OF GRANTS/DONATIONS**

- C. Acceptance of State Aid Grant Award (SAG) Peirce Island WWTF Upgrade

**Councilor Moreau moved to approve and accept the State Aid Grant in the amount of \$35,031,456.00 payable over 30 years pursuant to amortization schedule. Seconded by Councilor Blalock.**

Mayor McEachern stated that the rate is lower than the debt service rate.

City Manager Conard said we would use net position and the grant will lessen the need to dip into rate position. Public Works Director Rice said this will be discussed during the budget work session with the City Council. He further stated that this will help reduce the rates of rate payers.

**Motion passed.**

- D. Acceptance of 2023 Local Source Water Protection Program Grant

**Assistant Mayor Kelley moved to authorize the City Manager to enter into a Grant Agreement with the State of New Hampshire Department of Environmental Services to accept up to \$25,000.00 from the NHDES Local Source Water Protection Program to assist with the purchase of a conservation easement on a parcel adjacent to the Bellamy Reservoir. Seconded by Councilor Lombardi and voted.**

- E. Approval of Donation from Piscataqua Savings Bank for lunch as part of Student Government Day

**Councilor Blalock moved to accept the donation not to exceed \$1,000.00 for lunches as part of Student Government Day for the students, staff and City Council participating in the day. Seconded by Assistant Mayor Kelley and voted.**

- F. Acceptance of InvestNH Municipal Demolition Grant Program - \$125,600.00

**Assistant Mayor Kelley moved to approve and accept the Grant as presented. Seconded by Councilor Lombardi and voted.**

**XVII. CITY MANAGER'S INFORMATIONAL ITEMS**

2. Rail Car Safety Update

Councilor Moreau requested a report back regarding the current plan and provide that information to the residents, so they know what we have in place regarding this subject matter. City Manager Conard said that we could come back with a report back.

3. Household Hazardous Waste Collection Day

Mayor McEachern announced that Household Hazardous Waste Collection Day will be held on April 29, 2023.

Councilor Cook would like the Public Works Department to investigate other ways of disposing latex paint.

4. Request for Work Session Regarding Indoor Sports Complex/Ice Rink

City Manager Conard said the best way to proceed on this would be through an RFP process and then bring forward that information to a work session.



**XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

Councilor Moreau announced that the first Tuesday of every month at the Library in the Levenson Room there is a community meeting regarding the upcoming Air Show.

Councilor Blalock announced that Little League started today.

City Manager Conard reminded the City Council that Student Government Day will be held on April 19<sup>th</sup> and students will be sitting with the City Council at the April 17<sup>th</sup> City Council meeting.

Councilor Tabor said the Community Power Coalition will start to promote information on community power and send letters out as soon as May with anticipating possibly going live in June.

**XIX. ADJOURNMENT**

**At 10:15 p.m., Councilor Moreau moved to adjourn. Seconded by Assistant Mayor Kelley and voted.**



KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, May 1, 2023 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on the proposed Ordinance amending Chapter 10 – Accessory Dwelling Unit, Section 10.430 – Use Regulations – Use is permitted by right through Administrative Approval, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts – Administrative Approval, Section 10.814 – Accessory Dwelling Units – Purpose and Eligibility, Section 10.814.40 – Additional Standards for Detached Accessory Dwelling Units, Section 10.814.50 – Architectural Design Standards, Section 10.814.60 – Review and Approval Process, Section 10.814.70 – Post-Approval Requirements, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking – Location of Parking Facilities on a Lot, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability – Accessory Building or Structure, Accessory Dwelling Unit (ADU), Deletion of Garden Cottage and Addition of Gross Living Area (GLA). The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

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ity, Section 10.814.40 – Additional Standards for Detached Accessory Dwelling Units, Section 10.814.50 – Architectural Design Standards, Section 10.814.60 – Review and Approval Process, Section 10.814.70 – Post-Approval Requirements, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking – Location of Parking Facilities on a Lot, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability – Accessory Building or Structure, Accessory Dwelling Unit (ADU), Deletion of Garden Cottage and Addition of Gross Living Area (GLA). The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY,  
MMC/CNHMC  
CITY CLERK

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CITY CLERK

ORDINANCE # \_\_\_\_\_

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 10 – ACCESSORY DWELLING UNIT, Article 4 – ZONING DISTRICTS AND USE REGULATIONS, Section 10.430 – **USE REGULATIONS**, and Section 10.440 – **TABLE OF USES – RESIDENTIAL, MIXED RESIDENTIAL, BUSINESS AND INDUSTRIAL DISTRICTS**; Article 8 – SUPPLEMENTAL USE STANDARDS, Section 10.814 – **ACCESSORY DWELLING UNITS**, and 10.815 – **GARDEN COTTAGES**; Article 11 – SITE DEVELOPMENT STANDARDS, Section 10.1110 – **OFF-STREET PARKING**; and Article 15 – DEFINITIONS, Section 10.1530 – **TERMS OF GENERAL APPLICABILITY** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE 4: **ZONING DISTRICTS AND USE REGULATIONS**

Section 10.430 **Use Regulations**

- 10.431 All **buildings** or **structures** hereafter erected, reconstructed, altered, enlarged or moved, and all **uses** hereafter established, shall be in conformity with the provisions of this Zoning Ordinance.
- 10.432 No **building, structure**, or land shall be used for any purpose or in any manner other than that which is permitted in the district in which it is located.
- 10.433 **Buildings, structures** and land owned or leased by the City of Portsmouth shall be exempt from all provisions of this Ordinance except Article 10, Environmental Protection Standards. Nevertheless, the City is urged to comply with all relevant land **use** controls whenever possible and feasible.
- 10.434 The **use** regulations for all zoning districts are listed in Section 10.440 (Residential, Mixed Residential, Business and Industrial Districts), Section 10.450 (Pease/Airport Districts) and Section 10.460 (Municipal and Conservation Districts).

10.434.10 The following key applies to the Tables of Uses in Sections 10.440, 10.450 and 10.460:

<b>Symbol</b>	<b>Meaning</b>
<u>AP</u>	<b>use is permitted by right through Administrative Approval</b>
P	<b>use</b> is permitted in the district
S	<b>use</b> is allowed in the district upon the granting by the Board of Adjustment of a special exception
CU	<b>use</b> is allowed in the district upon the granting by the Planning Board of a conditional use permit
N	<b>use</b> is prohibited in the district

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

Use	R	SRA	GRA	GRC	GA/	MRO	CD4-	CD4-	MRB	CD5	GB	G1	G2	B	WB	OR	I	WI	Supplemental Regulations
	SRB	GRB	(A)	MH	CD4- L1	L2	CD4	CD4	W										
<b>1. Residential Uses</b>																			
1.10 Single family dwelling	P	P	P	P	N	P	P	P	<del>NP</del>	N	P	P	N	N	N	N	N	N	

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	OR	I	WI	Supplemental Regulations
<b>1.20 Accessory dwelling unit</b>																		10.814 (Accessory Dwelling Units)
<b>1.21 Attached accessory dwelling unit (AADU)</b>																		
<u>1.211 Up to 750 sq. ft. GLA and entirely within an existing single-family dwelling</u>	<u>AP</u> <u>CU</u>	<u>AP</u> <u>CU</u>	<u>AP</u> <u>CU</u>	<u>AP</u> <u>CU</u>	N	<u>AP</u> <u>CU</u>	<u>AP</u> <u>CU</u>	<u>AP</u> <u>CU</u>	CU	N	CU	CU	N	N	N	N	N	
<u>1.212 Up to 750 sq. ft. GLA and in an expansion of an existing single-family dwelling</u>	CU	CU	CU	<u>CU</u> N	N	<u>CU</u> N	<u>CU</u> N	<u>CU</u> N	N	N	<u>CU</u> N	<u>CU</u> N	N	N	N	N	N	

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

1.22 <b>Detached accessory dwelling unit (DADU)</b>																		
1.221 Up to 600 sq. ft. GLA and entirely within an existing <b>accessory building</b> that conforms with the dimensional requirements of this Ordinance.	CU	CU	AP	AP	N	AP	AP	AP	N	N	N	N	N	N	N	N	N	N
1.222 Up to 750 sq. ft. GLA and entirely within an existing <b>accessory building</b> that conforms with the dimensional requirements of this Ordinance.	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	N	N	N	N
1.222 Up to 600 sq. ft. GLA in an existing <b>accessory building</b> that does not conform with the dimensional requirements of this Ordinance or includes the expansion of the existing <b>accessory building</b>	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	N	N	N	N
1.223 Up to 750 sq. ft. GLA on a <b>lot</b> and in a new <b>building</b> that complies with all <b>lot</b> and <b>building</b> dimensional standards of this Ordinance for a <b>single-family dwelling</b>	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	N	N	N	N



P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	OR	I	WI	Supplemental Regulations
<del>1.25 Garden Cottage</del>	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N	N	N	N	N	N	N	<del>10.815 (Garden Cottages)</del>
1.30 Two-family dwelling	N	N	P	P	P	P	P	P	P	N	P	P	N	N	N	N	N	10.640 (Downtown Overlay district)

ARTICLE 8: SUPPLEMENTAL USES STANDARDS

Section 10.814: Accessory Dwelling Units

10.814.10 Purpose and Eligibility

~~10.814.11~~ ~~The purpose of this section is to provide for additional **dwelling units** within **single-family neighborhoods** in order to: **increase the supply of smaller, more affordable housing units with less need for more municipal infrastructure or further land development; contribute to local housing needs; and provide opportunities for adapted reuse of existing accessory structures.** The standards in this section are intended to integrate more housing options into the community with minimal impact on the surrounding neighborhood.~~

~~10.814.12~~ ~~One, and only one, **Only one accessory dwelling unit (ADU)** shall be allowed on any **lot** containing a **single-family dwelling**. An **accessory dwelling unit** shall not be allowed under this Section 10.814 on a **lot** that contains more than one **dwelling unit**.~~

10.814.1320 Except as provided elsewhere in this Section 10.814, in order for a **lot** to be eligible for an **accessory dwelling unit**, the **lot** and all proposed **structures** and additions to existing **structures** shall conform to all zoning regulations as follows:

10.814.21131 Any municipal regulation applicable to **single-family dwellings** shall also apply to the combination of a **principal dwelling unit** and an **accessory dwelling unit** ~~including, but not limited to, lot area, yards, open space, off-street parking, building coverage, and building height.~~ However, an accessory dwelling unit shall be allowed without additional requirements for lot area, lot area per dwelling unit, or frontage beyond those required for a single family dwelling without an ADU in the same zoning district.

10.814.22132 An **attached accessory dwelling unit** is permitted on existing **nonconforming lots** and within an existing nonconforming buildings as long as there is provided no increased or new nonconformity is created, in building height or building footprint for any portion of the existing building and no increase to the nonconformity.

10.814.23133 Newly constructed detached accessory dwelling units shall be governed by the provisions of this Ordinance and the side and rear yard requirements for the applicable zoning or Character District.

~~A detached accessory dwelling unit is not an accessory building or structure for the purposes of this Ordinance, and therefore shall be governed by the applicable minimum yard dimensions in Section 10.521 for a principal building or structure and not by the side yard and rear yard standards applicable to an accessory building.~~

10.814.14 ~~Notwithstanding all of the above provisions, an accessory building existing on the effective date of this ordinance may be converted to a detached accessory dwelling unit as provided in this Ordinance.~~

### 10.814.20 Standards for All Accessory Dwelling Units

~~10.814.30~~ All accessory dwelling units shall comply with the following standards:

10.814.~~321~~ The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership (including by condominium ownership).

10.814.~~322~~ Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner's ~~of the dwelling as his or her~~ principal place of residence. The owner shall provide documentation demonstrating compliance with this provision to the satisfaction of the City. ~~that one of the units is his or her principal place of residence.~~

10.814.~~3221~~ When the property is owned by an entity, one or more trusts, one of the dwelling units shall be the principal place of residence of one or more principals of that entity, such as the a member or beneficiary(ies) of the trust(s).

10.814.23 ~~Accessory dwelling units shall not have more than two bedrooms.~~

10.814.~~2433~~ Neither the principal dwelling unit nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

10.814.~~2534~~ Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

10.814.26 ~~1 off-street parking space shall be provided for an ADU in addition to the spaces that are required for the principal single-family dwelling.~~

**10.814.30 Additional Standards for Attached Accessory Dwelling Units**

The following standards are intended to ensure proportionality and aesthetic continuity between the AADU and the principal dwelling unit.

~~10.814.40~~ An **attached accessory dwelling unit (AADU)** shall comply with the following additional standards:

10.814.431 An interior door shall be provided between the **principal dwelling unit** and the AADU accessory dwelling unit.

10.814.432 The AADU accessory dwelling unit shall not ~~have more than two bedrooms and shall not~~ be larger than 750 sq. ft. in gross living area (GLA). ~~gross floor area.~~ For the purpose of this provision, the gross floor- living area of the AADU shall not include ~~existing~~ storage space, shared entries, or other spaces not exclusive to the AADU accessory dwelling unit.

10.814.433 The AADU shall be subordinate to the principal dwelling unit in scale, height and appearance, as follows:

~~10.814.331~~ ~~Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling.~~ If there are two or more doors in the front of the principal dwelling unit, one door shall be designed as the principal entrance and the other doors shall be designed to appear to be secondary.

~~10.814.44~~ No portion of the **AADU** shall be closer to the **front lot line** than the existing front wall of the **principal dwelling unit**.

~~10.814.45~~ An **AADU** that is attached to the **single-family dwelling** (i.e., created by an expansion of the existing **structure**) shall comply with the following:

~~10.814.451~~ An exterior wall of the **AADU** that faces a **street** on which the **lot** has **frontage** shall comprise no more than 40 percent of the total visible **façade** area of the **dwelling** as seen from that **street**.

~~10.814.453~~ 2 An addition to or expansion of an existing **building** for the purpose of creating an **AADU** shall be recessed or projected at least 18 inches from the existing front wall of the **principal dwelling unit**. Where the addition includes the construction of an attached, street-facing garage, it shall be set back at least 10 feet from the front wall of the **principal dwelling unit**.

~~The addition to or expansion of the existing single-family dwelling may include an increase in building height only~~

~~as an upward expansion of the existing principal building with no increase in building footprint.~~

10.814.4533 The **building height** of any addition or expansion that includes an increase in **building footprint** shall be ~~less than the building height~~ of the existing principal building. No greater than 75% of the height of the existing building. In the case of a single-story building, an addition or expansion may include either an additional story to the existing building or a single-story addition at the same height as the existing building.

~~10.814.454 The AADU shall be architecturally consistent with the existing principal dwelling through the use of similar materials, detailing, roof pitch, and other building design elements.~~

#### 10.814.40 Additional Standards for Detached Accessory Dwelling Units

The following standards are intended to ensure proportionality and aesthetic continuity between the DADU and the principal dwelling unit.

10.814.50 A **detached accessory dwelling unit (DADU)** shall comply with the following additional standards:

~~10.814.51 In a General Residence district, the combination of the principal dwelling and the DADU shall comply with the minimum lot area per dwelling unit specified for the district. (For example, the required lot area for a single-family dwelling with a DADU in the GRA district is 7,500 sq. ft. per dwelling unit multiplied by 2 dwelling units, or 15,000 sq. ft.) In a Single Residence or Rural district, a lot with a DADU shall comply with the minimum lot area for the district, but need not comply with the minimum lot area per dwelling unit.~~

10.814.4152 The **DADU** shall not ~~have more than two bedrooms and shall not be larger than 750 sq. ft. in gross living floor area,~~ except that the maximum gross floor area shall be 1,000 sq. ft. if the lot area is 2 acres or more.

10.814.4153 A **DADU** that is created from an existing **accessory building** that does not comply with its minimum **yard**

~~requirements shall not exceed 750600 sq. ft. in **gross living area**.~~

~~The **DADU** shall be clearly subordinate to the principal **single-family dwelling** in scale, height and appearance.~~

~~10.814.531 The façade area of the **DADU** that faces a **street** on which the **lot** has **frontage** shall be no more than 40 percent of the combined visible façade areas of the principal **single-family dwelling** and the **DADU** facing the same **street**.~~

10.814.42 A **DADU** that is created from an existing **accessory building** that does not comply with its minimum **yard** requirements shall comply with the following additional requirements:

10.815.421 The existing **accessory building** shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.; except that the Planning Board may grant a conditional use permit to allow the **gross living area** of the **accessory building** to be expanded up to a total of 600 sq. ft. as provided in this Ordinance.

10.815.422 A **DADU** that is within a required **side yard** or **rear yard** setback for the zoning district shall not have any windows, balconies, or doors higher than eight feet above grade facing adjacent property.

10.814.43 The **DADU** shall be ~~clearly~~ subordinate to the principal **single-family dwelling** in scale, height and appearance as follows:-

~~10.814.532 The **building height** of the **DADU** shall be less than the **building height** of the principal **single-family dwelling**.~~

~~10.814.533 The **DADU** shall be architecturally consistent with the **principal dwelling** through the use of similar materials, detailing, and other **building design elements**.~~

~~10.814.54 The **DADU** shall be separated from the **single-family dwelling** by at least 20 feet.~~

10.814.~~431~~<sup>55</sup> The front wall of ~~the a~~ **DADU** ~~that is not created within an existing accessory building~~ shall be **set back** at least 10 feet further from the **front lot line** than the existing front wall of the ~~principal~~ **single-family dwelling unit**.

10.814.432 The **building height** of the **building containing** the **DADU** shall be no greater than 22 feet.



10.814.433 When the **building** containing the **DADU** is taller than the **principal building**, its required setback from all property lines shall be increased by the difference in **building height** between the **DADU** and the **principal building**.

10.814.434 The **building footprint** of the **building** containing the **DADU** shall be no greater than 750 sq. ft.

10.814.435 The **gross floor area** of the **building** containing the **DADU** shall be no greater than 1,600 sq. ft. **gross floor area** or 75 percent of the **gross floor area** of the principal **dwelling unit**, whichever is less.

10.814.436 The **DADU** may include roof dormers provided they are located outside the required setbacks from all property lines and occupy no greater than 33% of any individual roof plane.

10.814.437 The **DADU** shall comply with the drainage requirements of this Ordinance.

10.814.438 The **DADU** shall comply with the lighting requirements of this Ordinance.

10.814.44 A newly constructed **DADU** shall be separated no less than 5 feet from the principal structure or as required by the Building Code, whichever is greater.

~~10.814.56~~ No portion of the **DADU** shall be located in any required **front yard**, regardless of the location of the **single-family dwelling**.

### 10.814.50 **Architectural Design Standards**

Where the creation of an **accessory dwelling unit** involves the construction of a new **building** or an addition to or expansion of an existing **building**, the exterior design shall be architecturally consistent with or similar in appearance to the **principal building** using the following design standards:

10.814.51 The new **building**, addition or expansion shall be architecturally consistent with or similar in appearance to the existing **principal building** with respect to the following elements:

- Massing, including the shape and form of the **building footprint**, roof or any projecting elements;
- Architectural style, design, and overall character;
- Roof forms, slopes, and projections;



- Siding material, texture, and profile;
- Window spacing, shapes, proportions, style and general detailing;
- Door style, material and general detailing;
- Trim details, including window and door casings, cornices, soffits, eaves, dormers, shutters, railings and other similar design elements;
- Exposed foundation materials and profiles.

~~10.814.60~~ ~~Before granting a conditional use permit for an **attached** or **detached ADU**, the Planning Board shall make the following findings:~~

~~10.814.52~~ ~~If provided, the following elements shall be architecturally consistent with or similar in appearance to the corresponding elements on the **principal building** in terms of proportions, materials, style and details:~~

- Projections such as dormers, porticos, bays, porches and door canopies;
- Chimneys, balconies, railings, gutters, shutters and other similar design elements.

~~10.814.53~~ ~~If provided, all street-facing garage doors shall be limited to 9 feet in width.~~

~~10.814.61~~ ~~Exterior design of the **ADU** is consistent with the existing **principal dwelling** on the lot.~~

~~10.814.62~~ ~~The site plan provides adequate and appropriate **open space, landscaping** and **off-street parking** for both the **ADU** and the primary **dwelling**.~~

~~10.814.63~~ ~~The **ADU** will maintain a compatible relationship to **adjacent** properties in terms of location, design, and **off-street parking** layout, and will not significantly reduce the privacy of **adjacent** properties.~~

~~10.814.64~~ ~~The **ADU** will not result in excessive noise, traffic or parking congestion.~~

### 10.814.60 Review and Approval Process

~~10.814.61~~ ~~When Section 10.440 indicates that an **attached** or **detached ADU** is permitted by administrative approval (“AP”), the following shall apply:~~

~~10.814.611~~ ~~For a period of at least 30 days following the date of application to the City, the applicant shall post a notice, in the form of a sign provided by the city, that describes the proposed **ADU** application subject to the following:-~~

(1) Such sign(s) shall be located on the perimeter of the lot where it can easily be viewed and readable from all abutting public ways.

(2) The applicant shall also provide the sign notice information to the City. The City shall send notice by certified mail to all owners of any property located within 100 feet of the lot.

10.814.612 Any person may submit written comments on the ADU application. In order to be considered by the Planning Director, such comments shall be submitted to the Planning Director within the 30-day notice period, which begins on the date the certified mailing is sent by the City.

10.814.613 The determination as to whether the ADU complies with all requirements shall be made as an administrative reviewAdministrative Approval by the Planning Director. The Planning Director may approve, deny, or request additional information from the applicant. The Planning Director may refer the application to the Planning Board for a conditional use permit, if appropriate.If the Planning Director determines that the application is not appropriate for an AP, the application may be denied or may require a conditional use permit.

10.814.64 The Planning Director shall not approve an application for an ADU until the conclusion of the 30-day notice period.

10.814.62 Before granting-When Section 10.440 requires a conditional use permit for an attached or detached ADU, the Planning Board shall make the following findings before granting approval:

10.814.621 The ADU complies with all applicable standards of this Section 10.814 or as may be modified by the conditional use permit.

10.814.622 The Exterior design of the ADU is architecturally consistent with or similar in appearance to the existing principal dwelling on the lot.

10.814.623 The site plan provides adequate and appropriate open space and landscaping for both the ADU and the primary dwelling-principal dwelling unit, and complies with the off-street parking requirements of Section 10.814.26.

10.814.624 The ADU will maintain a compatible relationship to-with the character of adjacent and neighborhood properties in terms of location, design, and off-street parking layout, and will not significantly reduce the privacy of adjacent properties.

10.814.~~6370~~ In granting a conditional use permit for an **accessory dwelling unit**, the Planning Board may modify a specific standard set forth in Sections 10.814.~~2640~~ and ~~or~~ 10.814.~~3052~~ through 10.814.506 (except the size and height of any ADU), including requiring additional or reconfigured **off-street parking** spaces, provided that the **Board** finds such modification will be consistent with the required findings in Section 10.814.620.

### 10.814.70 Post-Approval Requirements

10.814.~~7180~~ Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, ~~together with an affidavit that either the principal dwelling unit or the accessory dwelling unit will be occupied by the owner of the dwelling as the owner's principal place of residence, as required by Section 10.814.22.~~

10.814.~~7290~~ A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department ~~and shall be renewed annually upon submission of such documentation as the Planning Department may require to verify compliance.~~ A certificate of use shall not be issued prior to recording of documentation as required by this ~~Ordinance 10.814.80.~~

10.814.73 The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.

### 10.815 Garden Cottages

~~An accessory building existing on the effective date of this ordinance may be converted to a garden cottage through a conditional use permit granted by the Planning Board, subject to the following provisions and limitations.~~

~~10.815.10 One garden cottage, and only one, shall be allowed on any lot containing a single-family dwelling.~~

~~10.815.20 Relationship to other provisions of this Ordinance:~~

~~10.815.21 No garden cottage shall be allowed on the same lot as an accessory dwelling unit authorized under this Ordinance.~~

~~10.815.22~~ — The establishment of a **garden cottage** results in two **dwelling units** on the property and thus makes the property ineligible to establish an **accessory dwelling unit** under RSA 674:72-73 and this Ordinance. As a condition of receiving a conditional use permit for a **garden cottage**, the property owner shall waive all rights under RSA 674:72 and RSA 674:73.

~~10.815.23~~ — A **garden cottage** that complies with the standards of this section is exempt from the residential density standards of the Zoning Ordinance. A second **dwelling unit** on a lot that does not comply with the standards of this section shall be considered to be either a second primary **dwelling** or an **accessory dwelling unit** and shall comply with the applicable standards and provisions of the Ordinance.

~~10.815.30~~ — **Garden cottages** shall comply with the following standards:

~~10.815.31~~ — The existing **accessory building** shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.

~~10.815.32~~ — A **garden cottage** shall not be larger than 600 sq. ft. **gross floor area**.

~~10.815.33~~ — A **garden cottage** that is within a required **yard** for the zoning district shall not have any windows or doors higher than eight feet above grade facing the **adjacent** property.

~~10.815.34~~ — The **principal dwelling unit** and the **garden cottage** shall not be separated in ownership (including by condominium ownership); and either the **principal dwelling unit** or the **garden cottage** shall be occupied by the owner of the property. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence.

~~10.815.341~~ — When the property is owned by one or more trusts, one of the **dwelling units** shall be the principal place of residence of the beneficiary(ies) of the trust(s).

~~10.815.35~~ — Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

- ~~10.815.40~~ Before granting a conditional use permit for a **garden cottage**, the Planning Board shall make the following findings:
- ~~10.815.41~~ Exterior design of the **garden cottage** is consistent with the existing **single-family dwelling** on the lot.
- ~~10.815.42~~ The site plan provides adequate and appropriate **open space, landscaping, and off-street parking** for both the **garden cottage** and the primary dwelling.
- ~~10.815.43~~ The **garden cottage** will maintain a compatible relationship to **adjacent** properties in terms of location and design, and will not significantly reduce the privacy of **adjacent** properties.
- ~~10.815.44~~ The **garden cottage** will not result in excessive noise, traffic or parking congestion.
- ~~10.815.50~~ In granting a conditional use permit for a **garden cottage**, the Planning Board may modify a specific dimensional or parking standard set forth in Section 10.815.30, including requiring additional or reconfigured **off-street parking** spaces, provided that the Board finds such modification will be consistent with the required findings in Section 10.815.40.
- ~~10.815.60~~ Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds.
- ~~10.815.70~~ A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department and shall be renewed annually upon submission of such documentation as the Planning Department may require to verify compliance. A certificate of use shall not be issued prior to recording of documentation as required by 10.815.60.

## ARTICLE 11: SITE DEVELOPMENT STANDARDS

### Section 10.1110 Off-Street Parking

#### 10.1113.20 Location of Parking Facilities on a Lot

Required **off-street parking** spaces shall not be located in any required **front yard**, or between a **principal building** and a **street** (including on a **corner lot**). This restriction shall not apply to required **off-street parking** for a **single-family dwelling** (including the combination of a **single-family dwelling** and an **accessory dwelling unit**) or **two-family dwelling**.

10.1116.14 The following uses are exempt from providing bicycle parking spaces:

Use No. \_\_\_\_\_ Use

- 1.10 Single-family dwelling
- 1.20, 1.21, 1.22 Accessory dwelling unit
- ~~1.25 Garden cottage~~
- 1.30 Two-family dwelling
- 2.10 Assisted living facility
- 2.20 Residential care facility
- 7.10 Day care
- 7.70 Undertaking establishment
- 11.10-11.60 Motor vehicle related uses
- 12.10-12.40 Marine craft related uses
- 13.10-13.40 Wholesale trade, warehousing and distribution
- 14.70 Recycling facility or recycling plant
- 14.80 High hazard use
- 17.10-17.20 Agricultural uses
- 19.10-19.40 Accessory uses

## ARTICLE 15: DEFINITIONS

### Section 10.1530 Terms of General Applicability

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# A

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#### **Accessory building or structure**

A subordinate **building** located on the same **lot** with the principal **building**, occupied by or devoted to an **accessory use**. Where an **accessory building** is attached to the main **building** in a substantial manner, as by a wall or roof, such **accessory building** shall be considered part of the main **building**. For the purpose of this Ordinance, a **detached accessory dwelling unit that is not created within an existing accessory building** is not an **accessory building or structure**.

#### **Accessory dwelling unit (ADU)**

An **attached or detached dwelling unit** that is constructed on the same **lot** as a **single-family dwelling** and complies with the standards for **accessory dwelling units** set forth in this Ordinance.

#### **Attached accessory dwelling unit (AADU)**

An **accessory dwelling unit** that is constructed within or attached to a **single-family dwelling**. For the purpose of this definition, “attached” means:

- (a) located within the **dwelling** and separated from the **principal dwelling unit** either horizontally or vertically, or
- (b) sharing a common wall for at least 25 percent of the length of the side of the **single-family dwelling**.

“Attached” does not include connection to the **single-family dwelling** solely by an unenclosed **structure** (such as a breezeway) or by an enclosed but unconditioned space.



**Detached accessory dwelling unit (DADU)**

An **accessory dwelling unit** that is constructed within an ~~accessory detached building~~ on a **lot** containing one **single-family dwelling**. A detached accessory dwelling unit may be connected to the **single-family dwelling** by an unenclosed **structure** (such as a breezeway) or by an unconditioned space.

**Accessory use**

A **use** that is incidental and subordinate to the **principal use** and located on the same **lot** with such **principal use** or **building**.

**Dwelling, principal**

A single-family dwelling on a lot on which an accessory dwelling unit ~~or a garden cottage~~ is allowed.

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# G

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**Garden cottage**

~~A **dwelling unit** that is constructed through conversion of an **accessory building** on the same **lot** as a **single-family dwelling** and complies with the standards for **garden cottages** set forth in the Ordinance.~~

**Gross floor area (GFA)**

The sum of the areas of the several floors of a **building** or **buildings** as measured by the exterior faces of the walls, but excluding the areas of fire escapes, unroofed porches or terraces, and areas such as basements and **attics** exclusively devoted to **uses** accessory to the operation of the **building**. If the exterior walls are greater than 6 inches thick, then the **gross floor area** shall be adjusted to a maximum of a 6-inch thick wall.

**Gross living area (GLA)**

The total area of finished residential space in an accessory **dwelling unit**, including all conditioned living space, but excluding unconditioned space such as decks, porches, garages, or other such spaces that have not been converted into living space. **GLA** is calculated by measuring the interior perimeter of the **accessory dwelling unit**.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk



ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IV, Section 1.411 – **CEMETERY COMMITTEE** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

**ARTICLE IV: COMMISSIONS/AUTHORITIES**

**Section 1.411: CEMETERY COMMITTEE**

- A. **Membership and Term:** The Cemetery Committee shall consist of not less than ~~twelve (12)~~ **seven (7)** or more than ~~eighteen (18)~~ **eleven (11)** regular members. The members shall be appointed by the Mayor subject to the approval of the City Council ~~for a term of two (2) years, coterminous with the City Council term.~~ **The first four (4) members appointed after adoption of this ordinance shall be appointed to terms of three (3) years commencing as of the date of completed appointment. Thereafter, all appointments shall be for terms of two (2) years. All appointments to fill vacancies shall serve the remainder of the vacant term. A quorum shall be a majority of the existing appointed members at any given time.**
- B. **Powers and Duties:** The Committee shall provide advice and recommendations to the City Manager and the City Council with respect to all issues affecting municipal cemeteries, including the solicitation and acceptance of grants; the expenditure of any funds for specific improvements; and any expenditures from the Cemetery Trust Fund. Nothing herein shall limit the power of the City Council or City Manager to take immediate action in the event of exigent circumstances.
- C. It shall be the responsibility of the Cemetery Committee to encourage the restoration, preservation, and safeguarding of Portsmouth's historic cemeteries and their history for future generations.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

Be it further ordained that on the adoption of this amendment, the terms of all existing members of the Cemetery Committee shall be terminated. The Mayor shall thereafter re-appoint the members to the Committee with City Council approval until all existing members have been offered the opportunity for reappointment.

APPROVED:

\_\_\_\_\_  
Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk



## CITY OF PORTSMOUTH

City Hall, One Junkins Avenue  
Portsmouth, New Hampshire 03801  
kconard@cityofportsmouth.com  
(603) 610-7201

Karen S. Conard  
City Manager

**Date:** April 27, 2023

**To:** Honorable Mayor McEachern and City Council Members

**From:** Karen S. Conard, City Manager *KSC*

**Re:** City Manager's Comments on City Council Agenda of May 1, 2023

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### ***X. Public Hearings and Votes on Ordinances and/or Resolutions:***

A. **Public Hearing and Second Reading of Ordinance Amending Chapter 10 – Accessory Dwelling Unit, Section 10.430 – Use Regulations, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 10.814 – Accessory Dwelling Units, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability:**

Attached please find an amendment to Chapter 10 – Accessory Dwelling Unit, Section 10.430 – Use Regulations, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 10.814 – Accessory Dwelling Units, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability.

*I recommend that the City Council move to pass second reading and schedule a third and final reading at the May 15, 2023 City Council meeting.*

B. **Third and Final Reading of Ordinance Amending Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term:**

Attached please find an amendment to Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term.

*I recommend that the City Council move to pass third reading of the ordinance as presented.*

## *XI. City Manager’s Items Which Require Action:*

### **1. Report Back on Negotiated Sale Process and Fair Market Value for Acquisition of McIntyre Property:**

At the meeting of April 17, 2023, the City Council postponed until the meeting of May 1, 2023 consideration of whether to communicate to the General Services Administration (GSA) that the City is or is not interested in participating in a negotiated sale process. The City Council expressed its interest in particular in understanding more about the process and most importantly the likely acquisition price. Subsequent to the meeting, there have also been inquiries from some City Councilors about various scenarios relative to use of the property if acquired. [Attached is a memorandum](#) which includes information relative to the outstanding questions, contains updated information from the GSA, and opines on various scenarios.

Sample motions for the Council’s consideration are listed below:

- *To authorize the City Manager to communicate to the GSA that the City is not interested in participating in a negotiated sale process; or*
- *To authorize the City Manager to communicate to the GSA that the City is interested in participating in a negotiated sale process and is prepared to commit to taking the necessary procedural steps in the next ninety days to borrow the sum of up to \$25 million for the purchase price.*

### **2. Approval of License Agreement with the General Services Administration (GSA):**

The City’s current license agreement with the GSA relative to the maintenance of the McIntyre property and use of the parking spaces expired on April 11, 2023, but has been extended by verbal agreement and confirmed by email. The GSA is prepared to enter into a renewed license agreement for a period of 180 days that would allow the City to continue to use the parking spaces for the maintenance of the building. This license agreement has provisions which allow the City to enter into a negotiated sale if the City elects to pursue that route. As reported previously, the parking revenues cover the City’s expenses to maintain the McIntyre property.

*I recommend that the City Council authorize the City Manager to execute [the proposed license agreement with GSA](#).*

### **3. Resolution for the Authorization for Transfer of Balance of Bond Proceeds After Completion of the Project:**

I request that the City Council authorize the transfer of Bond Proceeds that are no longer needed for a project for which they were initially borrowed to pay the costs of another capital project in accordance with RSA 33:3-a (II). Please note that the project noted [in the attached resolution](#) is also listed below. Please note a 2/3 vote is required to authorize this transfer of bond proceeds.

<u>Original Project Description</u>	<u>Original Borrowing Amount</u>	<u>Approval Date</u>	<u>Unexpended Balance</u> are	<u>Allocate to Project</u>
Longmeadow Road Extension	\$400,000.00	08/06/18	\$263,783.61	DPW Fueling Station

*I recommend that the City Council move to adopt the resolution as presented.*

4. **Month-to-Month South Meetinghouse Lease Agreement for Portsmouth Public Media, Inc. (PPMtv):**

In 2016, the City first entered into a lease with Portsmouth Public Media, Inc, (“PPMtv”) at the South Meetinghouse located at 280 Marcy Street. The original lease was for a five (5) year term. The lease has been extended twice and is due to expire on May 6, 2023.

With assistance from City representatives, PPMtv has been actively looking for a new location for many months. It has identified a few potential new locations, but it will take time to relocate. PPMtv is requesting approval of a month-to-month lease for a period not to exceed six months to allow it time to relocate.

Like many leases of the City’s historic properties, PPMtv is obligated to expend what it would otherwise be assessed as real estate taxes on capital improvements to the property. PPMtv will be making pro-rated investments/payments under the month-to-month agreement.

*I recommend that the City Council move to approve [the attached month-to-month lease](#) of the South Meeting House for PPMtv.*

5. **Bicycle Pedestrian Path Easement for Property Located at 2255 Lafayette Road:**

At its regularly scheduled meeting on Thursday, June 23, 2022, the Planning Board granted Site Plan Approval, a Wetlands Conditional Use Permit and a Conditional Use Permit to allow a drive-thru facility as an accessory use to Mastoran Restaurants Inc., property owners at 2255 Lafayette Road. This action permits the property owners to convert the former Burger King location into a retail fueling station and a convenience store/sandwich shop with a drive-thru window.

As a part of this approval, the Planning Board recommended the City Council accept a [Bicycle/Pedestrian Path Easement](#) from the property owners. The Bicycle Pedestrian Path easement is a part of the broader effort by the City to extend a bicycle pedestrian path along the extent of Route 1/Lafayette Road as properties are developed. The location of the easement is reflected on [the attached drawing](#).

The Planning and Legal Departments have reviewed the form of the easement and recommend the City Council accept this easement.

*I recommend that the City Council move to authorize the City Manager to accept and record a Bicycle/Pedestrian Path Easement in substantially similar form to the easement deed from Mastoran Restaurants, Inc. contained in the agenda packet.*

## *XII. Consent Agenda:*

### **A. Projecting Sign License – 15 Congress Street:**

Permission is being sought to install a projecting sign at [15 Congress Street](#) that extends over the public right of way, as follows:

Sign dimensions: 52” x 32”

Sign area: 11.5 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

### **B. Projecting Sign License – 90 Fleet Street:**

Permission is being sought to install a projecting sign at [90 Fleet Street](#) that extends over the public right of way, as follows:

Sign dimensions: 42.5” x 37.25”

Sign area: 11 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

C. **Projecting Sign License – 110 Brewery Lane:**

Permission is being sought to install a projecting sign at [110 Brewery Lane](#) that extends over the public right of way, as follows:

Sign dimensions: 36” x 36”

Sign area: 9 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

***XVII. City Manager’s Informational Items:***

1. **Pease Development Authority Update:**

As a recently appointed member of the Pease Development Authority, I will plan to provide a verbal update following their most recent Board Meeting on April 20<sup>th</sup>.

DATE: April 27, 2023

TO: Honorable Mayor and City Council Members

FROM: Karen S. Conard, City Manager  
Suzanne M. Woodland, Deputy City Manager  
Susan G. Morrell, City Attorney  
Robert P. Sullivan, Of Counsel

RE: McIntyre - Negotiated Sale Process for Fair Market Value

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At the meeting of April 17, 2023, the City Council postponed until the meeting of May 1, 2023 consideration of whether to communicate to the General Services Administration (GSA) that the City is, or is not, interested in participating in a negotiated sale process for the purchases of the McIntyre property. The City Council expressed its interest in understanding more about the process and most importantly the likely acquisition price. Subsequent to the meeting, some City Councilors inquired about various scenarios relative to use of the property if acquired. This Memorandum, through an outline format and appendices, provides detail to support the following staff conclusions:

- The City will be required to pay fair market value to acquire the property;
- Fair market value, as indicated by GSA, is likely in the range of \$20-25 million;
- The acquisition scenarios present varying degrees of risk and often costs that are difficult to estimate;
- Given existing debt, projects in the Capital Improvement Plan would have to be revisited if the City Council elected to acquire the property; and
- The City Council has the option to initiate zoning changes to help better align the redevelopment of large parcels to address massing, height and community space concerns.



## I. WHAT ARE THE REQUIREMENTS OF A NEGOTIATED SALE?

### A. Fair Market Value (FMV) Transfer

Property must be purchased at FMV. GSA indicated the appraised value will be at highest and best use, without consideration of the cost to remediate the property, and that from its perspective that range is likely to be \$20-\$25 million. There is no current appraisal.

The City Assessor provided the following based on current data:

Indicated Market Value 2019  
Market Driven Cost Approach - \$18,243,000  
Income Approach - \$18,025,800

Since the revaluation, market values have changed. To get an idea of what the market value of the McIntyre property may be today, she utilized the 2019 adjusted value and applied the 2022 equalization ratio which is approximately 73%.

The indicated market value, as factored by the equalization ratio for 2023, would be as follows:

Market Driven Cost Approach -  $\$18,243,000 / .73 = \$24,990,411$   
Income Approach -  $\$18,025,800 / .73 = \$24,692,877$

The above 2023 values are supported by the valuation methodology within the CAMA system and the NH Department of Revenue Equalization ratio. Outside of hiring an appraiser to do a full analysis and report, the above numbers provide an idea of the fair market value of the McIntyre property.

GSA has indicated that it will use the income approach if it conducts an appraisal. Based on this information, it is likely that the GSA is correct to suggest that an appraisal is likely to place a fair market value on the property of \$20-25 million. Appraisers employ standard criteria in developing an appraised value, and typically those standard criteria do not include the ease or difficulty of obtaining land use approvals, the risk of litigation, community controversy or similar hard to measure intangible factors. This is in contrast to having a shovel-ready project with land use approvals and permits in hand for a defined project which would influence the appraised value. The GSA has clearly indicated they will rely solely on their appraisal.

B. Must Be for Public Benefit

The sale must have a public benefit. GSA indicated this is relatively broad category of uses which would include many that have previously been described, including for public community space, a municipal facility and affordable housing. That stated, the GSA has ruled out the City working through other statutory sections that might, if initially pursued, have allowed for transfer of the property to the City for \$1 for various other public uses.

C. No Warranty Deed

GSA will convey the property without warranty covenants, as is.

D. Historic Covenant Restrictions

GSA has indicated that there will be historic covenants on the property transfer, which are consistent with the Secretary of the Interior's Standards. GSA has provided a sample of the type of historic covenant restrictions it anticipates will be included in the transfer (see attached Appendix 1). GSA has already initiated the Section 106 process with the New Hampshire State Historic Preservation Office (SHPO).

**II. WHAT IS THE PROCESS FOR A NEGOTIATED SALE?**

A. Commitment

The City must indicate its commitment to enter into a negotiated sale and take steps to show its commitment to pay FMV for the property for a public benefit. The GSA will expect the City to take concrete steps to purchase the property at FMV. One such step would be for City to secure promptly the financial commitment needed to fulfill its expressed interest, such as borrowing authorization for an amount not to exceed \$25 million. A public hearing and a 2/3 vote of the City Council is required to authorize borrowing.

Whether the GSA would consider a bonding authorization of a lower amount a sufficient indicator of interest to proceed is unknown. From the staff's conversations with GSA, certainly nothing lower than \$20 million would likely be of interest.

B. Appraisal and Offer

GSA will initiate an appraisal if the City commits to a negotiated sale. The expected time frame to complete the appraisal is 90-120 days from the date it is initiated (likely August-September time frame). Once GSA receives its appraisal, the appraised value would be disclosed to the City (but not the appraisal document itself) and the City would be expected to offer FMV (likely the appraised value). The GSA has provided a sample of its typical Offer to Purchase, see attached Appendix 2.

A "negotiated sale" is somewhat of a misnomer. The GSA has indicated very little flexibility in terms of its ability and interest in deviating from the appraised value once that appraised value is set. If the City were to authorize up to \$25 million in borrowing authorization for purposes of pursuing a negotiated sale, and if the appraised value came in at \$21 million for example, the offer to purchase would be in the lower amount. The City could adjust the borrowing authorization downward.

Note that a deposit of 10% of the purchase price is required at the time of the offer.

C. Review

The City's offer to purchase would be reviewed by a Congressional Oversight Committee as part of the GSA's decision as to whether to accept the City's offer. If the City's offer were rejected, the City's deposit would be returned.

D. Closing

Assuming the City's offer is accepted, the City would likely be contractually required to close on the property within a reasonable time within thirty (30) days. The GSA's intention is to close on the property no later than October of 2023.

**III. WHAT DOES THE COMPETITIVE SALE PROCESS LOOK LIKE?**

- A. GSA has indicated that the marketing and solicitation phase is projected to be 60-90 days, followed by a 30 day closing period. Its goal is to convey the property prior to the end of October 2023.
- B. The GSA will not provide any buyer with authorization to submit plans to the City for a redevelopment application in advance of sale and transfer of title.

All interested parties will be directed to the City for all matters related to proposed uses and the requisite entitlement process. To that end, GSA has asked the City to identify a dedicated point of contact that can be included in the Property bid package. GSA competitive sales are done as-is, where-is without warranty. GSA makes no representations as to zoning or reuse.

- C. GSA has started the Section 106 process and that is ongoing. The GSA is currently finalizing correspondence to the State Historic Preservation Officer (SHPO) that will include proposed preservation restrictions to be included in the deed to protect the historic features of the Property. GSA's 106 process will be completed prior to conveyance. All future owners will need to comply with the adopted restrictions and consult with the SHPO as appropriate based on their proposed reuse plan.
- D. The GSA will not conduct an appraisal if the competitive bid process is initiated. The competitive sale process could deliver a final price that is higher or lower than whatever the appraised price might be. It is unclear whether potential buyers will be impacted/influenced by the history of controversy, the land use board process, and the litigation risks. As is well-reported, many projects in recent years have been appealed.

#### **IV. CONSIDERATION OF VARIOUS SCENARIOS IF PURCHASED**

- A. Relocate City Hall to the site, allowing the existing building at Junkins Avenue to be renovated for a modern community policing facility and other purposes

An investment of approximately \$61 million would be required just to make the building suitable for municipal office use:

\$25 million purchase price

\$26 million in construction costs to redevelop for municipal purposes

DPW used the construction estimates prepared by Cummings to create a very preliminary cost estimate for such renovation for municipal purposes. This renovation would include \$4 million in hazardous material remediation alone. There is hazardous material throughout the building including in the flooring, ceiling, walls, caulking/joint compound, fireproofing and insulation. The renovation would also include necessary new HVAC equipment and infrastructure throughout so as to avoid moving into a building with air quality issues. The estimate also includes telecommunication costs, AV equipment and other IT needs

in the outdated building. Given that the existing building has an open floor plan in many parts of the structure, departments could expect to operate in a more modular office environment with less individual office space so as to maintain cost efficiency. This figure achieves basic fit up for municipal uses and not the Class A office space that is reflected in the previous proformas.

\$10 million in design costs, project management, material testing, moving costs, commissioning, and other soft costs as well as onsite and adjacent infrastructure improvements.

This does not include any estimate to renovate the Junkins Avenue property for a modern community policing facility.

Two spreadsheets prepared by the Finance Department show the impact of borrowing the amounts needed to accomplish this scenario. See Appendix 3, current long-term debt forecast model and Appendix 4, with an additional \$61 million in debt. The funds needed would result in a substantial increase to the tax rate.

In addition, to maintain the City's level of net debt below or around 10% of annual appropriations (the best practice the City has employed for many years), the City Council would have to revisit the projects identified in the approved Capital Improvement Plan. See Appendix 5. The City Council would need to immediately start identifying \$61 million in projects to remove or indefinitely postpone.

**B. Construct a community policing facility at the site**

The Deputy City Manager discussed this scenario with the Community Policing Facility Project Team on April 18, 2023. The team included representatives of the consultant team, the Police Chief, and Department of Public Works representatives. The team was unanimous in its view that the McIntyre site is a poor location for a community policing facility principally due to its location. Emergency response times would be impacted by bridge operations, traffic and pedestrian volume during the tourist season, and road and lane closures for special events. In addition, the security elements that would be part of any new facility would likely prove less attractive than other uses.

The City's CIP currently has \$38 million scheduled for FY25 for a new Community Policing Facility. This figure may be low based on current construction costs given recent bidding experience. In any scenario, this significant future anticipated investment would need to be considered positively or negatively.

As stated above, the GSA would expect the City to acquire the property through negotiated sale at FMV or competitive bidding process even if the City were to pursue the acquisition for this very public purpose.

C. Construct a parking garage at the site

Although it is certainly possible that the parking needs study that is underway will identify a need for another parking garage, it is premature to fully understand this need and estimate of costs. In addition, this would be a poor site for a parking garage due to its location; it would be impacted by bridge operations, traffic and pedestrian volume during the tourist season, and road and lane closures for special events. In addition, to be worth the investment in construction and operation, the massing and scale of such a garage would likely not be a good fit and a desirable use in the heart of the downtown.

D. Use the property for affordable/workforce housing

The City staff has explored in the last three weeks the potential for securing the property for workforce/affordable housing. The City has been unable to identify an affordable housing partner who believes that the site can be readily redeveloped for such purpose in light of the cost of acquisition, the cost of redevelopment, the timing challenges to secure funding from the variety of sources that are typically accessed for such projects and the history of controversy and community disagreement which makes securing partners and funding particularly challenging.

E. Subdivide the property, using a portion of it for a park or other public purpose, and selling the remainder

This option presents risks that are difficult to quantify fully. The principal risk is that after purchasing the property for \$25 million (to pick a price), the City takes some action through subdivision or deed restrictions that so impairs the value of the parcel being resold that whatever the amount the City expected to receive upon resale of the remainder will be less than anticipated and result in significant limits on the City's ability to borrow for other projects in the CIP.

For example, if the City were to purchase the property for \$25 million and subdivide off a half an acre for a public park or urban community space, the City Council would have to be comfortable with the unknown of what the resale amount of the remainder would be. While the City might be able to do some gross estimating of value, a new configuration of that lot would be more difficult to assess in value. If the City Council would like to pursue this scenario further, the City Council should provide additional

guidance on the amount of property it would consider retaining for public purpose versus private use.

Fundamentally, the market could change due to some unexpected events between the time of the City's acquisition of the parcel and its resale of any remainder; this scenario could leave the City overly debt-burdened and require difficult choices with regard to other capital projects. In addition, this scenario does not include the costs of improvements to portion retained for public use. As an additional note, there is an excess profits clause that is included in any offer to purchase. That clause provides that if the purchaser resells the property within three years and there is a profit from that sale, that profit is remitted to the GSA.

If the City Council chooses this route, the City could use a short-term Bond Anticipation Note (BAN) to finance the initial purchase. See attached as Appendix 6 a spreadsheet showing the interest to be paid on such a short-term note (assuming tax exempt). After the remainder was sold, the difference between the initial purchase price and the amount received from the sale of the remainder would be the amount bonded for the long term (example: purchase for \$25 million and resell remainder parcel for \$20 million – leaving \$5 million to be bonded long term).

F. After acquisition, place restrictions on the property relative to massing, height and community space and sell it to a third party

The GSA has ruled out this option. They are not interested in an option in which the City does not intend to retain at least a portion of the property.

## V. FINAL COMMENTS

A. Financial Considerations

Each of the scenarios listed above could result in a wide range of financial implications ranging from very little to significant risk to the City's current strong financial position. Considerations would include:

1. Potential risk to the AAA Bond Rating. The City has been able to maintain a AAA rating from Standard & Poor's (S&P) since 2013 because of our conservative debt management and fund balance policies. Straying from these policies could be a sign of risk to S&P. To continue to follow our debt management policy (no more than 10% of annual appropriation toward debt service payment in any given year), future investments in our infrastructure and master plans could be jeopardized.

2. Debt Limit. In accordance with the NH Legal Debit Limit RSA 33, the City can borrow up to 7% of our base valuation. Projecting our current outstanding debt, incorporating projects identified in the current CIP and adding in the purchase/rehabilitation of the McIntyre building at \$61 Million, would bring the City closer to its maximum borrowing capacity. In FY25, this would increase the City's legal debt limit margin from a projected 50% to 72%. This could potentially raise concern with the rating agencies.

3. Financial Burden to our taxpayers. \$61 Million in new debt would cost a median single family home taxpayer approximately \$485.00 in the first year of the total permanent financing in a worst-case scenario.

B. Zoning Option

The Planning Department is prepared to bring forward changes to the Zoning Ordinance expeditiously, such that said updates to the Zoning Ordinance relative to parcels in the downtown overlay district that are greater than one acre in size could be differently regulated than they are today.



LAKES REGION  
**COMMUNITY  
SERVICES**

*Engage. Empower. Inspire.*

**APPENDIX 1**

February 23, 2012

Mr. Telesforo Ramirez  
Program Support Center  
Department of Health and Human Services  
5600 Fishers Lane Room 5B-17  
Rockville, Maryland 20857

Dear Tele:

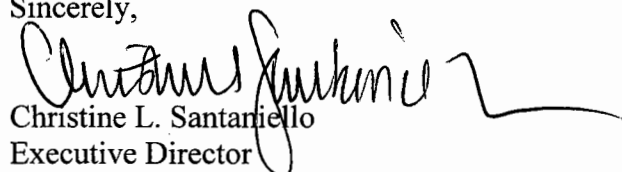
Enclosed is a copy of the recorded deed and the Certificate of Recordation for the building located at 719 North Main Street in Laconia, NH.

I thank you for all of your hard work over these last two and a half years to make this a reality for Lakes Region Community Services (LRCS).

If you are in need of any further information and/or documentation, please do not hesitate to contact me at 603.524.8811 x. 125 or [chriss@lracs.org](mailto:chriss@lracs.org).

Thank you!

Sincerely,

  
Christine L. Santaniello  
Executive Director

cc: Shelley Kelleher, letter only

**RECEIVED**  
2.28.12

**CERTIFICATION OF RECORDATION**

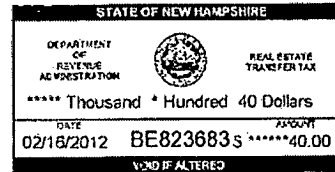
I, BARBARA R. LUTHER, of the Office of the County Recorder of the  
County of Belknap, State of New Hampshire, did receive on the  
16th day of February, 20 12, for filing and recordation, the following  
instrument:

*See attached*

I further certify that the same has been recorded in Book 2755, at Page 686, of  
the Official Records of the said County.

Barbara R. Luther  
(Signature)  
Register of Deeds  
(Title)

*Barbara R. Luther*



Contract No. 01-NH-2315

## QUITCLAIM DEED

THIS INDENTURE, made this 8<sup>th</sup> day of February, 2012, between the United States of America, acting through the Secretary of Health and Human Services, by the Chief, Real Property Branch, Division of Property Management, Program Support Center, U.S. Department of Health and Human Services (hereinafter referred to as "Grantor"), under and pursuant to the power and authority delegated by the Federal Property and Administrative Services Act of 1949 (40 U.S.C. § 550), (hereinafter, "the Act"), and regulations promulgated pursuant thereto at 45 C.F.R. Part 12, and Lakes Region Community Services, Inc., (hereinafter, "Grantee").

*P.O. Box 509 Laconia, NH 03247*

WITNESSETH

WHEREAS, by letter dated November 10, 2011, from the General Services Administration (hereinafter, "GSA"), certain surplus property, acquired by the United States of America from Mildred Pitman of Laconia, New Hampshire, by deed dated November 1, 1938, and recorded in the Belknap County Registry of Deeds in Deed Book 236, at Page 291, consisting of 1.4 acres, more or less, and improved with one two-story building containing 31,271 square feet (hereinafter, "the Property"), was assigned to Grantor for disposal upon the recommendation of Grantor that the Property is needed for public health purposes in accordance with the provisions of the Act; and,

WHEREAS, said Grantee has made a firm offer to purchase the Property under the provisions of the Act, has applied for a Public Benefit Allowance, and proposes to use the Property in accordance with the approved program of utilization; and

WHEREAS, Grantor has accepted the offer of Grantee,

NOW, THEREFORE, Grantor, for and in consideration of the foregoing and of the observance and performance by Grantee of the covenants, considerations and restrictions hereinafter contained and other good and valuable consideration, the receipt of which is hereby acknowledged, has remised, released and quitclaimed and by these presents does remise, release and quitclaim to Grantee, its successors and assigns, all right, title, interest, claim and demand, excepting and reserving such rights as may arise from the operation of the conditions subsequent hereinafter expressed, which the United States of America has in and to the Property, situate, lying, and being in the County of Laconia, State of New Hampshire, and more particularly described as follows:

The Property is more particularly described in **Exhibit A**, which contains a City of Laconia planning document and an original stamped legal description, which is attached hereto and made a part hereof.

SUBJECT to any and all other existing easements, encumbrances, covenants, restrictions, reservations or conditions affecting the above described property whether or not the same appear on record.

Grantee shall comply with all applicable Federal, State, municipal, and local laws, rules, orders, ordinances, and regulations in the occupation, use, and operation of the Property.

TO HAVE AND TO HOLD the Property subject, however, to each of the following conditions subsequent, which shall be binding upon and enforceable against Grantee, its successors and assigns, as follows:

1. That for a period of thirty (30) years from the date hereof the Property herein conveyed will be used continuously for health purposes in accordance with Grantee's approved program of utilization as set forth in its application dated September 22, 2009, and amended on November 16, 2009, and for no other purpose;
2. That during the aforesaid period of thirty (30) years Grantee will not resell, lease, mortgage, or encumber or otherwise dispose of any part of the Property or interest therein except as Grantor or its successor in function may authorize in writing;
3. Where construction or major renovation is not required or proposed, the Property must be placed into use within twelve (12) months from the date of this Deed. Where construction or major renovation is contemplated at the time of transfer, the Property must be placed into use within thirty-six (36) months from the date of this Deed;
4. That one year from the date hereof and annually thereafter for the aforesaid period of thirty (30) years, unless Grantor or its successor in function directs otherwise, Grantee will file with Grantor or its successor in function reports on the operation and maintenance of the Property and will furnish, as requested, such other pertinent data evidencing continuous use of the Property for the purposes specified in the above-identified application;
5. That during the aforesaid period of thirty (30) years Grantee will at all times be and remain a tax-supported organization or a nonprofit institution, organization, or association exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and
6. That, for the period during which the Property is used for the purpose for which the Federal assistance is hereby extended by Grantor or for another purpose involving the provision of similar services or benefits, Grantee hereby agrees that it will

comply with the requirements of section 606 of the Act (40 U.S.C. § 476); the Fair Housing Act (42 U.S.C. § 3601-19) and implementing regulations; and, as applicable, Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d to d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations; Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) and implementing regulations; the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. § 6101-07) and implementing regulations; the prohibitions against otherwise qualified individuals with handicaps under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations, and all requirements imposed by or pursuant to the regulations of Grantor (45 CFR Parts 12, 80, 84, 86 and 91) issued pursuant to said Acts and now in effect, to the end that, in accordance with said Acts and regulations, no person in the United States shall, on the ground of race, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under the program and plan referred to in condition numbered 1 above or under any other program or activity of Grantee, its successors or assigns, to which said Acts and regulations apply by reason of this conveyance.

In the event of a breach of any of the conditions subsequent set forth above, whether caused by the legal or other inability of Grantee, its successors and assigns, to perform any of the obligations herein set forth, Grantor or its successor in function will, at its option, have an immediate right of reentry thereon, and to cause all right, title, and interest in and to the Property to revert to the United States of America, and Grantee, its successors and assigns, shall forfeit all right, title, and interest in and to the Property and to any and all of the tenements, hereditaments, and appurtenances thereunto belonging;

PROVIDED, HOWEVER, that the failure of Grantor or its successor in function to insist in any one or more instance upon complete performance of any of the said conditions subsequent shall not be construed as a waiver of or a relinquishment of the future performance of any of said conditions subsequent, but the obligations of Grantee with respect to such future performance shall continue in full force and effect;

PROVIDED FURTHER, that, in the event Grantor or its successor in function fails to exercise its option to reenter the premises and to revert title thereto for any such breach of conditions numbered 1, 2, 3, 4, or 5 herein within thirty-one (31) years from the date of this conveyance, conditions numbered 1, 2, 3, 4, and 5 herein, together with all rights to reenter and revert title for breach of condition, will, as of that date, terminate and be extinguished; and

PROVIDED FURTHER, that the expiration of conditions numbered 1, 2, 3, 4, and 5 and the right to reenter and revert title for breach thereof, will not affect the obligation of Grantee, its successors and assigns, with respect to condition numbered 6 herein or the right reserved to Grantor, or its successor in function, to reenter and revert title for breach of condition numbered 6.

Grantee may secure abrogation of the conditions subsequent numbered 1, 2, 3, 4, and 5 herein by:

- a. Obtaining the consent of Grantor, or its successor in function, therefor; and
- b. Payment to the United States of America of 1/360th of the percentage public benefit allowance granted of the fair market value as of the date of such requested abrogation, exclusive of the value of improvements made by Grantee to the extent that they add to the value of that portion of the Property to be released, for each month of the period to be abrogated.

Grantee, by acceptance of this Deed, covenants and agrees for itself, its successors and assigns, with respect to the Property or any part thereof--which covenant shall attach to and run with the land for so long as the Property is used for a purpose for which Federal assistance is hereby extended by Grantor or for another purpose involving the provision of similar services or benefits, and which covenant shall in any event, and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit of and in favor of and enforceable by Grantor or its successor in function against Grantee, its successors and assigns for the Property, or any part thereof--that it will comply with the requirements of section 606 of the Act (40 U.S.C. § 476); the Fair Housing Act (42 U.S.C. § 3601-19) and implementing regulations; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d to d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations; the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. § 6101-07) and implementing regulations; and the prohibitions against otherwise qualified individuals with handicaps under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations; and all requirements imposed by or pursuant to the regulations of Grantor (45 C.F.R. Parts 12, 80, 84 and 91) issued pursuant to said acts and now in effect, to the end that, in accordance with said acts and regulations, no person in the United States shall, on the ground of race, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under the program and plan referred to in condition numbered 1 above or under any other program or activity of Grantee, its successors or assigns, to which such Acts and regulations apply by reason of this conveyance.

Grantee covenants and agrees that the Property will be used for secular purposes, with no more than a de minimis level of other activity.

Grantee, by acceptance of this Deed, covenants and agrees for itself, its successors and assigns, that in the event Grantor exercises its option to revert all right, title, and interest in and to the Property to Grantor, or Grantee voluntarily returns title to the Property in lieu of a reverter, then Grantee shall provide protection to and maintenance of the Property at all times until such time as the title is actually reverted or returned to and accepted by Grantor. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration and codified in the Federal Property Management Regulations at 41 C.F.R.

Subpart 101-75.545 now in effect, a copy of which is attached to Grantee's aforementioned application.

In the event title to the Property or any part thereof is reverted to the United States of America for noncompliance or is voluntarily reconveyed in lieu of reverter, Grantee, its successors or assigns, at the option of Grantor, or its successor in function, shall be responsible for and shall be required to reimburse the United States of America for the decreased value thereof that is not the result of reasonable wear and tear, an act of God, or alterations and conversions made by Grantee, its successors or assigns, to adapt the property to the health use for which the property was transferred. The United States of America shall, in addition thereto, be reimbursed for such damage, including such costs as may be incurred in recovering title to or possession of the above-described property, as it may sustain as a result of such noncompliance.

Grantee, by acceptance of this deed, further covenants and agrees for itself, its successors and assigns, that in the event the Property or any part thereof is, at any time within the period of thirty (30) years from the date of this conveyance, sold, leased, disposed of, or used for purposes other than those designated in condition numbered 1 above without the consent of Grantor, or its successor in function, all revenues therefrom or the reasonable value, as determined by Grantor, or its successor in function, of benefits to Grantee, deriving directly or indirectly from such sale, lease, disposal, or use, shall be considered to have been received and held in trust by Grantee for the United States of America and shall be subject to the direction and control of Grantor, or its successor in function; but the provisions of this paragraph shall not impair or affect the rights reserved to Grantor under any other provision of this deed.

Grantee, by acceptance of this Deed, covenants and agrees for itself, its successors and assigns, that the Property is transferred on an "as is, where is," basis, without warranty of any kind, either expressed or implied, including as to the condition of the Property. Grantee also covenants and agrees for itself, its successors and assigns, that the United States has no obligation to provide any additions, improvements, or alterations to the Property.

Grantor, in its capacity as a public benefit conveyance authority for the United States of America, does not assume liability, custody, or accountability for the property in the event title to the Property reverts to the United States of America for noncompliance with this Deed, or in connection with any hazardous substance activity or condition on the Property.

*The following covenants and restrictions are provided pursuant to the aforementioned letter of assignment from the General Services Administration (Region 1).*

Grantee, by acceptance of this Deed, agrees to accept conveyance of the Property subject to all covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, privileges, benefits, agreements, and encumbrances, whether or not of record.

## **NOTICES & COVENANT REGARDING HAZARDOUS SUBSTANCE ACTIVITY**

Notice Regarding Hazardous Substance Activity. Pursuant to 40 C.F.R. 373.2 and Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act

of 1980, as amended (CERCLA) (42 U.S.C. § 9620(h)(3)(A)(i)), and based upon a complete search of agency files, the United States gives notice that no hazardous substances have been released or disposed of or stored for one year or more on the Property (See **Exhibit B, Hazardous Substance Activity Certification**).

CERCLA Covenant. Grantor warrants that all remedial action necessary to protect human health and the environment has been taken before the date of this conveyance. Grantor warrants that it shall take any additional response action necessary after the date of this conveyance regarding hazardous substances located on the Property on the date of this conveyance (See **Exhibit B, Hazardous Substance Activity Certification**).

1. This covenant shall not apply: (a) in any case in which Grantee, its successors or assigns, or any successor in interest to the Property or part thereof is a Potentially Responsible Party (PRP) with respect to the Property immediately prior to the date of this conveyance; or (b) to the extent that such additional response action or part thereof found to be necessary is the result of an act or failure to act of the Grantee, its successors or assigns, or any party in possession after the date of this conveyance that either: (i) results in a release or threatened release of a hazardous substance that was not located on the Property on the date of this conveyance; or (ii) causes or exacerbates the release or threatened release of hazardous substance the existence and location of which was known and identified to the applicable regulatory authority as of the date of this conveyance.
2. In the event Grantee, its successor(s) or assign(s), seeks to have the United States of America conduct any additional response action, and, as a condition precedent to the United States of America incurring any additional cleanup obligation or related expenses, the Grantee, its successor(s) and assign(s), shall provide the United States of America at least 45 days written notice of such a claim. In order for the 45-day period to commence, such notice must include credible evidence that: (a) the associated contamination existed prior to the date of this conveyance; and (b) the need to conduct any additional response action or part thereof was not the result of any act or failure to act by the Grantee, its successors or assigns, or any party in possession.

Reservation of Right of Access. The United States of America reserves a right of access to all portions of the Property for environmental investigation, remediation or other corrective action. This reservation includes the right of access to and use of available utilities at a reasonable cost to the United States of America. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of this conveyance, or in which access is necessary to carry out a remedial action, response action, or corrective action on adjoining property. Pursuant to this reservation, the United States of America, and its respective officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable advance written notice to the record title owner) to enter upon the Property and conduct investigations and surveys, to include drilling, test pitting, borings, data and records compilation and other activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary, including but not limited to the installation and operation of monitoring wells, pumping wells, and treatment facilities. Any such entry, including such activities, responses or remedial actions, shall be coordinated with record



title owner and shall be performed in a manner that minimizes interruption with activities of authorized occupants.

## **HISTORIC AND CULTURAL RESOURCES**

Pursuant to Section 106 of the National Historic Preservation Act, the two-story building on the Property was nominated to the National Register of Historic Places and was listed on October 25, 2011.

The State of New Hampshire, Department of Historic Resources has been consulted with regard to the conveyance of the Property and the related historic preservation easement requirement as mandated by Section 106 of the National Historic Preservation Act.

By acceptance of this Deed, Grantee agrees to grant a historic preservation easement to the State of New Hampshire, Department of Historic Resources, and to maintain and preserve the Property herein conveyed according to the terms of the historic preservation easement. Grantee further agrees that the terms of the historic preservation easement shall not interfere with the rights and interests retained in this Deed by Grantor, including but not limited to Grantor's reversionary interest in the property.

Further, Grantee agrees to grant said historic preservation easement immediately subsequent to, and on the same date as, Grantee's execution of this Deed, and upon full execution, Grantee agrees to record this Deed and then the Historic Preservation Easement, in that order, and to provide copies of such to Grantor.

## **COVENANT AND INDEMNIFICATION REGARDING THE PRESENCE OF LEAD BASED PAINT**

Grantee hereby acknowledges the required disclosure, dated January 11, 2012, in accordance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d (Title X), of the presence of any known lead-based paint and/or lead-based paint hazards in target housing constructed prior to 1978 on the Property. This disclosure includes the receipt of available records and reports pertaining to lead-based paint and lead-based paint hazards; receipt of the lead hazard information pamphlet; and inclusion of the 24 C.F.R. 35 and 40 C.F.R. 745 disclosure and lead warning language; the completed Disclosure is attached as **Exhibit C** in this deed of conveyance. Grantee further acknowledges that Grantee was given the opportunity to inspect, and thereby assess, the Property for lead-based paint hazards.

The Property contains no improvements defined by Title X as target housing. However, in the event that any improvement on the Property is converted to residential use, the Grantee covenants and agrees that in its use and occupancy of such Property it will comply with 24 C.F.R. 35 and 40 C.F.R. 745 and all applicable Federal, State, and local laws relating to lead-based paint; and that the United States of America assumes no liability for damages for Property damage, personal injury illness, disability, or death, to Grantee, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use disposition, or other activity causing or leading

to contact of any kind whatsoever with lead-based paint on the Property described in this deed, whether Grantee, and its successors or assigns, have properly warned or failed to properly warn the individual(s) injured. Grantee further agrees to indemnify, defend and hold harmless the United States of America from any and all loss, judgment, claims, demands, expenses or damages, of whatever nature which might arise or be made against the United States of America, due to, or relating to the presence of lead-based paint hazards on the Property, any related abatement activities, or the disposal of any material from the abatement process.

Upon execution of this Deed, Grantee agrees to complete and execute the Certificate of Completion of Lead Abatement, attached as **Exhibit D** certifying that the existing improvements will not be used as residences and/or will be demolished in accordance with local laws and regulations.

Grantee further covenants and agrees that it will comply with all Federal, state, local, and any other applicable law regarding lead-based paint hazards with respect to the Property.

#### **ASBESTOS CONTAINING MATERIALS**

Grantee is warned that the Property contains asbestos-containing materials. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

Grantee is invited, urged, and cautioned to inspect the Property as to its asbestos content and condition, and any hazardous or environmental conditions relating thereto. The disposal agency will assist Grantee in obtaining any authorizations(s) which may be required in order to carry out any such inspection(s). Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property including, without limitation, any asbestos hazards or concerns.

No warranties either express or implied are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or is or is not safe for a particular purpose. The failure of Grantee to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim against the Government.

The description of the Property set forth in this Quitclaim Deed and any other information provided therein with respect to the Property is based on the best information available to the disposal agency and is believed to be correct, but any error or omission, including but not limited to the omission of any information available to the agency having custody over the Property and/or any other Federal agency, shall not constitute grounds or reason for any claim by the Grantee against the Government.

The Government assumes no liability for damages for personal injury, illness, disability or death, to the Grantee, or the Grantee's successors, assigns, employees, invitees, licensees, or any other person subject to the Grantee's control or direction, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property which is the subject of this conveyance, whether the Grantee, its successors or assigns has properly warned or failed to properly warn the individual(s) injured.


The Grantee further agrees that in its use and occupancy of the Property it will comply with all Federal, state, and local laws relating to asbestos.

#### **HAZARDS TO AIR NAVIGATION**

Objects Affecting Navigable Air Space. Pursuant to the requirements of House Report Number 95-1053 entitled "FAA Determinations of 'No Hazard' For Structures Near Airports," it has been determined that the Laconia Municipal Airport is located within six (6) nautical miles of the Property. No construction on or alteration of the Property or any portion thereof shall be undertaken by the Grantee, its successors or assigns unless and until a written determination of no hazard to air navigation shall have been issued the FAA pursuant to 14 C.F.R. Part 77 "Objects Affecting Navigable Air Space" or under the authority of the Federal Aviation Act of 1958, as amended. This restriction shall run with the Property.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed as of the day and year first above written.

UNITED STATES OF AMERICA  
Acting through the Secretary of Health and Human Services

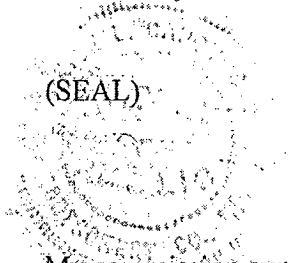
By:   
Theresa M. Ritta  
Chief, Real Property Branch  
Division of Property Management  
Program Support Center

ACKNOWLEDGMENT

STATE OF MARYLAND )  
COUNTY OF MONTGOMERY) SS

On this 8<sup>th</sup> day of February, 2012, before me the undersigned officer, personally appeared Theresa M. Ritta, known to me to be the Chief, Real Property Branch, Division of Property Management, Department of Health and Human Services, and known to me to be the person who executed the foregoing instrument on behalf of the Secretary of Health and Human Services, for the United States of America, and acknowledged to me that she subscribed to the said instrument in the name of the Secretary of Health and Human Services and on behalf of the United States of America.

Witness my hand and official seal.



Anise L. Capotosto  
Notary Public

My commission expires 2/8/2016.

ANISE L. CAPOTOSTO  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires February 8, 2016

ACCEPTANCE

The Lakes Region Community Services, Inc., hereby accepts this deed and thereby agrees to all the terms, covenants, conditions and restrictions contained therein.

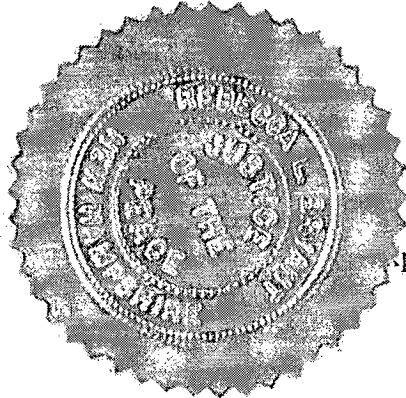
By Randy Perkins  
Randy Perkins  
Board President  
Lakes Region Community Services, Inc.

ACKNOWLEDGMENT

STATE OF NEW HAMPSHIRE )  
COUNTY OF BEKINAP ) SS

On this 15<sup>th</sup> day of February 2012, before me, a Notary Public in the City of LACONIA, County of BEKINAP, State of New Hampshire, and for Lakes Region Community Services, Inc., personally appeared RANDY PERKINS, known to me to be the Board President, Lakes Region Community Services, Inc., and known to me to be the person who executed the foregoing instrument on behalf of Lakes Region Community Services, Inc., and acknowledged to me that he executed the same as the free act and deed of Lakes Region Community Services, Inc.

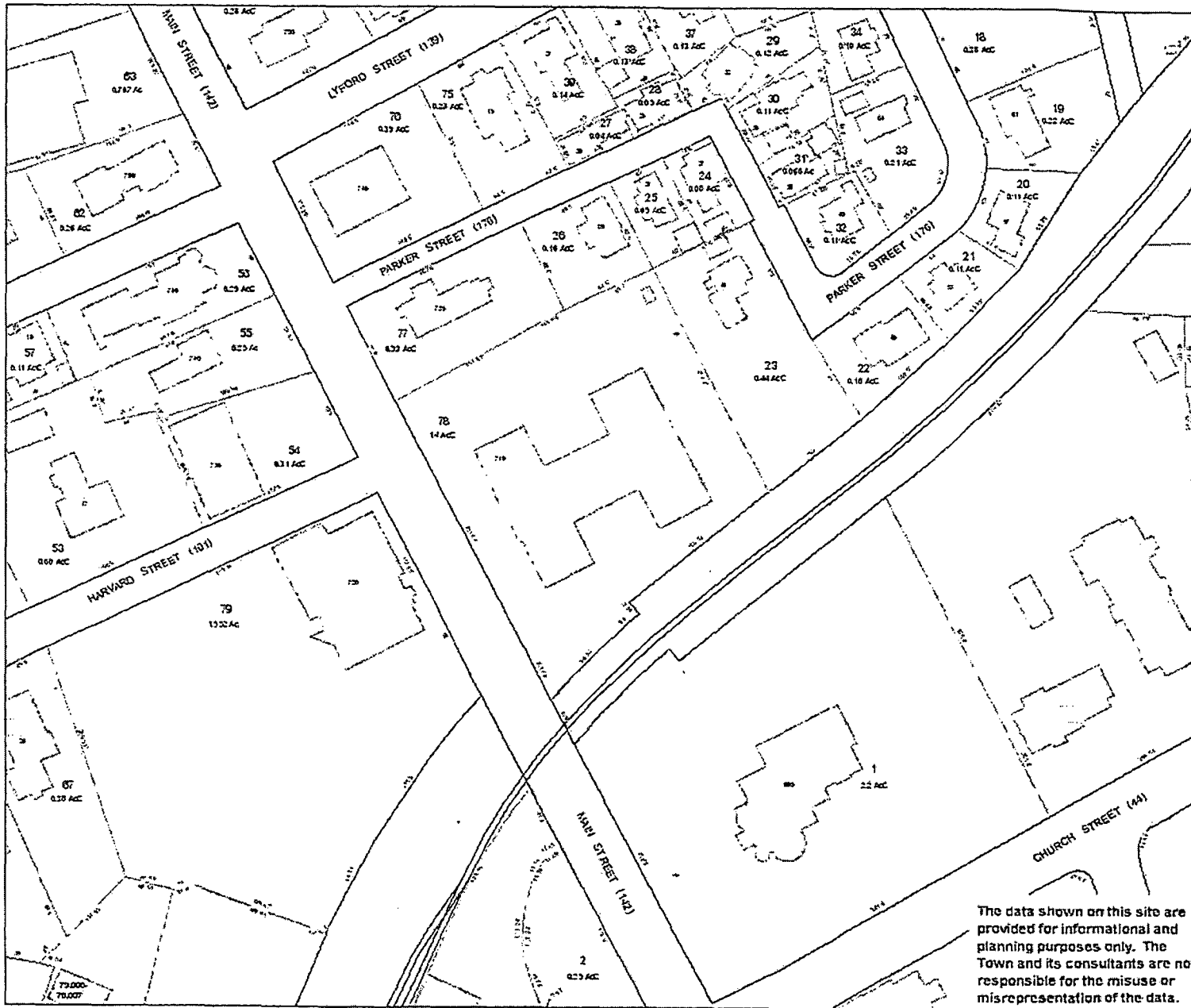
Witness my hand and official seal.



Rebecca Bryant  
Notary Public / Justice of the Peace

My Commission Expires REBECCA L. BRYANT, Justice of the Peace  
My Commission Expires April 1, 2014

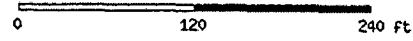
# EXHIBIT A



- City Line
- Abutting Towns
- Railroad
- Urban Renewal
- Housing Redevelopment
- Buildings
- Streams
- Open Water
- Miscellaneous Lines
- Bridge
- Cemetery
- Dam
- Dock
- Hooks
- Priv Rd RW
- RW
- Util Easement
- Parcel Lines
- Common Line
- Private Road
- Railroad RW
- Road RW
- Urlev Road
- Parcels

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.

Legibility of original document poor for reproduction



Beginning at a point on the easterly side of Main Street at the northerly line of the Boston & Maine Railroad, which point is 7.07 feet southwest of the southwest corner of a concrete bound, which bound is set in 5 feet from the easterly line of Main Street, and running N 12° 10' W a distance of 291.54 feet on said Main Street to the southwest corner of land of Louise P. Knight, which corner is 7.07 feet northwest of the northwest corner of a concrete bound, which bound is set in 5 feet from the easterly line of Main Street; thence turning at an interior angle of 88° 36' and running N 79° 14' E a distance of 161.89 feet along the southerly line of land of said Louise P. Knight to the southwest corner of land of Boniface Bujnievicz and thence running N 79° 14' E a distance of 85.7 feet along the southerly line of land of said Boniface Bujnievicz to a point in the westerly line of land of Wilfred M. Bisson, which point is 5 feet northwest of the southeast corner of a concrete bound, the easterly side of which bound coincides with said westerly line of land of the said Wilfred M. Bisson; thence turning at an interior angle of 91° 24' and running S 12° 10' E a distance of 214.35 feet along the said westerly line of land of the said Wilfred M. Bisson to a point in the northerly line of land of said Boston & Maine Railroad, which point coincides with the southeasterly corner of a concrete bound, the easterly side of which bound coincides with the said westerly line of land of the said Wilfred M. Bisson; thence turning at an interior angle of 101° 40' and running S 66° 10' W a distance of 150.54 feet along the northerly line of land of said Boston & Maine Railroad to a point, which point coincides with the southwest corner of a concrete bound, the southerly side of which bound coincides with the last mentioned northerly line of said Boston & Maine Railroad; thence turning at an exterior angle of 90° and running S 23° 50' E a distance of 12.38 feet along the westerly line of land of said Boston & Maine Railroad to a point in the northerly line of land of said Boston & Maine Railroad, which point coincides with the southeasterly corner of a concrete bound, the southerly side of which bound coincides with the last mentioned northerly line of land of said Boston & Maine Railroad; thence turning at an interior angle



of 90° and running S 66° 10' W a distance of 9.6 feet along the last mentioned northerly line of land of said Boston & Maine Railroad to a point in the said last mentioned northerly line of land of said Boston & Maine Railroad, which point coincides with the southwesterly corner of a concrete bound, the southerly side of which bound coincides with the said last mentioned northerly line of land of said Boston & Maine Railroad; and thence running southwesterly on a curve having a radius of 662.89 feet and a chord length of 96.94 feet on a course of S 61° 57' W along the northerly line of land of said Boston & Maine Railroad to the point of beginning, the chord between the two last mentioned points forming an angle of 4° 13' with that portion of the southerly boundary of the land herein conveyed which is hereinbefore described as measuring 9.6 feet and an angle of 74° 07' with said Main Street. The area of the land herein conveyed is 61,532 square feet. The improvements located thereon are to be removed by me upon thirty days' notice in writing so to do, after title to said land has become vested in the said United States of America. The said land was conveyed to me by my husband, Charles J. Pitman, by warranty deed, dated, acknowledged, and recorded at the Belknap County Registry of Deeds, Book 204, Page 162, on June 20, 1932.

# EXHIBIT B

### ASSURANCE OF COMPLIANCE

ASSURANCE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, SECTION 504 OF THE REHABILITATION ACT OF 1973, TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AND THE AGE DISCRIMINATION ACT OF 1975

The Applicant provides this assurance in consideration of and for the purpose of obtaining Federal grants, loans, contracts, property, discounts or other Federal financial assistance from the U.S. Department of Health and Human Services.

THE APPLICANT HEREBY AGREES THAT IT WILL COMPLY WITH:

1. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 80), to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department.
2. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 84), to the end that, in accordance with Section 504 of that Act and the Regulation, no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department.
3. Title IX of the Education Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 86), to the end that, in accordance with Title IX and the Regulation, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any education program or activity for which the Applicant receives Federal financial assistance from the Department.
4. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 91), to the end that, in accordance with the Act and the Regulation, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department.

The Applicant agrees that compliance with this assurance constitutes a condition of continued receipt of Federal financial assistance, and that it is binding upon the Applicant, its successors, transferees and assignees for the period during which such assistance is provided. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. The Applicant further recognizes and agrees that the United States shall have the right to seek judicial enforcement of this assurance.

The person whose signature appears below is authorized to sign this assurance and commit the Applicant to the above provisions.

12-21-11  
Date

Christine Santarelli  
Signature of Authorized Official

Christine Santarelli, Executive Director  
Name and Title of Authorized Official (please print or type)

Lakes Region Community Senses Council  
Name of Healthcare Facility Receiving/Requesting Funding

17 Communications Drive, PO Box 509  
Street Address

Lewiston, NH 03247  
City, State, Zip Code

Please mail form to:  
U.S. Department of Health & Human Services  
Office for Civil Rights  
200 Independence Ave., S.W.  
Washington, DC 20201



# EXHIBIT C

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) \_\_\_\_\_ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) X Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (check (i) or (ii) below):

(i) \_\_\_\_\_ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) X Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

(c) XCS Purchaser has received copies of all information listed above.

(d) CS Purchaser has received the pamphlet *Protect Your Family from Lead in Your Home*.

(e) Purchaser has (check (i) or (ii) below):

(i) X received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii) \_\_\_\_\_ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (Initial)

(f) \_\_\_\_\_ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

<u>Theresa Ritta</u>	<u>01/11/2012</u>	_____	_____
Seller	Date	Seller	Date
<u>[Signature]</u>	<u>1/13/12</u>	_____	_____
Purchaser	Date	Purchaser	Date
_____	_____	_____	_____
Agent	Date	Agent	Date



# EXHIBIT D

EXHIBIT D

CERTIFICATE OF COMPLETION OF LEAD ABATEMENT

Property (inclusive of Improvements): \_\_\_\_\_ (the "Property").

Name and Address of Purchaser

79 North Main Street  
LAWRENCE, MA 01840

Mark appropriate boxes with an "X".

Purchaser certifies that lead hazards were abated and that the following statements are true:

1. All lead-based paint hazards were abated from the Property in accordance with 40 CFR 745.227(e) and other applicable laws and regulations prior to the occupancy of any residential Improvements.
2. No more than 12 months elapsed from the date on the Government's risk assessment to the time when onsite preparation activities for the abatement commenced, or the risk assessment was made current by the Purchaser prior to the commencement of such activities, at no cost to the Government.
3. A clearance examination was performed in accordance with 40 CFR 745.227(e) and 24 CFR 35.1340 (c) through (f), by a person certified to perform risk assessments or lead-based paint inspections. The examination reveals that clearance samples meet the standards set forth in 24 CFR 35.1320(b)(2).
4. A true and correct copy of the clearance report, prepared by a person certified to perform risk assessments or lead-based paint inspections and in accordance with 40 CFR 745.227(e)(10), is attached.

Purchaser hereby certifies that the Property will not be occupied as a residence.

Purchaser hereby certifies that pre-1960 housing will not be used as a residence and will be demolished, in accordance with local laws and regulations.

Under penalty of perjury, the Purchaser hereby declares that the foregoing statements are true and correct to the best of his or her knowledge and belief.

By:

Christine Santanilla 2-14-12  
(Print Name Christine Santanilla) Date  
LICSE Exam Director

*Barbara R. Lether*

**PERMANENT HISTORIC PRESERVATION EASEMENT**

**Lakes Region Community Services Council**, having its principal place of business and mailing address at P.O. Box 509, Laconia, Belknap, NH 03247 "Grantor," for consideration paid, grants to the **STATE OF NEW HAMPSHIRE, DEPARTMENT OF CULTURAL RESOURCES**, acting through the **DIVISION OF HISTORICAL RESOURCES**, having its place of business and mailing address at 19 Pillsbury Street, Concord, Merrimack County, New Hampshire 03301-3570, "Grantee," with **QUITCLAIM COVENANTS**, in accordance with and pursuant to the provisions of New Hampshire RSA 477:45-47 and RSA 227-M, a **PERMANENT HISTORIC PRESERVATION EASEMENT** in the real property and structure situated thereon, known as the **Laconia Federal Building** and located at **719 North Main Street, Laconia, Belknap County, NH. 02346** and more particularly described on Schedule A, attached and made a part hereof, the "Property," upon the terms and conditions set forth herein.

**1. BACKGROUND AND NATURE OF EASEMENT**

1.1 Grantor and Grantee desire to guarantee the preservation of the unique historical character and architectural qualities of the Property and to impose "preservation restrictions" on the Property in accordance with RSA 477:46.

1.2 **Laconia Federal Building** was listed in the National Register of Historic Places on October 25, 2011, as required under Section 170(h)(4)(B) of the Internal Revenue Code, the "Code."

1.3 The preservation values of the Property are documented in a completed report and photographs, the "Baseline Documentation," which the Grantor and Grantee agree provide an accurate representation of the Property as of the date of this Easement. Duplicate copies of the Baseline Documentation shall be held by both Grantor and Grantee, although the copy held by the Grantee shall be the controlling copy in the event of a discrepancy between the two copies.

1.4 The Baseline Documentation shall consist of the following: A National Register nomination for the Federal Building, 719 Main Street, Laconia, NH prepared by Shauna J Hass of A.D Marble & Company for U.S. General Services Administration and a set of floor plans and archival interior and exterior photographs taken in December of 2011 that document the interior and exterior of the building at the time of transfer.

1.5 This Easement is given in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and pursuant to Section 170(h) of grant of the Code and New Hampshire RSA 477:45-47, the grantor does hereby voluntarily grant and convey unto the Grantee a preservation and conservation easement in perpetuity over the Property situate in the Town of Laconia and more particularly described in Exhibit A which is attached hereto and recorded herewith.

**RECEIVED**  
3.19.12



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Lakes Region Community Services Council, having its principal place of business and mailing address at P.O. Box 509, Laconia, Belknap, NH 03247 "Grantor," for consideration paid, grants to the **STATE OF NEW HAMPSHIRE, DEPARTMENT OF CULTURAL RESOURCES**, acting through the **DIVISION OF HISTORICAL RESOURCES**, having its place of business and mailing address at 19 Pillsbury Street, Concord, Merrimack County, New Hampshire 03301-3570, "Grantee," with **QUITCLAIM COVENANTS**, in accordance with and pursuant to the provisions of New Hampshire RSA 477:45-47 and RSA 227-M, a **PERMANENT HISTORIC PRESERVATION EASEMENT** in the real property and structure situated thereon, known as the **Laconia Federal Building** and located at **719 North Main Street, Laconia, Belknap County, NH. 02346** and more particularly described on Schedule A, attached and made a part hereof, the "Property," upon the terms and conditions set forth herein.

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1.6 This Easement specifically grants the Grantee all rights necessary:

1.6.1 To ensure that the archeological, architectural, historical, and cultural features of the Property will be retained and maintained in their current or better condition for preservation purposes, and

1.6.2 To prevent any use or change of the Property that will significantly impair or interfere with the preservation value of the Property.

## 2. COVENANTS OF GRANTOR

2.1 Affirmative Covenants. Grantor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)), the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination based on race, religion, national origin, or disability. In implementing public access, Grantor shall make reasonable accommodation to qualified disabled persons in consultation with the Grantee.

2.1.1 Grantor covenants and agrees at all times during the term of this Easement to maintain the Property in the same or better structural condition and state of repair as that existing on the date of this Easement. The obligation to maintain shall require replacement, rebuilding, repair, and/or reconstruction by Grantor whenever necessary, subject to the casualty provisions of Section 4, to preserve the Property in substantially the same structural condition and state of repair as that existing as of the date of this Easement.

2.1.2 Grantor covenants and agrees that all work under this paragraph shall be undertaken in accordance with the The Secretary of the Interior's Standards for Treatment of Historic Properties, 1995, Standards for Rehabilitation, as they may be amended from time to time, the "Secretary's Standards" (36 CFR 68).

2.1.3 Grantor agrees to submit to Grantee, an annual stewardship report for the Laconia Federal Building detailing all physical work, if any, undertaken on the Property on both the exterior and interior of the Building over the course of the previous year, as well as any stewardship development activities and any changes to the stewardship plan for the Property.

2.1.4 Grantor shall make the public-access portions of the Laconia Federal Building reasonably accessible to the public during regular operating hours. Nothing in this agreement will prohibit a reasonable non-discriminatory admission fee, comparable to fees charged at similar facilities in the area.

2.1.5 At other times deemed reasonable by Grantor, the Grantor shall admit persons affiliated with education organizations, professional architectural

associations, and historical societies to study the Laconia Federal Building. Grantee may make photographs, drawings or other representations documenting the significant historical, cultural, and architectural character and features of the Property, and may distribute them to magazines, newsletters, or other publicly available publications, or use them to fulfill its charitable and educational purposes; provided Grantee does not use such materials for sale or profit.

## 2.2 Negative Covenants

Grantor covenants and agrees that the following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise permitted in this paragraph:

2.2.1 The Building on the Property shall not be demolished, removed, or razed except as provided in Section 4;

2.2.2 No action shall be undertaken that would adversely affect the structural soundness of the Building;

2.2.3 Nothing shall be erected or allowed to grow on the Property that would impair the visibility of the Property from street level;

2.2.4 No dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is permitted on the Property;

2.2.5 No subdivision of the Property shall be permitted, nor shall the Property be conveyed except as a unit;

2.2.6 No above-ground utility transmission lines may be created on the Property, except those reasonably necessary for the existing Building, and those utility easements already on record, if any;

2.2.7 No other buildings or structures, including satellite dishes, shall be erected or placed on the Property, except for security cameras with their locations approved in writing by the grantee and such temporary structures required for the maintenance or rehabilitation of the Property;

2.2.8 No resource asset may be sold, transferred, conveyed, or released from the public trust, as prohibited by NH RSA 227-M:13.

## 2.3 Conditional Rights

2.3.1 Grantor covenants and agrees that it shall not undertake any of the following actions during the term of this Easement without the prior express written approval of the Grantee, which approval may be withheld or conditioned in the sole discretion of the Grantee:

2.3.1.1 Grantor will not increase or decrease the height of, make additions to, change the exterior construction materials or finishes of, or move, improve, alter, reconstruct, or change the facade, including the fenestration, and roof, of the Building.

2.3.1.2 Grantor will not erect any new external signs or external advertisements not existing as of the date of this Easement, except (i) signs that may be required under the terms of grants that have been made for the preservation of the property, (ii) a sign stating solely the address of the Property, (iii) a temporary sign to advertise a special event or the sale or rental of the Property, and (iv) signs identifying entities that occupy the building. The design and content of all signs placed in conformity with this clause shall be approved in writing by the Grantee.

2.3.1.3 Grantor will not make any permanent substantial topographical changes to the Property.

2.3.1.4 Grantor will not change the existing use of the Property as office space unless the Grantee determines such proposed uses do not impair the preservation values of the Property and do not conflict with the purposes of this Easement.

2.3.2 Grantor's written requests for approval by the Grantee shall include the following:

2.3.2.1 Information, including plans, specifications, and designs, where appropriate, identifying the proposed activity with reasonable specificity;

2.3.2.2 A timetable for the proposed activity sufficient to permit Grantee to monitor such activity.

2.3.3 Grantee shall act upon such written requests within sixty (60) days of receipt of the request. If such request is not denied in writing within such sixty (60) days, the request shall be considered approved and permission shall be deemed granted.

2.3.4 In the event of an emergency, Grantor may take such reasonable and limited actions Grantor deems necessary to protect the preservation values of the Property. However, as soon as reasonably practical thereafter, Grantor shall submit to Grantee information concerning the nature of the emergency and the actions taken by Grantor.

2.3.5 In exercising its authority under this Easement to review any construction, alteration, repair, or maintenance, or to review casualty damage, or

to reconstruct or approve reconstruction of the Building following casualty damage, the Grantee shall apply the Secretary's Standards.

2.3.6 Grantee reserves the right to consult with governmental agencies, nonprofit preservation organizations, and/or other advisors deemed reasonably appropriate by the Grantee, concerning the appropriateness of any activity proposed under this paragraph.

2.3.7 Grantor shall be responsible for and shall pay reasonable costs incurred by Grantee to review requests under this paragraph, which costs may include reasonable architectural fees and Grantee's reasonable administrative expenses in processing Grantor's request.

### 3. RIGHTS RESERVED BY GRANTOR

3.1 Subject to the overriding obligation imposed by this Easement to preserve the preservation values of the Property, the Grantor retains and reserves the following rights that do not require further approval by the Grantee:

3.1.1 The right to engage in all those acts and uses that:

3.1.1.1 Are permitted by governmental statute or regulation;

3.1.1.2 Do not substantially impair preservation values of the Property; and

3.1.1.3 Are not inconsistent with the purpose of the Easement.

3.1.2 In accordance with the affirmative covenant in 2.1.1 and 2.1.2, the right to maintain and repair the Building on the Property in accordance with the Secretary's Standards is subject to the additional obligation that the Grantor must use for such maintenance and repair of the exterior of the Building on the Property in-kind materials and colors, applied with workmanship comparable to that used in the construction or application of the materials being repaired or maintained for the purpose of retaining in good condition the appearance and construction of the Building on the Property. This right to maintain and repair the exterior of the Building as used in this subparagraph shall not include the right to make changes in appearance, materials, colors, and workmanship from that existing prior to the maintenance and repair without the prior approval of the Grantee in accordance with the provisions of 2.3.1.

3.1.3 The right to continue all manner of existing uses and enjoyment of the Property, including, but not limited to public meetings consistent with the purpose of this easement.

3.1.4 The right to continue to conduct at or on the Property educational and nonprofit activities that are not inconsistent with the preservation values of the Property.

#### 4. **INSURANCE; CASUALTY**

4.1 Grantor shall keep the Property insured at all times against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death, and property damage. Such insurance shall include Grantee's interest and shall name Grantee as an additional insured. Within ten (10) business days of receipt of Grantee's written request, Grantor shall deliver to Grantee Certificates of such insurance coverage.

4.2 In the event the Building on the Property or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement, or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction and such notification shall include information concerning the nature of the emergency and the actions taken by Grantor. As set forth in 2.3, above, Grantor shall undertake no repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Building on the Property and to protect public safety, without Grantee's prior written approval. Within thirty (30) days of the date of damage or destruction, if required by Grantee, Grantor at its expense shall submit to the Grantee a written report prepared by a qualified restoration architect and/or an engineer acceptable to Grantor and Grantee, which report shall include an assessment of the nature and extent of the damage, a determination of the feasibility of the restoration of the Building and/or reconstruction of damage or destroyed portions of the buildings, and a report of such restoration/reconstruction work necessary to return the Building and the Property to the condition existing as of the date of this Easement.

4.3 After reviewing the report of the restoration architect or engineer and assessing availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims to those proceeds, Grantor and Grantee will determine either that the purpose of the Easement will be served by such restoration/reconstruction, or that such restoration/reconstruction of the Property is impractical or impossible, or agree that the purpose of the Easement would not be served by such restoration/reconstruction. If the Grantor and Grantee agree that restoration/reconstruction is appropriate, they shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Building in accordance with plans and specifications approved by the parties up to at least the total of the casualty insurance proceeds available to Grantor. In the event the parties agree that such restorations/reconstruction is not practical or possible, Grantor may, with the prior written consent of the Grantee, alter, demolish, remove, or raze the building and/or construct new improvements on the Property. Under those circumstances, Grantor and Grantee may agree to extinguish this Easement in whole or in part in accordance with the laws of the State of New Hampshire and Section 10, hereof.

4.4 In the event Grantor and Grantee are unable to come to an agreement as to whether or not to restore or reconstruct the Building after casualty, the matter may be referred by either party to binding arbitration and settled in accordance with the New Hampshire Arbitration Statute then in effect. However, either party may request that any arbitration ruling set forth detailed findings of fact and any rulings of law made by the Arbitrator.

4.5 As indicated above, nothing contained in this section shall jeopardize the prior claim, if any, of any mortgagee/lender to the proceeds of any insurance policy.

## 5. INDEMNIFICATION

5.1 Grantor agrees to protect, indemnify, hold harmless, and defend, at its own cost and expense, the Grantee, its agents, trustees, directors, officers, and employees, or independent contractors, from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures, including reasonable attorneys' fees and disbursements hereafter incurred, arising out of or in connection with injury to or death of any person in or on the Property, physical damage to the Property, or the presence or release in, on, or about the Property at any time of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance, or regulation as a hazardous, toxic, polluting, or contaminating substance, or against any other injury or other damage occurring on or about the Property unless such injury or damage is caused by Grantee or an agent, trustee, director, officer, employee, or independent contractor of Grantee. In the event Grantor is required to indemnify Grantee in accordance with this section, the amount of such indemnity, until discharged, shall constitute a lien on the Property and shall have the same priority as a mechanic's lien. Nothing contained in this section shall jeopardize the priority of any lien on the Property given by Grantor to secure a Promissory Note or Promissory Notes.

## 6. TAXES

6.1 Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges that may become a lien on the Property unless the Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation to pay such charges may be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action, if any, if such suspension of payment is lawfully permitted. Grantee is not responsible for making any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition, or lien asserted against the Property. Grantee may, however, assist Grantor with such payments upon separate written agreement and approval by Governor and the Executive Council. Such payment, if made by Grantee, shall constitute a lien on the Property with the same priority as a mechanic's lien, except that such lien shall not jeopardize the priority of any recorded lien given by Grantor to secure any Promissory Note or Notes.

## 7. NOTICE; INSPECTION, REMEDIES

7.1 Notices from Grantor or Grantee to each other shall be in writing and shall be delivered to the Grantor P.O. Box 509, Laconia, NH 03247, and to the Grantee at 19 Pillsbury Street, Concord, NH 03301-3570. Such notices either shall be delivered in hand or shall be sent by overnight courier, postage prepaid, by facsimile transmission, or by registered or certified mail with return receipt requested. The party receiving notice shall have 14 days to respond from receiving the notice before any action is undertaken by the sending party. Each party may change its address set forth herein by a notice to that effect to the other party.

7.2 Grantor shall deliver to Grantee copies of any notices of violations or liens relating to the Property received by the Grantor from any governmental authority within five (5) days from receipt by Grantor. Upon request of the Grantee, the Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

7.3 Grantor shall promptly notify Grantee in writing of any proposed sale of the Property and shall provide the opportunity to the Grantee to explain the terms of this Easement to any potential new owner prior to the closing on such sale.

7.4 Upon request of the Grantor the Grantee shall promptly furnish Grantor with certification that, to the best of Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained in this Easement or that otherwise certifies the status of this Easement to the extent of Grantee's knowledge thereof.

7.5 With appropriate and prior notice to Grantor, representatives of Grantee shall be permitted at all reasonable times to inspect the Property, including the interior of the building.

7.6 Grantee, following reasonable notice to the Grantor, may institute a suit to enjoin any violation of the terms of this Easement and may seek *ex parte*, temporary, preliminary, and/or permanent injunctive relief, which relief may also include prohibitory and/or mandatory injunctive relief, and may further require the restoration of the Property and the Building to the condition and appearance that existed prior to the violation complained of. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations under this Easement. In the event Grantor is found to have violated any of its obligations under this Easement, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with the enforcement of the terms of this Easement, including, but not necessarily limited to, all reasonable Court costs and attorneys, architectural, engineering, and expert witness fees. Grantee's exercise of one remedy hereunder shall not have the effect of waiving or limiting its right to any other remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of that remedy or any other remedy or the use of such remedy at any other time. Grantee shall have a lien upon the Property for any costs or expenses incurred under this Section. Any such lien may be confirmed by a judgment and



executed upon in the same manner as a mechanic's lien, except that no lien created pursuant to this Section shall jeopardize the priority of any recorded lien of a mortgage or deed of trust given in connection with a promissory note that is secured by the Property.

## **8. EFFECTIVE DATE; ASSIGNMENT**

8.1 Grantee shall promptly record this instrument in the Belknap County Registry of Deeds once it has been fully executed. The Grantor and the Grantee intend that the restrictions arising under this Easement shall take effect on the day and the year this instrument is recorded.

8.2 Without further action, this Easement will be in effect in perpetuity.

8.3 The obligations imposed by this Easement shall be effective for the entire term of this Easement and shall be deemed to run as a binding servitude with and upon the Property. This Easement shall extend to and be binding upon Grantor and Grantee, their respective successors and interests and all persons or entities hereafter claiming under or through Grantor and Grantee, and the words Grantor and Grantee shall include such successors and interest. The restrictions, stipulations, and covenants contained in this Easement shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor may divest itself of either the fee simple title to or any lesser estate in the Property or any part thereof, including by way of example and not by limitation, a lease of all or a portion of the Property. In the event of a bonafide transfer of the Property, the obligations set forth in this Easement shall bind the new owner of the Property and the prior owner shall have no further obligation pursuant to this Easement.

## **9. CONDEMNATION**

9.1 If all or any part of the Property is taken by eminent domain, or otherwise acquired by a condemning authority by a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking or purchase in lieu of such taking to recover the full value of those interests in the Property that are subject to the taking together with all incidental and direct damages resulting from the taking.

## **10. EXTINGUISHMENT**

10.1 Grantor and Grantee hereby recognize that circumstances may arise that may make impossible the continued ownership or use of the Property in a manner consistent with the purpose of this Easement and necessitate extinguishment of the Easement. Such circumstances may include, but are not necessarily limited to, partial or total destruction of the Building on the Property resulting from casualty or by eminent domain. No such extinguishment or termination of this Easement shall be effective until an instrument to that effect is recorded in the Belknap County Registry of Deeds.

## 11. INTERPRETATION

The following provisions shall govern the effectiveness, interpretation, and duration of the Easement.

11.1 Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Property shall not apply in the construction or interpretation of this Easement, and this instrument shall be interpreted broadly to effect its Purpose and the transfer of rights and the restrictions on use herein contained.

11.2 This instrument may be executed in two counterparts, one of which may be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern.

11.3 This instrument is made pursuant to RSA 477:46, RSA 227-M:5,VI, and RSA 227-M:8,III(b) and (c), but the invalidity of such laws or any part thereof shall not affect the validity and enforceability of this Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors, and their assigns for the term of this easement to each provision of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter. The invalidity or unenforceability of any provision of this instrument shall not affect the validity or enforceability of any other provision of this instrument or any ancillary or supplementary agreement relating to the subject matter thereof.

11.4 Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Easement and such ordinance or regulation.

11.5 To the extent that Grantor owns or is entitled to development rights which may exist now or at some time hereafter by reason of the fact that under any applicable zoning or similar ordinance the Property may be developed to a more intensive use (in terms of height, bulk, or other objective criteria related by such ordinances) than to which the Property is devoted as of the date hereof, such development rights shall not be exercisable on, above, or below the Property during the term of the Easement, nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the Purpose of the Easement.

11.6 To the extent that any action taken by Grantee pursuant to this Easement gives rise to a claim of breach of contract, Grantor and Grantee agree that the sole remedy on the part of Grantor shall be reimbursement of actual direct out-of-pocket

expenses reasonably incurred by Grantor as a result of such breach and that Grantor shall not have any right to indirect, consequential or monetary damages in excess of such actual direct out-of-pocket expenses.

**12. AMENDMENT**

12.1 If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Easement, provided that no amendment shall be made that will adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Code and the laws of the State of New Hampshire. Any such amendment shall be consistent with the protection of preservation values of the Property and the purpose of this Easement; shall not affect its duration; shall not permit additional development on the Property other than the development permitted by this Easement on its effective date; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural and historical values protected by this Easement. Any such amendment shall be recorded in the Grafton County Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

**13. SOVERIGN IMMUNITY**

13.1 Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This reservation of immunity covenant shall survive the termination of this Stewardship Agreement.

**THIS EASEMENT** is subject to the terms and conditions of the Quitclaim Deed dated February 15<sup>th</sup>, 2012, between the United States of America and Grantor.

**THIS EASEMENT** and attached exhibits reflect the entire agreement of Grantor and Grantee. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this instrument.

**TO HAVE AND TO HOLD**, the said Term Historic Preservation Easement, unto the said Grantee and its successors and permitted assigns.

*Deed date stated incorrectly  
Should read Feb 8, 2012.*

IN WITNESS THEREOF, Grantor and Grantee have set their hands under seal on the days and year set forth below.

WITNESS:

[Signature]

[Signature]

GRANTOR:

Lakes Region Community Services Council

By: [Signature]

Name: Christine Santaniello  
*Christine Santaniello, Executive Director*

By: [Signature]

Name: Randy Perkins  
*Christine Santaniello, Executive Director*  
*Randy Perkins, Board President*

STATE OF NEW HAMPSHIRE  
COUNTY OF Belknap

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of February, 2012 by Christine Santaniello and Randy Perkins, the duly authorized Designee and Designee, on behalf thereof.

[Signature]  
Justice of the Peace/Notary Public  
My Commission Expires: \_\_\_\_\_

ACCEPTANCE OF EASEMENT

GRANTEE: REBECCA L BRYANT, Justice of the Peace  
My Commission Expires April 1, 2014  
NEW HAMPSHIRE DIVISION OF HISTORICAL RESOURCES

By: [Signature]

Name: Elizabeth H. Muzzey  
*Its Director*

By: [Signature]

Name: Richard A. Boisvert  
*Its Deputy Director*

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 9th day of February, 2012, by Elizabeth H. Muzzey and Richard Boisvert, the duly authorized director and deputy director, respectively, of the New Hampshire Division of Historical Resources, on behalf thereof.

Cassandra Mason

Justice of the Peace/Notary Public

My Commission Expires: May 2, 2012

Approved as to Form and Execution

Rosemary Wiant  
Signature

2-27-12  
Date

Rosemary Wiant  
Name  
New Hampshire Department of Justice

Assistant Attorney General  
Title

## SCHEDULE A

### Property Description

**Address:**

719 Main Street  
Laconia, NH 03246

**Coordinates:**

**Latitude (North): 43.530000-43 degrees 31' 48.0"**

**Longitude (West): 71.471500-71 degrees 28' 17.4"**

**Universal Transverse Mercator: Zone 19**

**UTM X (Meters): 300283.2**

**UTM Y (Meters): 4822425.0**

**Elevation: 513 ft above sea level**

The property, comprised of 1.4 acres, is identified on the City of Laconia Tax Maps as parcel 424/142/78. The property is a developed parcel near the center of the City of Laconia and approximately 800 feet east of the Winnepesaukee River. Its southern limit borders a former spur of the B&M Railroad, and current WOW rail trail. The property runs north-northwest 291.54', from Main Street and the WOW rail trail along Main Street from the southeast corner, to a pin where the property runs 247.59' northeast. At this point the property runs 214.25' south-southeast to a pin where the property runs south-southwest 247.48' along the border of the WOW rail trail to Main Street. The immediate vicinity of the site has both residential and business uses. Property to the north and northwest is residential. Property to the south and east is business.

## APPENDIX 2

### OFFER TO PURCHASE

The undersigned, [GRANTEE], hereafter called the “Purchaser”, hereby offers to purchase from the UNITED STATES OF AMERICA, acting by and through the General Services Administration, Property Disposal Division, Region One, 10 Causeway Street, Boston, Massachusetts 02222, hereafter called the “Government”, on the terms and subject to the conditions set forth, a parcel of real property, including improvements thereon, located on [ADDRESS] , more particularly described in Exhibit A (Legal Description) attached hereto and incorporated herein of this Offer to Purchase, hereinafter referred to as (the “Property”).

The Purchaser shall pay the Government for said Property the purchase price of [INSERT PURCHASE PRICE] (the “Purchase Price”) of which an earnest money deposit in the sum of [INSERT DEPOSIT AMOUNT] (representing ten percent (10%) of the Purchase Price (“Deposit”) in the form of a certified or cashier’s check made payable to the U.S. General Services Administration, upon the acceptance of this Offer is tendered herewith (the “Deposit”). The Deposit shall be applied to the Purchase Price, the balance of which shall be payable as of the date of closing as set forth herein.

This offer and the acceptance hereof, shall constitute an agreement between the Purchaser and the Government, effective as of the date of acceptance (the “Offer”). The Offer shall constitute the whole contract to be succeeded only by the formal instruments of transfer, unless modified in writing and signed by both parties. No oral statements or representations made by, or for, or on behalf of either party shall be a part of such contract. Nor shall the contract or any

interest therein, be transferred or assigned by the Purchaser without the consent of the Government, and any assignment transaction without such consent shall be void.

## **TERMS AND CONDITIONS**

- 1. DELIVERY OF INSTRUMENTS OF CONVEYANCE.** Upon acceptance of the Offer, the Government shall prepare and deliver to the Purchaser a draft of the deed without warranties by which the Property shall be conveyed. Upon favorable review of the draft deed by the Purchaser, the Government shall execute the deed and deliver it to the Purchaser. The Purchaser shall tender final payment at that time.
- 2. CONTINUING OFFER.** This Offer shall be deemed a firm and continuing Offer from the date of receipt until accepted or rejected by the Government; provided, however, that after 90 days have elapsed from the date of receipt, the Purchaser not having received notice of rejection may consider its Offer rejected, and if the Government desires to accept the Offer after such 90 days, the consent of the Purchaser thereto shall be obtained.
- 3. EXPLANATORY STATEMENT.** An explanatory statement shall be prepared and transmitted to the appropriate Congressional Committees prior to the Government's acceptance of this offer. The explanatory statement will provide a comprehensive review of the negotiations, the Property, and terms of the transaction in accordance with 40 USC 545(b)(8).
- 4. NOTICE OF ACCEPTANCE OR REJECTION.** Notice by the Government of acceptance or rejection of the Offer shall be deemed to have been sufficiently given when delivered or mailed to the Purchaser or its duly authorized representative at the address indicated in the Offer.



5. **DEED WITHOUT WARRANTIES.** A deed without warranties in conformity with local law and practice will effectuate conveyance of the Property.

6. **REVOCATION OF OFFER AND DEFAULT.** In the event of revocation of the Offer prior to acceptance, or in the event of any default by the Purchase in the performance of the contract created by such acceptance, the deposit, together with any payments subsequently made on account, may be forfeited at the option of the Government, in which event the purchaser shall be relieved of further liability or, without forfeiting the said deposit, the Government may avail itself of any legal or equitable rights which it may have under the Offer or contract.

7. **INSPECTION.** By execution of this Offer, the Purchaser certifies that it has conducted an appropriate inspection of the Property. Failure of the Purchaser to inspect or to be fully informed as to the condition of all or any portion of the Property shall not constitute grounds for any claim or demand for adjustment or withdrawal of the Offer. The Purchaser shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property.

8. **CONDITION OF PROPERTY.** The Property is offered “as is” and “where is” without representation, warranty, or guarantee as to quality, quantity, character, condition, size, or kind, or that the same is in condition or fit to be used for any purpose for which it is intended and no claim for any allowance or deduction upon such grounds will be considered.

9. **POSSESSION.** Possession of the Property will be granted upon conveyance.

**10. TITLE EVIDENCE.** Any title evidence which may be desired by the Purchaser will be procured at its sole cost and expense. The Government will, however, cooperate with the Purchaser or its authorized agent in this connection and will permit examination and inspection of any documents relating to the title of the Property involved as it may have available. It is understood that the Government will not be obligated to pay for any expense incurred in connection with title matters or survey of the Property.

**11. LIABILITY.** If this Offer to Purchase is accepted and (a) the Government fails for any reason to perform its obligations as set forth herein, or (b) title to the Property does not transfer and vest in the Purchaser for reasons outside the Purchaser's control, the Government shall promptly refund to the Purchaser all amounts paid by Purchaser, without interest, whereupon the Government shall have no further liability to the Purchaser.

**12. LIABILITY FOR TAXES.** Upon conveyance of the Property the Purchaser shall assume responsibility for all general and special real and personal property taxes which may have been or may be assessed on the Property, and sums paid, or due to be paid by the Government in lieu of taxes pursuant to statutory authority shall be prorated. The Government does not know of any past due taxes or past due payments in lieu of taxes which are owed by the Government for the Property.

**13. TAXES AND RECORDING.** The Purchaser shall pay all taxes imposed on this transaction and shall obtain at its own expense and affix to all instruments of conveyance and security documents such revenue and documentary stamps as may be required by Federal and local law. All instruments of conveyance shall be placed on record in the manner prescribed by

local recording statutes at the Purchaser's expense. A recorded copy of the deed shall be supplied by the Purchaser to the Government.

**14. COVENANT AGAINST CONTINGENT FEES.** The Purchaser warrants that it has not employed or retained any person or agency to solicit or secure this contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to terminate the contract without liability or in its discretion to recover from the Purchaser the amount of such commission, percentage, brokerage or contingent fee in addition to the consideration herein set forth. This warranty shall not apply to commission's payable by the Purchaser upon the contract secured or made through bona fide established commercial agencies maintained by the Purchaser for the purpose of doing business. "Bona fide established commercial agencies" has been construed to include licensed real estate brokers engaged in the business generally.

**15. ZONING.** Verification of the present zoning and determination of permitted uses hereunder, along with compliance of the Property for present or proposed future use, shall be the responsibility of the Purchaser and the Government makes no representation in regard thereto. The Government does not guarantee that any zoning information is necessarily accurate or will remain unchanged. Any inaccuracies or changes in the zoning information shall not be cause for adjustment or rescission of any contract resulting from the Government's acceptance of the Offer.

**16. NON-DISCRIMINATION.** The Purchaser covenants for itself, its successors and assigns and every successor in interest to the Property hereby conveyed, or any part thereof, that

the said Purchaser and such successors and assigns shall not discriminate upon the basis of race, color, sex, religion, or national origin in the use, occupancy, sale, or lease of the Property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit; nor shall it apply with respect to religion to premises used primarily for religious purposes. The United States of America shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Property hereby conveyed and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

**17. PROPERTY TO BE SOLD SUBJECT TO EASEMENTS.** The Property will be sold subject to any and all existing reservations, easements, restrictions, and rights, recorded and unrecorded for private and public roads, highways, streets, pipelines, railroads, utilities, waterlines, sewer mains and lines, drainage, power lines, and other rights-of-way.

**17. EXCESS PROFITS COVENANT FOR NEGOTIATED SALES TO PUBLIC BODIES.** This covenant shall run with the land for a period of three years from the dates of execution of each deed. With respect to the Property, if at any time within a three (3) year period from the date of the transfer or title by the Government, the Purchaser, or its successors or assigns, shall sell the Property, it is covenanted and agreed that all proceeds received in excess of Purchaser's or a subsequent seller's actual allowable costs (as defined in 41 CFR 102-75.895(b)) will be remitted to the Government. In order to verify compliance with the terms and conditions of this covenant, the Purchaser, or its successors or assigns, shall submit an annual report for each of the subsequent three (3) years to the Government on the anniversary date of each deed. Each report will identify: the property involved in the transaction; the sale price of any property

resold; the subsequent purchaser; and the proposed land use. If no resale has been made, the report shall so state. The Government may monitor the property involved and inspect records related thereto to ensure compliance with the terms and conditions of this covenant and may take any actions which it deems reasonable and prudent to recover any excess profits realized through the resale of the Property.

#### **18. NOTICE & COVENANT REGARDING HAZARDOUS SUBSTANCE ACTIVITY.**

Notice Regarding Hazardous Substance Activity. Pursuant to 40 CFR 373.2 and Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA) (42 U.S.C. 9620 (h)(3)(A)(i)), and based upon a complete search of agency files, the Government gives notice that no hazardous substances have been released or disposed of or stored for one year or more on the Property.

CERCLA Covenant. The Government warrants that all remedial action necessary to protect human health and the environment has been taken before the date of this conveyance.

Government warrants that it shall take any additional response action found to be necessary after the date of this conveyance regarding hazardous substances located on the Property on the date of this conveyance.

- a. This covenant shall not apply: (a) in any case in which Purchaser, its successors or assigns, or any successor in interest to the Property or part thereof is a Potentially Responsible Party (PRP) with respect to the Property immediately prior to the date of this conveyance; or (b) to the extent but only to the extent that such additional response action

or part thereof found to be necessary is the result of an act or failure to act of the Purchaser, its successors or assigns, or any party in possession after the date of this conveyance that either: (i) results in a release or threatened release of a hazardous substance that was not located on the Property on the date of this conveyance; or (ii) causes or exacerbates the release or threatened release of a hazardous substance the existence and location of which was known and identified to the applicable regulatory authority as of the date of this conveyance.

- b. In the event Purchaser, its successors or assigns, seeks to have the Government conduct or pay for any additional response action, and as a condition precedent to the Government incurring any additional cleanup obligation or related expenses, the Purchaser, its successors or assigns, shall provide the Government at least 45 days written notice of such a claim and provide credible evidence that: (a) the associated contamination existed prior to the date of this conveyance; and (b) the need to conduct any additional response action or part thereof was not the result of any act or failure to act by the Purchaser, its successors or assigns, or any party in possession.

Reservation of Right Access. The Government reserves a right of access to all portions of the Property for environmental investigation, remediation or other corrective action. This reservation includes the right of access to and use of available utilities at reasonable cost to the Government. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of this conveyance, or in which access is necessary to carry out a remedial action, response action, or corrective action on adjoining property. Pursuant to this reservation, the Government, and its respective officers,

agents, employees, contractors and subcontractors shall have the right (upon reasonable advance written notice to the record title owner) to enter upon the Property and conduct investigations and surveys, to include, drilling, test-pitting, borings, data and records compilation and other activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary, including but not limited to the installation and operation of monitoring wells, pumping wells, and treatment facilities. Any such entry, including such activities, responses or remedial actions, shall be coordinated with record title owner and shall be performed in a manner that minimizes interruption with activities of authorized occupants.

**19. COVENANT AND INDEMNIFICATION REGARDING THE PRESENCE OF LEAD BASED PAINT.** The Grantee hereby acknowledges the required disclosure in accordance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d (Title X), of the presence of any known lead-based paint and/or lead-based paint hazards in target housing constructed prior to 1978 on the Property. The Property contains no improvements defined by Title X as target housing. However, in the event that any improvement on the Property are converted to residential use, the Grantee covenants and agrees that in its use and occupancy of such Property it will comply with 24 CFR 35 and 40 CFR 745 and all applicable Federal, State and local laws relating to lead-based paint; and that United States assumes no liability for damages for Property damage, personal injury illness, disability, or death, to Grantee, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use disposition, or other activity causing or leading to contact of any kind whatsoever with lead-based paint on the

Property described in this deed, whether Grantee, and its successors or assigns, have properly warned or failed properly to warn the individual(s) injured.

The Grantee further covenants and agrees that it will comply with all Federal, state, local, and any other applicable law regarding the lead-based paint hazards with respect to the Property.

**20. ASBESTOS.** The Grantee, by acceptance of this Deed, acknowledges that it has been informed by Grantor that the Property contains asbestos-containing materials, and that Grantee has been provided with the following notice and warning by Grantor. Grantee, by acceptance of this deed, acknowledges that it accepts the transfer and Deed of the Property subject to the terms and conditions contained herein:

- a) The Grantee is warned that the Property contains asbestos-containing materials. Asbestos is a hazardous material. Unprotected exposure to asbestos fibers has been determined to significantly increase the risk of cancer, mesothelioma, and asbestosis. These diseases can cause serious bodily harm resulting in disability or death.
- b) The Grantee is deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including any asbestos hazards or concerns.
- c) No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or is or is not safe for a particular purpose. The failure of Grantee to have inspected or to be fully informed as to the condition of all or any portion of the Property shall not constitute grounds for any claim or demand against Grantor.
- d) The description of the Property as set forth herein in Exhibit A and any other information provided to the Grantee with respect to the Property was based on the best information



available to the General Services Administration's Property Disposal Division and is believed to be correct, but any error or omission shall not constitute grounds or reason for any claim by Grantee against Grantor, including, without limitation, any claim for allowance, refund or deduction from the purchase price for such Property.

- e) Grantor assumes no liability for damages for personal injury, illness, disability or death to Grantee or to Grantee's employees, invitees, or any other person subject to Grantee's control or direction, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property.
- f) Grantee further agrees by acceptance of the Deed to the Property that, in its use and occupancy of the Property, it will comply with all Federal, State, and local laws, ordinances, orders and regulations relating to asbestos.

**21. RESCISSION.** The Government may rescind its acceptance of the Offer prior to the Closing Date, if it is reasonably determines that such action is justified for such causes such as a military conflict, a national emergency, or evidence of material misrepresentation or other wrongful conduct by the Purchaser. Any rescission will be without liability on the part of the Government other than to return the earnest money deposit without interest. The right to rescind the acceptance of Purchaser's offer shall expire on the Closing Date.

**22. OFFICIALS NOT TO BENEFIT.** No member of or delegate to the Congress or resident commissioner shall be admitted to any share or part of this Offer or to any benefit that may arise from it, but this provision shall not be construed to extend to this Offer if made with a

corporation for its general benefit.

SIGNATURES ON FOLLOWING PAGE

SAMPLE



**ACCEPTANCE**

ACCEPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, [DATE].

UNITED STATES OF AMERICA  
Acting by and through the  
U.S. General Services Administration

BY: \_\_\_\_\_  
John E. Kelly, Director  
Real Property Utilization & Disposal  
U.S. General Services Administration

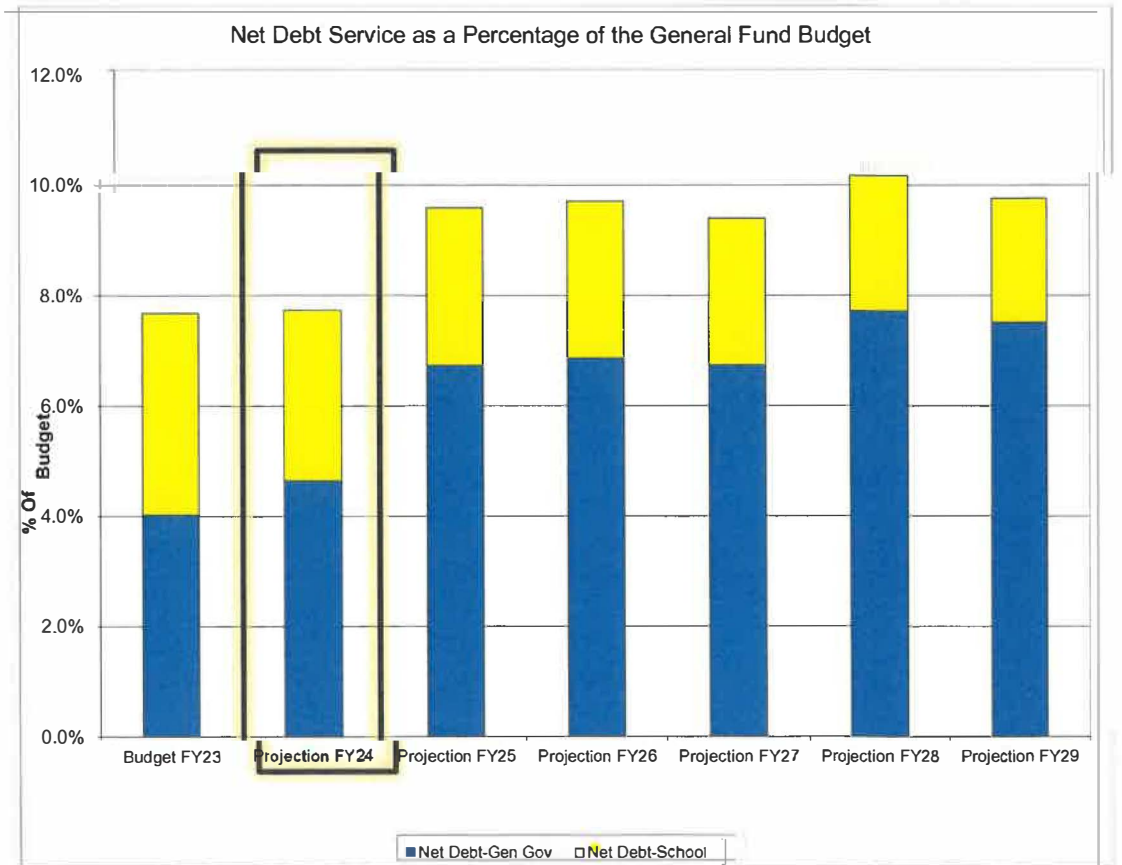
SAMPLE

CITY OF PORTSMOUTH, NEW HAMPSHIRE  
LONG TERM DEBT SERVICE FORECAST MODEL

City of Portsmouth

Net Debt Service as a Percentage of the General Fund Budget

	Budget FY23	Projection FY24	Projection FY25	Projection FY26	Projection FY27	Projection FY28	Projection FY29
Total Gen Fund Without Debt Service	118,795,090	124,223,169	129,192,096	134,359,780	139,734,171	145,323,538	151,136,479
Increase FY 24 and beyond:							
4.00%							
Existing Debt Service-School	6,296,155	4,443,106	4,305,506	4,092,606	3,902,581	3,778,931	3,588,256
Existing Debt Service-Gen Gov	6,919,904	6,467,328	5,527,927	4,962,528	3,848,278	2,946,653	1,973,928
Projected Debt Service-School	310,000	537,250	588,625	938,375	1,014,000	987,125	960,250
Projected Debt Service-Gen Gov	103,762	1,612,522	5,755,220	6,920,976	8,199,758	11,234,852	12,005,196
<b>Total Gross Debt Service</b>	<b>13,629,821</b>	<b>13,060,206</b>	<b>16,177,278</b>	<b>16,914,485</b>	<b>16,964,617</b>	<b>18,947,561</b>	<b>18,527,630</b>
Debt Service Related Revenues-Schools	(1,757,196)	(740,974)	(740,974)	(740,974)	(740,974)	(740,974)	(740,974)
Debt Service Related Revenues-Gen Gov	(1,700,000)	(1,700,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,282,386)
Net Debt-School	4,848,959	4,239,382	4,153,157	4,290,007	4,175,607	4,025,082	3,807,532
Net Debt-Gen Gov	5,323,666	6,379,850	9,783,147	10,383,504	10,548,036	12,681,505	12,746,738
<b>Total Net Debt</b>	<b>10,172,625</b>	<b>10,619,232</b>	<b>13,936,304</b>	<b>14,673,511</b>	<b>14,723,643</b>	<b>16,706,587</b>	<b>16,554,270</b>
Total Projected General Fund Budget	132,424,911	137,283,375	145,369,374	151,274,265	156,698,788	164,271,099	169,664,109
Percentage Net Debt-School of Budget	3.66%	3.09%	2.86%	2.84%	2.66%	2.45%	2.24%
Percentage Net Debt-Gen Gov of Budget	4.02%	4.65%	6.73%	6.86%	6.73%	7.72%	7.51%
<b>Total Percentage Net Debt Service of Budget:</b>	<b>7.68%</b>	<b>7.74%</b>	<b>9.59%</b>	<b>9.70%</b>	<b>9.40%</b>	<b>10.17%</b>	<b>9.76%</b>



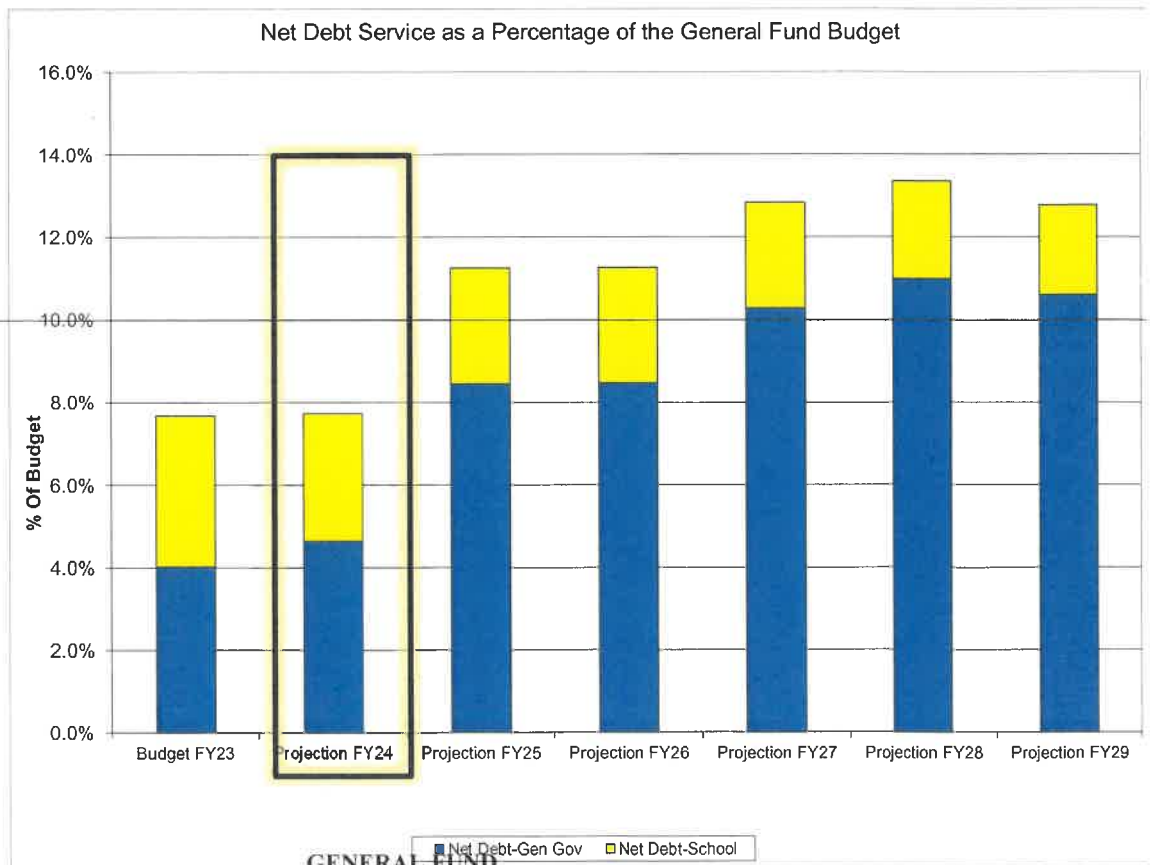
CITY OF PORTSMOUTH, NEW HAMPSHIRE  
LONG TERM DEBT SERVICE FORECAST MODEL

**Purchase and Upgrade of McIntyre Federal Building For City Use (\$25,000,000 Purchase \$36,000,000 Upgrades Total \$61,000,000)**

City of Portsmouth

Net Debt Service as a Percentage of the General Fund Budget

	Budget FY23	Projection FY24	Projection FY25	Projection FY26	Projection FY27	Projection FY28	Projection FY29
Total Gen Fund Without Debt Service	118,795,090	124,223,169	129,192,096	134,359,780	139,734,171	145,323,538	151,136,479
Increase FY 24 and beyond:							
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Existing Debt Service-School	6,296,155	4,443,106	4,305,506	4,092,606	3,902,581	3,778,931	3,588,256
Existing Debt Service-Gen Gov	6,919,904	6,467,328	5,527,927	4,962,528	3,848,278	2,946,653	1,973,928
Projected Debt Service-School	310,000	537,250	588,625	938,375	1,014,000	987,125	960,250
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<b>Total Gross Debt Service</b>	<b>13,629,821</b>	<b>13,060,206</b>	<b>18,897,278</b>	<b>19,566,485</b>	<b>23,148,617</b>	<b>24,973,561</b>	<b>24,395,630</b>
Debt Service Related Revenues-Schools	(1,757,196)	(740,974)	(740,974)	(740,974)	(740,974)	(740,974)	(740,974)
Debt Service Related Revenues-Gen Gov	(1,700,000)	(1,700,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,232,386)
Net Debt-School	4,848,959	4,239,382	4,153,157	4,290,007	4,175,607	4,025,082	3,807,532
Net Debt-Gen Gov	5,323,666	6,379,850	12,503,147	13,035,504	16,732,036	18,707,505	18,614,738
<b>Total Net Debt</b>	<b>10,172,625</b>	<b>10,619,232</b>	<b>16,656,304</b>	<b>17,325,511</b>	<b>20,907,643</b>	<b>22,732,587</b>	<b>22,422,270</b>
Total Projected General Fund Budget	132,424,911	137,283,375	148,089,374	153,926,265	162,882,788	170,297,099	175,532,109
Percentage Net Debt-School of Budget	3.66%	3.09%	2.80%	2.79%	2.56%	2.36%	2.17%
Percentage Net Debt-Gen Gov of Budget	4.02%	4.65%	8.44%	8.47%	10.27%	10.99%	10.60%
	Budget FY23	Projection FY24	Projection FY25	Projection FY26	Projection FY27	Projection FY28	Projection FY29
<b>Total Percentage Net Debt Service of Budget:</b>	<b>7.68%</b>	<b>7.74%</b>	<b>11.25%</b>	<b>11.26%</b>	<b>12.84%</b>	<b>13.35%</b>	<b>12.77%</b>





## APPENDIX 6

<b>BAN</b>	<b>25,000,000</b>	<b>24,000,000</b>	<b>23,000,000</b>	<b>22,000,000</b>	<b>21,000,000</b>	<b>20,000,000</b>
<b>Interest Rate</b>	<b>Annual Interest</b>	<b>Annual Interest</b>	<b>Annual Interest</b>	<b>Annual Interest</b>	<b>Annual Interest</b>	<b>Annual Interest</b>
3.0%	\$750,000	\$720,000	\$690,000	\$660,000	\$630,000	\$600,000
3.1%	\$775,000	\$744,000	\$713,000	\$682,000	\$651,000	\$620,000
3.2%	\$800,000	\$768,000	\$736,000	\$704,000	\$672,000	\$640,000
3.3%	\$825,000	\$792,000	\$759,000	\$726,000	\$693,000	\$660,000
3.4%	\$850,000	\$816,000	\$782,000	\$748,000	\$714,000	\$680,000
3.5%	\$875,000	\$840,000	\$805,000	\$770,000	\$735,000	\$700,000
3.6%	\$900,000	\$864,000	\$828,000	\$792,000	\$756,000	\$720,000
3.7%	\$925,000	\$888,000	\$851,000	\$814,000	\$777,000	\$740,000
3.8%	\$950,000	\$912,000	\$874,000	\$836,000	\$798,000	\$760,000
3.9%	\$975,000	\$936,000	\$897,000	\$858,000	\$819,000	\$780,000
4.0%	\$1,000,000	\$960,000	\$920,000	\$880,000	\$840,000	\$800,000



**CITY OF PORTSMOUTH  
TWO THOUSAND TWENTY-THREE  
PORTSMOUTH, NEW HAMPSHIRE**

**RESOLUTION #\_\_ – 2023**

A RESOLUTION AUTHORIZING THE TRANSFER OF BOND PROCEEDS THAT ARE NO LONGER NEEDED TO PAY COSTS OF THE PROJECT FOR WHICH IT WAS INITIALLY BORROWED, TO PAY COSTS OF ANOTHER CAPITAL PROJECT IN ACCORDANCE WITH RSA 33:3-a (II)

RESOLVED: That in accordance with RSA 33:3-a (II), the unexpended balances of funds borrowed to pay costs of the project set forth below, which amounts are no longer needed to complete the project for which they were initially borrowed, are hereby appropriated by this Council to pay costs of the City Fuel Station Upgrades.

<u>Original Project Description</u>	<u>Original Borrowing Amount</u>	<u>Approval Date</u>	<u>Unexpended Balance</u>	<u>Allocate to Project:</u>
Longmeadow Road	400,000.00	8/16/2018	263,783.61	City Fuel Station Upgrades
<b>Total</b>			<b>263,783.61</b>	

**APPROVED:**

DEAGLAN MCEACHERN, MAYOR

**ADOPTED BY CITY COUNCIL**

KELLI BARNABY, CMC/CNHMC  
**CITY CLERK**

CITY OF PORTSMOUTH  
AND  
PORTSMOUTH PUBLIC MEDIA, INC.

Dated as of \_\_\_\_\_, 2023

THIS LEASE AGREEMENT dated as of \_\_\_\_\_, 2023(the "Lease Agreement"), is by and between the City of Portsmouth (the "City"), a municipal corporation organized and existing under the laws of the State of New Hampshire and having a principal place of business at 1 Junkins Avenue, Portsmouth, New Hampshire and Portsmouth Public Media, Inc.("PPM") a non-profit corporation organized under the laws of New Hampshire, c/o Chad Cordner, Executive Director, 280 Marcy Street, Portsmouth, New Hampshire 03801 ("Parties").

WHEREAS the City has available for reuse the property known as the South Meeting House, located at 280 Marcy Street, Portsmouth New Hampshire (the "Premises");

WHEREAS PPM requires meeting and studio space to fulfill its mission to provide public access programming for the benefit of Portsmouth citizens;

WHEREAS PPM obtained input from the "Friends of the South End" regarding use of the Premises;

NOW THEREFORE the Parties agree as follows:

## **ARTICLE I**

### **REPRESENTATIONS AND COVENANTS**

Section 1.1 Representations and Covenants of the City: The City makes the following representations and covenants as the basis for the undertakings on its part herein contained:

- (a) The City has a fee interest in the Premises and hereby agrees to lease the Premises to PPM on a month to month basis not to exceed six (6) months pursuant to the terms of this Lease Agreement.
- (b) The City has full legal right and authority to execute and deliver this Lease Agreement and all other documents contemplated by this Lease Agreement.

Section 1.2 Representations and Covenants of PPM: PPM makes the following representations and covenants as the basis for the undertakings on its part herein contained:

- (a) PPM is a non-profit corporation duly organized and validly existing and in good standing under the laws of the State and has full legal right and authority to execute, deliver and perform this Lease Agreement and the other documents contemplated hereby.
- (b) This Lease Agreement and the other documents contemplated constitute legal, valid and binding obligations of PPM enforceable against PPM in accordance with their respective terms.
- (c) PPM acknowledges and agrees that it has inspected the Premises and the City makes no warranty or promises regarding condition of the Premises.

## ARTICLE II

### PREMISES

Section 2.1 Premises Description: The Premises consists of the land, building and other improvements at the South Meeting House located at 280 Marcy Street, Portsmouth New Hampshire. The Premises includes the parking areas on the southerly side of the property, five (5) spaces. The Premises shall not include the existing eleven (11) parking spaces located on the northerly side of the property and the five (5) spaces on the westerly side of the property at the rear of the building; such spaces to remain subject to municipal regulation in the usual course. The City will designate handicapped-accessible parking for the Premises on either the north or west side parking areas as the City deems necessary for compliance with the Americans with Disability Act.

## ARTICLE III

### DEMISING CLAUSES AND RENTAL PROVISIONS

Section 3.1 Demise of Premises and Duration: The City hereby leases the Premises to PPM and PPM hereby takes the Premises for its use upon the terms and conditions of this Lease Agreement. The Premises are subject to the rights-of-ways, easements, covenants and restrictions of record. The leasehold estate shall be on a month to month basis commencing on, **May 6, 2023** and ending on **November 5, 2023** or upon thirty (30) days written notice to terminate by PPM, whichever is earlier

Section 3.2 Consideration: As consideration of the lease of the Premises, PPM shall:

(a) Perform all operational maintenance within the building including without limitation all: 1) internal heating, plumbing, insulation, ventilation, air conditioning fixtures and equipment; and 2) cosmetic features such as paint, carpet, curtains, and furniture; and 3) structural features such as windows, doors, roof, and siding.

(b) Provide upkeep and maintenance to the grounds for safe public access and an appearance consistent with that of the surrounding residential neighborhood, including without limitation all: 1) landscaping, grass, trees/shrubs and other plantings; and 2) improvements such as walkways, stairs, and other public access areas; and 3) the one parking area that is part of the leased Premises; however the City will perform snow removal as needed.

(c) Provide upkeep and maintenance to the unique historic clock tower, including weekly winding and all other work necessary to keep the bell ringing and the clock in working order;

(d) For each month of this tenancy, commencing with the effective date of this lease PPM shall expend no less on the performance of capital improvements to the premise than would otherwise be due to the City in real estate taxes with respect to the Premises. PPM shall provide City with labor and material receipts demonstrating that the required amount has been paid by PPM. In the event that PPM fails to expend at least the amount which would have been

due as real estate taxes prorated on a monthly basis, then PPM shall make up the difference by a cash payment to City payable at termination of the lease..

(e) Provide the City with annual reports identifying the maintenance and upkeep of the Premises (other than payment of usual utility costs).

(f) Make available to the organization known as the Friends of the South End ("FOSE"), or such other successor organization as the City designates, a meeting room at least once a month for its meetings. The meeting shall be scheduled at least two weeks in advance at a mutually agreed upon time. The size and configuration of meeting room will be constructed in accordance with the needs of PPM.

(g) Grant public access to the outside sitting area at the front entrance of the building along Marcy Street for passive recreational purposes only and not as a public forum; in the event that public access interferes with normal business operations or if the outside sitting area is vandalized, then PPM may, with concurrence of the City revoke public access.

(h) Limit hours for daily operations to the hours of 7 a.m. to 9:00 pm. Use outside of those times for editing and like functions is permitted provided the use does not create a nuisance; for example that there is no light spillage beyond the property lines, and noise otherwise is minimal. PPM may, no more than six times a year, hold special events (such as fundraising or film screenings) beyond the hourly limitations of 7:00 a.m. to 9:00 p.m. as long as FOSE and the City are given advance notice of the event and PPM makes reasonable efforts to limit negative impacts to the neighborhood in consultation with FOSE and the City as may be appropriate/applicable.

(i) Parking on the southerly side of the property, which is part of the demised Premises, may be posted by PPM as a tow area or otherwise regulated by PPM.

(j) Permit the City during the lease term to install and maintain wireless, meter-reading or related technology for municipal or public uses. Should the City exercise such right, the City will coordinate such technology use with PPM so as not to interfere with PPM's operations.

(k) Provide to the City and its duly authorized agents access for quarterly inspections at all reasonable times and upon reasonable advance notice to inspect the Premises for compliance with this Lease Agreement. Access shall be coordinated with PPM so as not to interfere with PPM's use of the Premises. PPM shall allow access for additional inspections upon reasonable request.

Section 3.3 Proof of Financial Resources: As may be requested by the City (no more than annually), PPM shall demonstrate to the City adequate financing through such means as fundraising, underwriting, donations or other methods to obtain adequate financing, to provide for the operation and maintenance of the Premises. PPM shall upon request by the City (no more than annually), provide a capital pro forma showing the detailed sources and uses of funds to operate and maintain the Premises. This provision supplements financial disclosure requirements that PPM has under the Cable Television Public Access Trust.

Section 3.4 Franchise Fee: The City acknowledges that during the term of this Lease Agreement the existing Renewal Cable Television Franchise Agreement (“Franchise Agreement”) will expire on February 29, 2024, from which the Franchisee (Comcast) is obligated to pay five percent (5%) of its Gross Annual Revenues, as defined therein, to the City of Portsmouth, a portion upon which PPM materially relies for its annual budget.

## **ARTICLE IV**

### **CONSTRUCTION, MANAGEMENT AND MAINTENANCE**

#### Section 4.1 Maintenance and Modifications by PPM:

(a) During the Lease Term, PPM shall: (i) keep the Premises in a reasonably safe condition; (ii) maintain all utilities including heat in the Premises at a minimum 55 degrees; and (iii) operate its business in a sound and economic manner; (iv) limit noise, outside lighting and the number of vehicles on the property in a manner consistent with the residential character of the surrounding neighborhood.

(b) PPM may make any internal structural additions, modifications or improvements to the Premises or any part thereof, provided: (i) such actions do not adversely affect the structural integrity of the Premises; (ii) are consistent with historic preservation requirements described in this Lease Agreement; and (iii) have the prior written approval of the City. The approval of the City shall not be unreasonably withheld. All such additions, modifications or improvements made by PPM shall become a part of the Premises.

(c) No external improvements are anticipated during this term. Should PPM elect to undertake such external improvements, PPM shall obtain the advance written consent of the City and comply with all historic preservation requirements described in this Lease Agreement.

(d) PPM shall obtain all permits and approvals from all local, state and federal agencies as may be required prior to any construction, additions, modifications or improvements.

(e) PPM shall provide the City with copies of plans, studies, construction drawings, engineering studies and related documents that may be developed by PPM for the Premises.

(f) PPM shall not place banners or other signage without prior written approval from the City and such banners and signage shall be subject to any and all local, state or federal regulations relative to signage.

Section 4.2: Historic Preservation Requirements: Construction, rehabilitation, maintenance and repair shall, as applicable, be in accord with: (i) the Secretary of the Interior's Standards for Rehabilitation for preservation; and (ii) in compliance with the Historic District restrictions contained in the City of Portsmouth's Zoning Ordinance.

Section 4.3 Equipment/Installation of Additional Equipment: PPM may install additional machinery, equipment or other personal property which if attached or affixed to the Premises, such machinery, equipment or other personal property shall become the property of the City unless the City otherwise agrees in writing. With advance written consent of the City, PPM may remove or permit the removal of such machinery, equipment and other personal property from the Premises, provided that any such removal of machinery, equipment or other personal property does not adversely affect the structural integrity of the Premises. If any damage is occasioned to the Premises by such removal, PPM agrees to promptly repair such-damage-at its own expense.

Section 4.4 Coordination with the City: Whenever PPM undertakes construction, rehabilitation or maintenance efforts that may materially increase the number of vehicles servicing the Premises, require use of a dumpster, create substantial noise or other disturbance, PPM will advise the City of the schedule of such construction efforts and work cooperatively with the City to minimize the negative impact on abutters.

Section 4.5 Damage or Destruction of the Premises: If the Premises shall be damaged or destroyed (in whole or in material part) at any time during the Lease Term, the City shall have no obligation to repair, replace, restore or relocate the Project and the City may exercise its right to terminate this Lease Agreement.

## **ARTICLE V**

### **UTILITIES, TAXES AND INSURANCE**

Section 5.1 Utility Charges, Assessments and Taxes:

(a) PPM agrees to pay, as the same become due any fine, penalty, interest (except interest which is payable in connection with legally permissible installment payments) or other cost may be added thereto or become due or be imposed by operation of law for the non-payment thereof, (i) all utility and other charges, including service charges, incurred or imposed for or with respect to the operation, maintenance, use, occupancy, upkeep and improvement of the Premises; and (ii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements; PPM may in good faith contest any such assessments and other charges.

(b) PPM shall be responsible for payment of the gas/oil bill necessary to provide heat to the Premises.

Section 5.2 Insurance Required: Throughout the Lease Term, PPM shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by entities engaged in the types of activities in which PPM will be engaged, including, but not necessarily limited to:

(a) Workers' compensation insurance, disability benefits insurance and each other form of insurance which PPM is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of PPM.

(b) Insurance protecting PPM against loss or losses from liability imposed by law or assumed in any written contract or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or other occurrence, with a limit of liability of not less than \$2,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage of which \$1,000,000 may be provided under an "umbrella" policy); comprehensive automobile liability insurance covering all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent, protecting PPM against any loss or liability or damage for personal injury, including bodily injury or death, or property damage).

Section 5.3 Additional Provisions Respecting Insurance: All insurance required by this Lease Agreement shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by entities engaged in the types of activities in which PPM will be engaged. An policies evidencing required insurance shall provide for payment of the losses to PPM, however, the City shall be identified as an additional insured party.

Section 5.4 Right of City to Pay Utilities, Insurance Premiums and Other Assessments or Charges: If PPM fails (1) to pay any utility charges, together with any fine, penalty, interest or cost which may have been added thereto, (ii) to maintain any insurance required to be maintained, (iii) to pay any amount required to be paid by any law or ordinance relating to the use or occupancy of the Project, or (iv) to pay any other amount or perform any act hereunder required to be paid or performed by PPM hereunder, the City may pay or cause to be paid such charge, premium for insurance or other payment or may perform any such act. No such payment shall be made by the City until at least ten (10) days have elapsed since written notice shall have been given by the City to PPM of the City's intent to pay. No such payment shall be made if PPM is contesting the same in good faith to the extent and as permitted by this Lease Agreement unless an Event of Default hereunder shall have occurred and be continuing. No such payment by the City shall affect or impair any rights of the City hereunder arising in consequence of such failure by PPM. PPM shall reimburse the City for any amount so paid or for reasonable expenses or costs actually incurred from unrelated third parties in the performance of any such act by the City pursuant to this Section.

Section 5.5 During the term of this Lease Agreement PPM may apply for an exemption as provided under RSA 72:23. Provided that PPM meets the test for charitable use set further in RSA 72:23(I), no taxes shall be due. PPM shall provide documentation to the City's Assessor annually by April 15<sup>th</sup> of each year and as may be reasonably requested to establish charitable use.

In the event that PPM does not meet the test for charitable use set forth in RSA 72:23 (I) for any given year in the lease term, and taxes/payments in lieu of taxes are assessed, then PPM shall have the right, but not the obligation, to terminate the lease after providing a 30 days written notice to the City. The payment in lieu of tax articulated in Section 3.2(d) above shall be pro-rated to the date of termination of the Lease.



## ARTICLE VI

### SPECIAL COVENANTS

Section 6.1 Alcohol on the Premises: There shall be no storage, consumption or service of alcoholic beverages on the Premises in connection with fundraising/social activities without the advance written approval of the City, and such approval shall not be unreasonably withheld.

Section 6.2 No Warranty of Condition or Suitability by City: The City makes no warranty, either express or implied, that the Premises is or will be suitable for PPM's purposes or needs. PPM assumes the Premises as is and the City shall have no responsibility for the abatement of any hazardous materials or conditions on the property except as may be required under state and federal law.

Section 6.3 Hold Harmless Provisions:

(a) PPM agrees that the City, its Councilors, agents, and employees shall not be liable for and agrees to defend, indemnify, release and hold the City, its Councilors, agents, and employees harmless from and against any and all liability for loss or damage to Property or injury to or death of any and all Persons arising, directly or indirectly, in connection with this Lease or the Project. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the City, or any of its Councilors, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law, and upon the application of any such prohibition by the final judgment or decision of a competent court of law, the remaining provisions of these indemnities shall remain in full force and effect.

(b) Notwithstanding any other provisions of this Lease Agreement, the obligations of PPM pursuant to this Section 6.3 shall remain in full force and effect after the termination of this Lease Agreement until the expiration of the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the City, or its respective Councilors, agents and employees, relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the City or its respective Councilors, agents or employees by any employee or contractor of PPM or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of PPM hereunder shall not be limited by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

Section 6.4 Books of Record and Account; Financial Statements: PPM at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and financial affairs of PPM. The City shall be provided a copy of the financial statements of PPM, audited if available, upon written request.

Section 6.5 Compliance with Orders. Ordinances. Etc.:

(a) PPM, throughout the lease term, agrees that it will promptly comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Project or the Premises.

(b) Notwithstanding the provisions of subsection (a) hereof, PPM may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsection (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, PPM may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal there from, unless the City shall notify PPM that by failure to comply with such requirement or requirements, the Premises may be materially endangered or the Project or any part thereof may be subject to loss, penalty or forfeiture, in which event PPM shall promptly take such action with respect thereto or provide such security as shall be satisfactory to the City.

Section 6.6 Discharge of Liens and Encumbrances: PPM, throughout the lease term, shall not permit or create or suffer to be permitted or created any Lien upon the Premises or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied. Notwithstanding the provision of subsection (a) hereof, PPM may in good faith contest any such Lien. In such event, PPM may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the City shall notify PPM that by nonpayment of any such item or items, the Premises or any part thereof may be subject to loss or forfeiture, in which event PPM shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the City, thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to the City to protect its interests.

Section 6.7 Confidentiality of Certain Records: The parties recognize that certain of PPM' s financing, fundraising, underwriting, donor and like information may be proprietary and/or confidential in nature. Should the City request information that PPM considers confidential, PPM shall designate clearly such information as confidential recognizing that such designation should be used minimally. At the conclusion of the City's review of such confidential information, PPM may request return of the documentation and/or destruction of municipal copies.

**ARTICLE VII**

**ASSIGNMENTS AND SUBLEASING**

PPM may not assign or sublet, in whole or in part, any interest in the Premises or the Lease Agreement.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

#### Section 8.1 Events of Default:

- (a) The following shall be an "Event of Default" under this Lease Agreement:
- (i) The failure by PPM to observe or perform any obligation or covenant of the Lease Agreement subject to applicable cure periods;
  - (ii) Any representation or warranty of PPM in this Lease Agreement or related documents shall prove to have been false or misleading in any material respect;
  - (iii) the dissolution or liquidation of PPM; the failure by PPM generally to pay its debts as they become due; an assignment by PPM for the benefit of creditors (excepting such security interests entered into during the normal course of business); the commencement by PPM (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; the commencement of a case in bankruptcy or any proceeding under any other insolvency law against PPM (as the debtor) or PPM consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of PPM for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of creditors;
  - (iv) PPM fails or ceases to meet the purposes of the non profit corporation; and
  - (v) PPM fails to meet the terms or conditions for receipt of any federal, state or local funding sources.

(b) If by reason of force majeure any party hereto shall be unable in whole or in part to carry out its obligations under this Lease Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under this Lease Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The term "force majeure" as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions, or officials, any civil or military City, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals,

shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault, The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

Section 8.2 Remedies on Default:

- (a) Whenever any Event of Default shall have occurred, and has not been cured, the City may take, to the extent permitted by law, any one or more of the following remedial steps:
- (i) declare, by written notice to PPM, to be immediately due and payable, any and all other payments due under this Lease Agreement;
  - (ii) take any other action as it shall deem necessary to cure any such Event of Default, provided that the taking of any such actions shall not be deemed to constitute a waiver of such Event of Default;
  - (iii) terminate this Lease Agreement; and
  - (iv) take any other action at law or in equity which it deems necessary or desirable to collect the payments or other obligations then due or thereafter to become due hereunder, to secure possession of the Premises, and to enforce the obligations, agreements or covenants of PPM under this Lease Agreement.
- (b) No action taken pursuant to this Section (including repossession of the Premises) shall relieve PPM from its obligations required by this Lease Agreement.
- (c) After an Event of Default shall have occurred, PPM shall have the right upon notice to the City to enter the Premises with agents or representatives of the City to remove any Equipment or other personality owned by PPM if such Equipment or personality is not part of the Premises.

Section 8.3 Remedies Cumulative: No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy. Each remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 8.4 No Additional Waiver Implied by One Waiver: In the event any obligation contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 8.5 Cure Period: The City shall give PPM written notice upon the occurrence of an Event of Default and PPM shall have thirty (30) days from the date of receipt of such notification to cure such Event of Default before the City exercises any of the "Remedies on Default" set forth in this section.

## **ARTICLE IX**

### **SURRENDER OF THE PREMISES**

At the end of the lease term, the Premises shall be surrendered to the City in good order and broom clean. Reasonable wear and tear accepted with all alternations, decorations and improvements that may have been made to the Premises becoming the property of the City.

## **ARTICLE X**

### **MISCELLANEOUS**

Section 10.1 Notices: All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows or to such other address as any party may specify in writing to the other:

To the City:

City Manager  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801

With a copy to:

City Attorney  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801

To:

Portsmouth Public Media, Inc.  
280 Marcy Street  
Portsmouth, New Hampshire 03801

Section 10.2 Binding Effect: This Lease Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 10.3 Severability: In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.4 Amendments, Changes and Modifications: This Lease Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by the parties hereto.

Section 10.5 Execution of Counterparts: This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.6 Applicable Law: This Lease Agreement shall be governed by the laws of the State of New Hampshire without regard or reference to its conflict of laws principles.

Section 10.7 Non-Recourse: Notwithstanding any provision hereof to the contrary, or any other express or implied agreement between the parties, or any act or course of conduct hereunder, the obligations of the parties set forth herein shall solely be those of the entities named in the first paragraph of this Lease Agreement. No Councilor, employee or agent of the City shall have any personal liability whatsoever under this Lease Agreement, nor shall any officer, director, shareholder, general or limited partner, employee or agent of PPM have any personal liability whatsoever under this Lease Agreement, it being understood and agreed that the City shall look solely to the assets of PPM for recourse hereunder.

Section 10.8 Table of Contents and Section Headings not Controlling: The Table of Contents and the headings of the several sections in this Lease Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Lease Agreement.

IN WITNESS WHEREOF, the City and PPM have caused this Lease Agreement to be executed in their respective names by their duly authorized officers, all as of the date first written above.

**THE CITY OF PORTSMOUTH**

**PORTSMOUTH PUBLIC MEDIA**

By: \_\_\_\_\_  
Karen Conard, City Manager

By: \_\_\_\_\_  
Name:

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

STATE OF NEW HAMPSHIRE: ss.  
COUNTY OF ROCKINGHAM

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, \_\_\_\_\_  
a Notary Public in and for said County and State, personally appeared **Karen Conard**,  
personally known to me (on the basis of satisfactory evidence) to be the **City Manager** of the  
**City of Portsmouth** and on oath stated that she was authorized to execute this instrument and  
acknowledged it to be his free and voluntary act for the uses and purposes set forth herein.

\_\_\_\_\_  
Notary Public in and for said County and State  
Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF NEW HAMPSHIRE: ss.  
COUNTY OF ROCKINGHAM

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, \_\_\_\_\_  
a Notary Public in and for said County and State, personally appeared \_\_\_\_\_,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the  
\_\_\_\_\_ of **Portsmouth Public Media Inc.**, and on oath stated that  
she/he was authorized to execute this instrument and acknowledged it to be her/his free and  
voluntary act for the uses and purposes set forth herein.

\_\_\_\_\_  
Notary Public in and for said County and State  
Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

h:\jferrini\leases\SouthMeetingHouse\PPMtv2023

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

## **BICYCLE AND PEDESTRIAN PATH EASEMENT DEED**

**MASTORAN CORPORATION** (formerly known as Mastoran Restaurant Incorporated) a corporation organized and existing under the laws of the Commonwealth of Massachusetts, registered to do business in the State of New Hampshire, having a mailing address of 822 Lexington Street, 2nd Floor, Waltham MA 02154 “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 easements with respect to Grantor's real property situate on the Southeasterly side of Lafayette Road in the City of Portsmouth, State of New Hampshire :

1. **Permanent Easement Area:** A permanent easement for the purpose of installing and maintaining a public bicycle and pedestrian path over the land of Grantor as shown on a plan entitled, “Proposed Retail Motor Fuel Outlet, 2255 Lafayette Road, Portsmouth, New Hampshire 03801” ,dated January 26,2022, revised December 15, 2022, by Greenman-Pedersen, Inc. (hereinafter "the Plan"). The Plan to be recorded herewith. That easement area is more particularly described as follows:

A strip of land lying generally twelve (12) feet southeasterly and abutting the limit of Lafayette Road, depicted more particularly on the Plan as “proposed 8’ wide Portsmouth multiuse path”

Containing \_\_\_\_\_ square feet more or less.

### **General Provisions Applicable to all Bicycle and Pedestrian Path Easements:**

2. **Purpose and Rights:** The Grantee shall have a permanent easement and right of way in, under, across and over the Permanent Easement Area for the purpose of constructing, installing, maintaining, and regulating the use of a public bicycle and pedestrian path. 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 exercise of the easement rights herein granted.



3. **Easement Area for Construction Purposes:** The Grantee shall have a construction easement consisting of ten (10) feet on either side of the Permanent Easement Area for purposes of installing and maintaining the path. Disturbed areas within the easement area for construction purposes shall be back-filled and restored at the Grantee's expense to equal or better condition.
4. **Use of the Bicycle and Pedestrian Path:** The Grantee shall have the right to access and use the entire easement area without interference from or by the Grantor. The Grantee reserves the exclusive right to exclude such uses from the easement area as Grantee deems at its sole discretion interfere with the public benefit or safe use of the easement area. The Grantee shall not interfere with the use of any existing permitted driveways and access ways during or after construction of the Bicycle and Pedestrian Path, except as necessary for public safety or otherwise permitted by law.
5. **Common Plan and Relationship to Right of Way:** The intent of the parties is to accommodate a unified Bicycle and Pedestrian Path spanning Lafayette Road/Route 1 in the City of Portsmouth. Each party agrees to take such steps as needed to effectuate said intent over and across the parcel of land described above. The failure to complete the entire Path shall not affect any rights or duties herein granted.
6. **Grantor's Retained Rights:** Excepting such rights as conferred in this document, the Grantor retains all other rights incident to ownership of the easement area insofar as the exercise thereof does not endanger or interfere with the purpose of this instrument.
7. **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.
8. **Compliance with NH RSA 508:14:** It is the intent of the parties to create a "trail for public recreation use," within the meaning provided in NH RSA 508:14, and accordingly provide the limited liability conferred by the statute. The Grantor shall have no legal duty to maintain, repair or clear snow or ice from the area described above.

MEANING AND INTENDING to convey an easement over a portion of the premises conveyed to the within Grantor by deed recorded in Book 5859 Page 913 of the Rockingham County Registry of Deeds.

The within Deed is given subject to the provisions of a certain twelve foot (12') wide highway easement in favor of NH Department of Transportation.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_

Name: \_\_\_\_\_

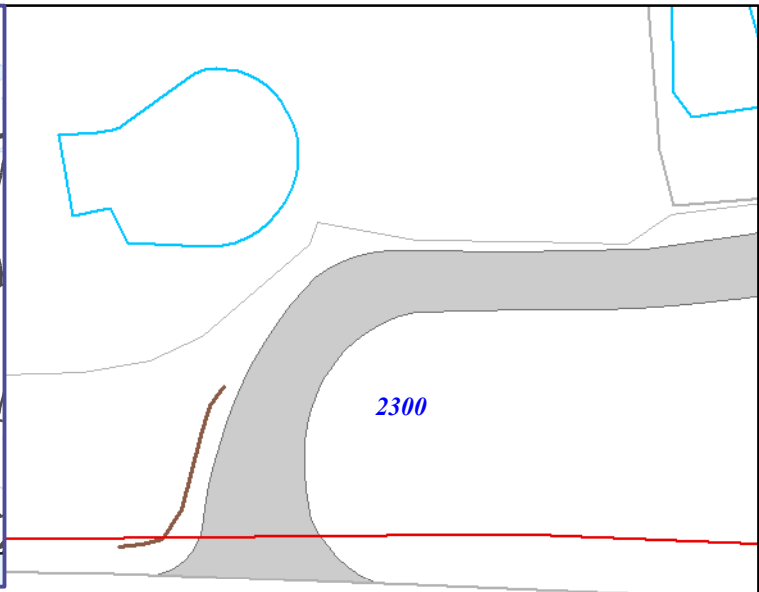
STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Justice of the Peace/Notary Public  
Printed Name:  
My Commission Expires:

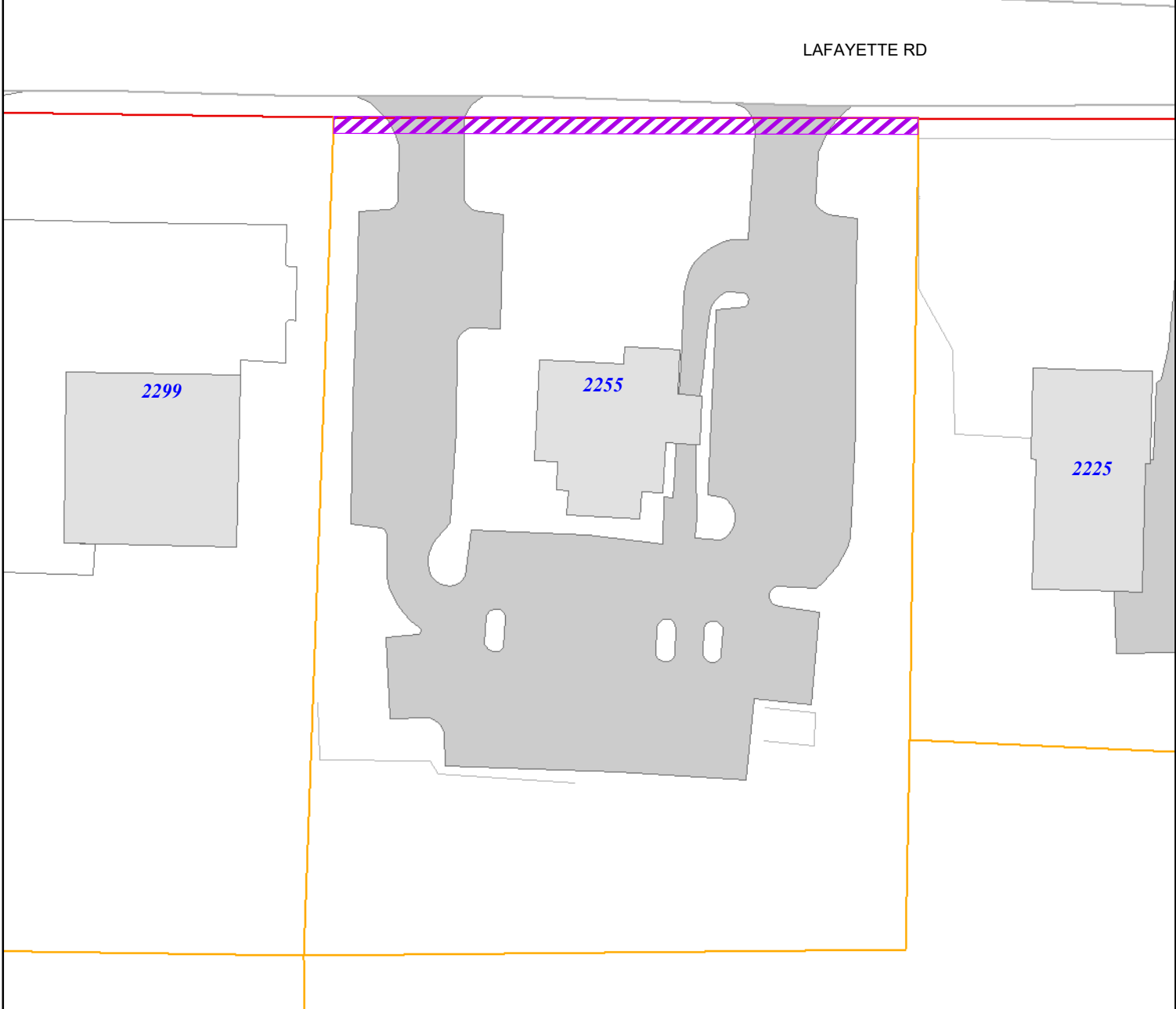


**Inset**



2300

LAFAYETTE RD




2299

2255

2225

**2255 Lafayette Road  
Proposed Multiuse Path**

**Legend**

 Portsmouth Multiuse Path




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# MEMORANDUM

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**TO:** Karen Conard, City Manager

**FROM:** Peter Britz, Planning & Sustainability Director 

**DATE:** April 3, 2023

**RE:** City Council Referral – Projecting Sign  
Address: 15 Congress Street  
Business Name: Thirsty Moose Taphouse  
Business Owner: Joe Kelley

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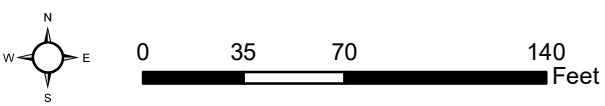
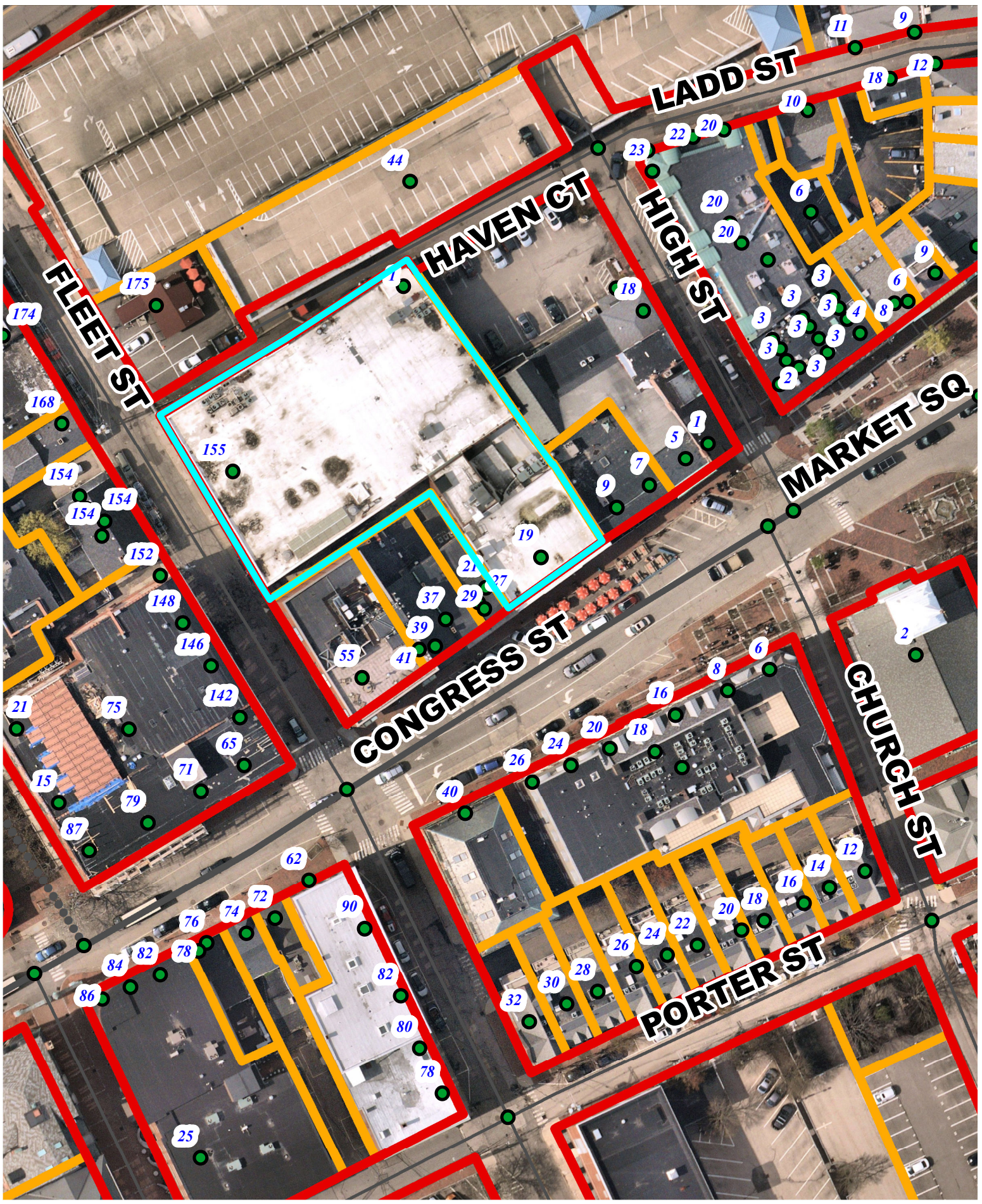
Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 52" x 32"  
Sign area: 11.5 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.





**Request for license  
15 Congress Street**





**PERMIT**  
**3-6-23**

89 OAK STREET DOVER, NH 03820 • 603-742-1517

**Company:** Thirsty Moose

**Job:** Portsmouth Combined

**Type:** Projecting Sign

**Quantity:** 1

**Size:**

**Projecting:** Est 52" h x 32" w (12sqft)

**Frontage:** 32'

**Sides:** 2

**Style:** Standard carved

**Substrate:** HDU

**Brackets:** Custom

**Colors:** TM Banded

**Install:** Yes

**OFFICE:**

**Field Measurement:** Verified  / Need

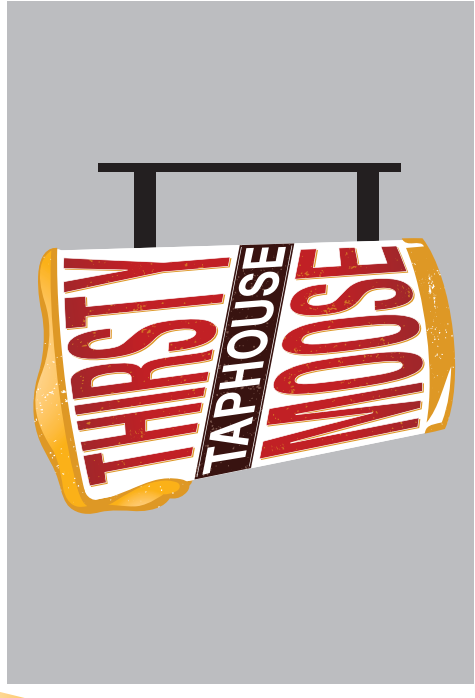
**Art:** Approved

**Materials:** Ordered

**Complete:**

**Quoted:**  50%\$  Cust Called

# PROPOSED PROJECTING



Projecting Sign - north side  
Double Sided  
Artwork will be edited for south side

Estimated Scale



All proofs and drawings are original unpublished artwork, owned by Sundance Sign Company. Artwork is protected under the U.S. Copyright laws. It is being submitted for your viewing only, and is not to be shown to anyone outside of your organization. Any use, reproduction, copying or exhibiting this drawing without express written consent of Sundance Sign Company will constitute your agreement to incur all expenses involved with the creation of this drawing, and all legal costs to acquire those costs if required. I have verified the accuracy of all graphics shown with respect to sizes and content. The specifications are correct and represent our order requirements exactly. I authorize release to production according to this approval submittal.

**Customer Approval**


**Date:**

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# M E M O R A N D U M

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**TO:** Karen Conard, City Manager

**FROM:** Peter Britz, Planning Director 

**DATE:** April 24, 2023

**RE:** City Council Referral – Projecting Sign  
Address: 90 Fleet Street  
Business Name: Salud LLC  
Business Owners: Aaron Smith

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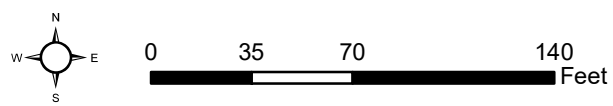
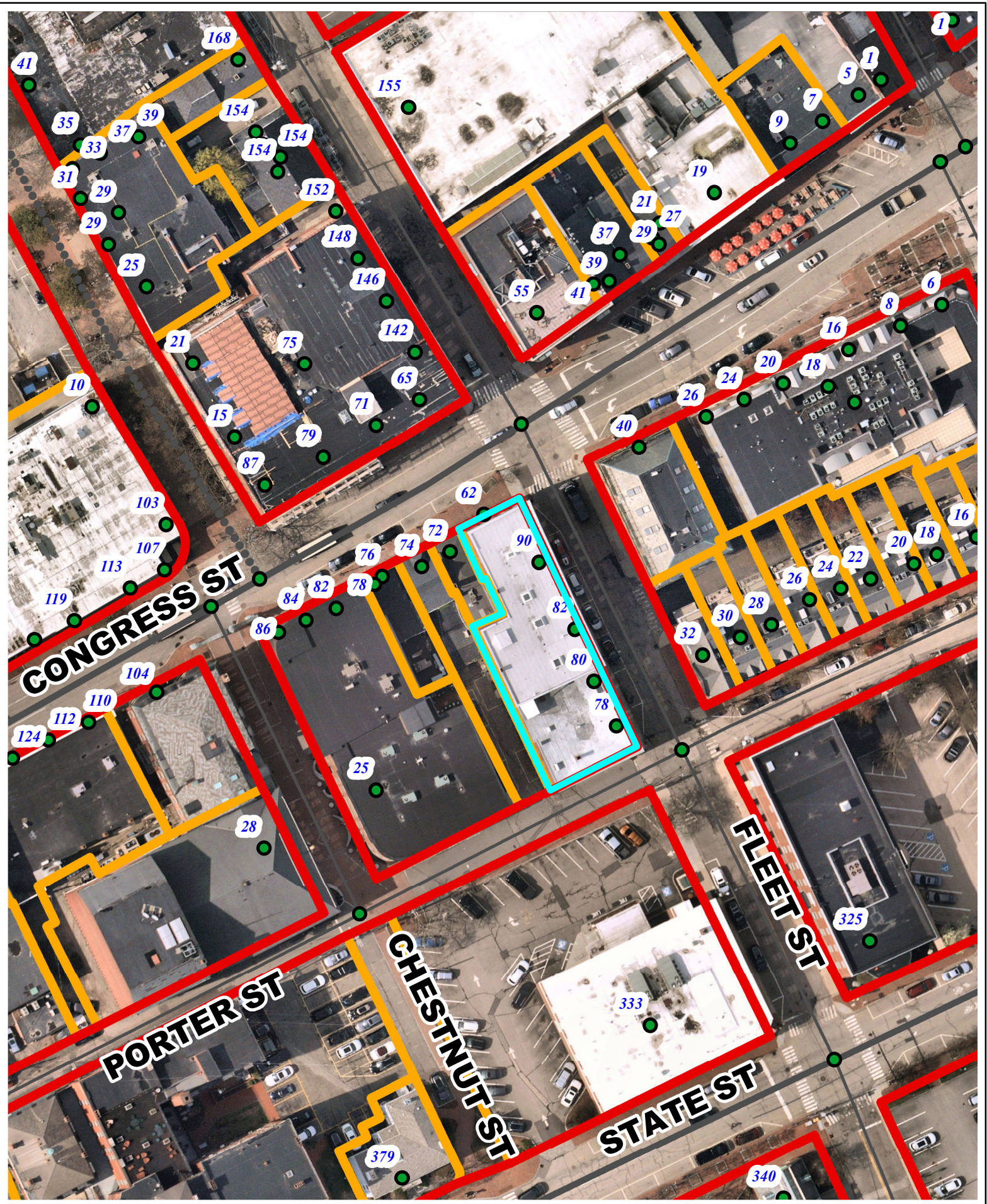
Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 42.5" x 37.25"  
Sign area: 11 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.





**Request for license  
90 Fleet Street**

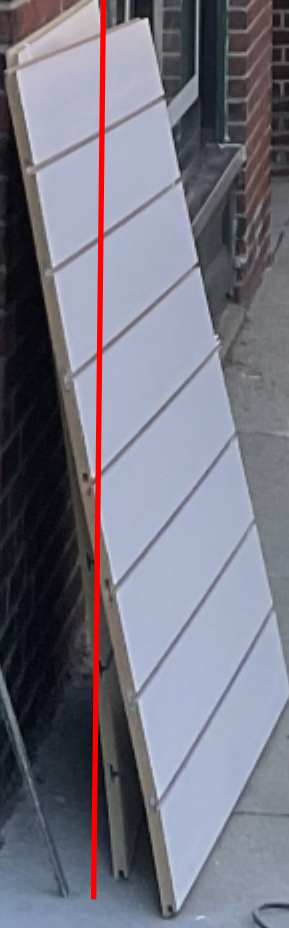




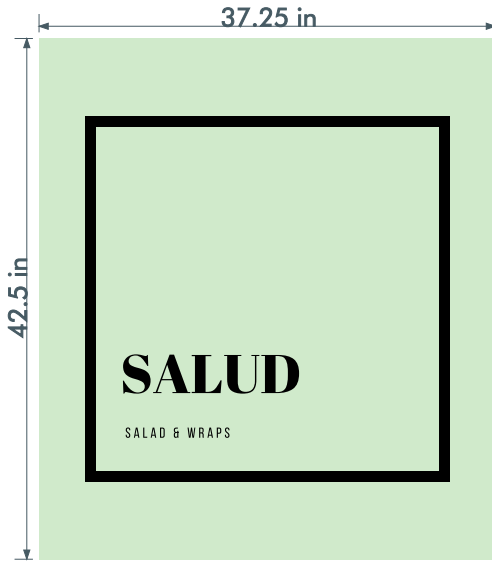
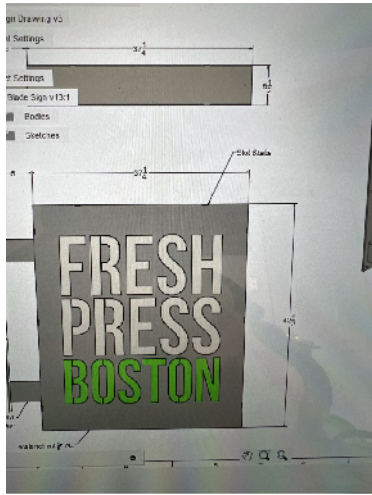
176"



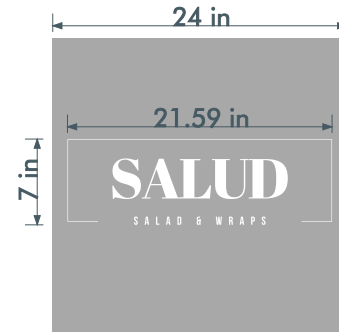
133.5"



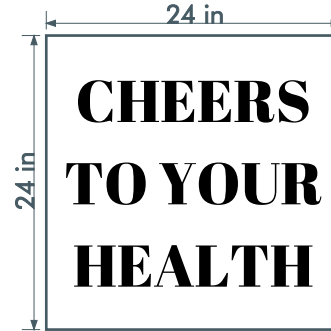





x2  
Decals to apply to existing sign



x1  
White cut decal  
Applied to door



x1 each  
White background, black text  
Decals to apply to windows  
centered on each window

 <p>PortsmouthSign.com 603-436-0047</p>	<p><b>REVISION:</b> All orders under \$250 include 1 revision only. All orders over \$250 include 2 revisions only. Additional revisions will be charged at \$25 per revision.</p> <p><b>PLEASE NOTE:</b> Designs are NOT actual size and color may vary depending on printer and/or monitor.</p>	<p><b>3/8/2023</b> <span style="float: right;"><b>RETURN SIGNED TO: <a href="mailto:service@portsmouthsign.com">service@portsmouthsign.com</a></b></span></p> <p>I understand this Order Form is the final production order and replaces all previous drawings, notes and verbal instructions to this job. Standard vinyl &amp; paint colors will be used. Custom colors and specific matches to PMS colors will be an additional fee. I have carefully reviewed this form and verify that it contains all necessary specifications and represents my order. I authorize fabrication according to this approval.</p> <p>SIGNATURE: _____ Date: _____</p>
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©COPYRIGHT 2019, BY PORTSMOUTH SIGN COMPANY. All designs and custom artwork remain the property of Portsmouth Sign Company until the order is complete and paid in full.


<p>Shop Use Only</p>	<p>Qty: SS <input type="checkbox"/> DS <input type="checkbox"/></p>	<p>Materials: _____</p>	<p>Background Color: _____</p>	<p>Vinyl Color: HP <input type="checkbox"/> Int <input type="checkbox"/></p>	<p>Other: _____</p>
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# M E M O R A N D U M

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**TO:** Karen Conard, City Manager

**FROM:** Peter Britz, Planning Director 

**DATE:** April 10, 2023

**RE:** City Council Referral – Projecting Sign  
Address: 110 Brewery Lane  
Business Name: OTTO Portsmouth  
Business Owners: Alex Budd

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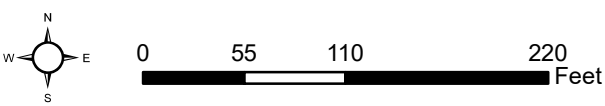
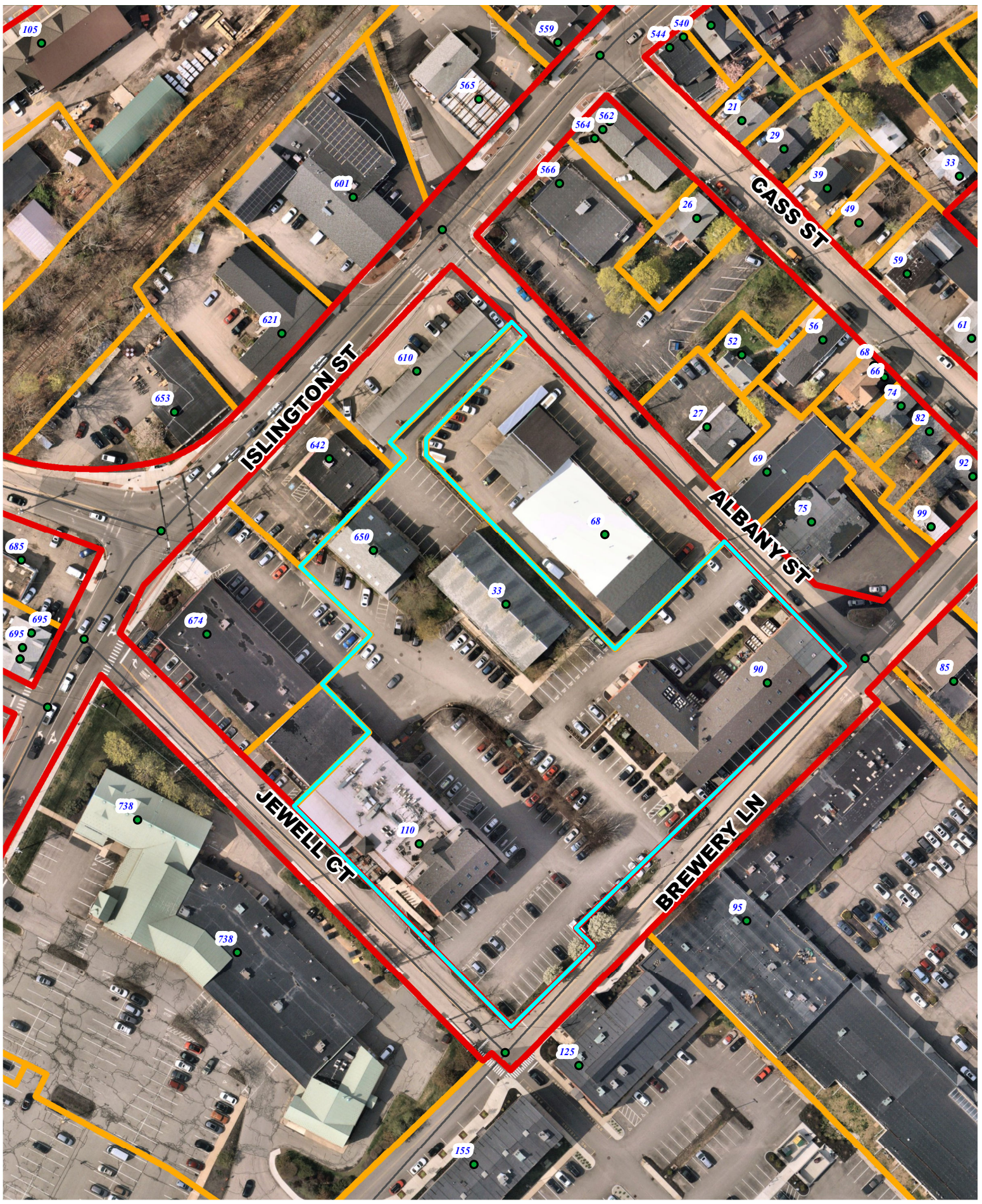
Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 36" x 36"  
Sign area: 9 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.





**Request for license  
110 Brewery Lane**

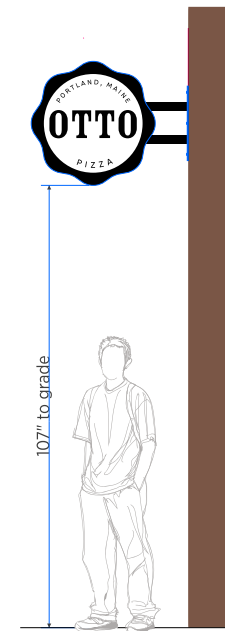
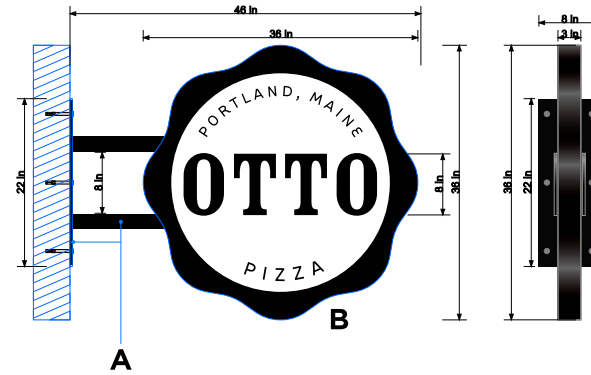


**PROJECTING BLADE SIGN:**

Qty: 1  
 36" x 36" x 3"  
 Double-sided

A: 2" Sq. alum frame (internal)  
 Painted black with 8" x 22" mounting plate


B: 3" Deep HDU sign, routed to custom shape  
 Painted black face and returns, white circle  
 Vinyl text  
 Raised 3/8" Acrylic "OTTO" applied to each side



Proposed



Existing

 PortsmouthSign.com 603-436-0047	<p><b>REVISION:</b>                  All orders under \$250 include 1 revision only.                  All orders over \$250 include 2 revisions only.                  Additional revisions will be charged at \$25 per revision.</p> <p><b>PLEASE NOTE:</b>                  Designs are NOT actual size and color may vary depending on printer and/or monitor.</p>	<p><b>2/10/2023</b></p> <p>I understand this Order Form is the final production order and replaces all previous drawings, notes and verbal instructions to this job. Standard vinyl &amp; paint colors will be used. Custom colors and specific matches to PMS colors will be an additional fee. I have carefully reviewed this form and verify that it contains all necessary specifications and represents my order. I authorize fabrication according to this approval.</p> <p>SIGNATURE: _____ Date: _____</p>	<p><b>RETURN SIGNED TO: <a href="mailto:service@portsmouthsign.com">service@portsmouthsign.com</a></b></p>
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Shop Use Only	Qty: SS <input type="checkbox"/> DS <input type="checkbox"/>	Materials:	Background Color:	Vinyl Color: HP <input type="checkbox"/> Int <input type="checkbox"/>	Other:
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April 19, 2023

Portsmouth Mayor McEachern and City Council  
1 Junkins Ave.  
Portsmouth, NH 03801

Mayor McEachern and City Council,

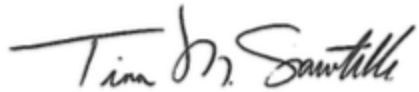
The Music Hall respectfully submits this request to The City of Portsmouth to grant approval for the closure of Chestnut Street on Friday, May 12, 2023 for TEDxPortsmouth taking place at The Music and on Tuesday, May 16, 2023 for Primex3 Making Waves Summit, both taking place at The Music Hall's Historic Theater. The events themselves begin at 8AM. We request that Chestnut Street be closed from 6AM to 4PM on Friday, May 12, 2023 and from 6AM through 9PM on Tuesday, May 16, 2023. The expected attendance for the TEDx event is approximately 800 guests, for Primex's summit, numbers are in the 250-300 range.

TEDx Details - Out on Chestnut Street, the hope is to welcome attendees for registration and provide coffee/water service upon arrival. Two or three tables will be placed along The Music Hall side of the street for registration/coffee. At lunchtime, cafe tables and chairs will be placed out on Chestnut to allow guests to eat their "bagged lunches" (provided by TEDx) from approximately 12PM-1PM. The Music Hall team will provide waste receptacles and do a full sweep of the street to ensure it is kept clean and trash-free. Porter Street will remain unobstructed for the duration of the event.

Primex3 Details - Out on Chestnut Street, the hope is to welcome attendees for registration and provide coffee/water service upon arrival. Two or three tables will be placed along The Music Hall side of the street for registration/coffee. In the evening hours, they hope to place some lighting structures on the sides of the street to provide a "reception" atmosphere with desserts and specialty cocktails. We will not serve alcohol out on the street, instead utilizing our lower lobby bar. Folks would be able to bring drinks outside, though, in allowance under our liquor license. The Music Hall team will provide waste receptacles and do a full sweep of the street to ensure it is kept clean and trash-free. Porter Street will remain unobstructed for the duration of the event.

Thank you very much for your time and consideration,

Sincerely,

A handwritten signature in black ink that reads "Tina M. Sawtelle". The signature is written in a cursive style with a large initial 'T' and a stylized 'M'.

Tina Sawtelle

*Executive Director, The Music Hall*

28 Chestnut St.

Portsmouth, NH 03801

[tsawtelle@themusichall.org](mailto:tsawtelle@themusichall.org)



# PORTSMOUTH PROFESSIONAL FIRE FIGHTERS

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS  
LOCAL 1313

P.O. BOX 207 • PORTSMOUTH, NH 03802-0207

received  
4/17/23

April 13th, 2023

Mayor Deaglan McEachern and City Council  
Portsmouth City Hall  
1 Junkins Ave.  
Portsmouth, NH 03801

Honorable Mayor McEachern and members of the City Council:

The International Association of Firefighters (IAFF) is the largest contributor to the Muscular Dystrophy Association (MDA) nationwide. The Portsmouth Professional Firefighters Local 1313 membership are proud members of the IAFF and have annually supported the MDA with their fundraising efforts for many years. Last year the members of Local 1313 raised over \$6,000 through our Fill-the-Boot campaign.

The Fill-the-Boot Drive is a voluntary "toll booth", which has been traditionally located at Market Square. During the event, firefighters collect donations for the MDA from passing motorists and pedestrians. Our Fill-the-Boot campaign has been so successful in the past because of the support of the City Council.

Once again, we are asking for the City Council to support our efforts in assisting the MDA. We respectfully request permission to hold a boot drive this year on Saturday, August 12, 2023. We would collect donations between the hours of 8 am to 4 pm. We would like to continue to utilize the Market Square location as it has been very successful for us in the past.

The Portsmouth Professional Firefighters began its fundraising efforts for MDA over 15 years ago. Each year the money collected has benefited afflicted children from Portsmouth, the surrounding seacoast, and across the State of New Hampshire. This year our goal is to raise \$10,000 for this worthy cause, and with the City Council's support, we believe we can achieve this.

The Portsmouth Professional Firefighters look forward to working with you on this and would like to thank you for your continued support in our efforts to help the MDA. If there are any questions or concerns, please feel free to contact Firefighter Ezekiel Tappin at 603-315-9187.

Sincerely,

Allan Scholtz, Secretary

Portsmouth Professional Firefighters Local 1313



CITY COUNCIL E-MAILS

Received: April 17, 2023 (after 5:00 p.m.) –April 27, 2023 (before 9:00 a.m.)

May 1, 2023 Council Meeting

**Submitted on Mon, 04/17/2023 - 17:31**

**Full Name**

Stephen Barndollar

**Email**

[stephenbarndollar1@gmail.com](mailto:stephenbarndollar1@gmail.com)

**Subject**

GSA / McIntyre

**Address**

120 Ridges Court

**Message**

To Mayor McEachern and the Portsmouth City Council  
Fm Steve Barndollar , 120 Ridges Ct

I urge you not to pursue entering into a negotiated contract with the GSA. to purchase the 2.1 acre McIntyre site.

Our City has already spent over \$3mm of taxpayer money which has done nothing to advance the City's legal position or the failed partnership with Redgstr/ Kane .

The GSA has done the City a favor, unintended, by ending the application process after 41/2 years of citizen's meetings and design works. By voting to try to engineer a negotiated purchase with the GSA , the Council would risk further endangering our legal positioning Kane's charge of "contract breach" and withdrawal from the City'd obligations.

Please let a private developer/ contractor deal with the GSA. The CityCouncil does not have the expertise or citizen support to continue trying to develop the property.

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes**

---

**Submitted on Mon, 04/17/2023 - 18:03**

**Full Name**

Debora Panebianco

**Email**

[smilestir@gmail.com](mailto:smilestir@gmail.com)

**Subject**

Affordable housing

**Address**

308 ORIENTAL Gardens

**Message**

As a long time resident, 1985, I employee you to do what you need to go being affordable workforce housing to Portsmouth in a deliberate way, short term action, as well as long term planning is needed.

I am both appalled and disheartened by some of the communities attitude regarding affordable housing. This isn't about us vs them or have and havenots. This is about the health, balance and diversification of our community. There needs to be a home for every level of income and every age, that is what brings vibrancy to our community and allows it to thrive. In that, businesses will also have the workers they need. It's a win, win if it's done right.

Please consider options before you. We have to adjust the road we headed down very rapidly during our covid lockdown years; over building too fast, without keeping stable the ability for people to stay. I don't know what I would do had I not lived in my situation. It's crazy what has happened and we must make an effort, developers are not going to do it. They are in business to make money, and most probably don't care how that impact our community.

Sincerely

Debora

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes**

**Submitted on Tue, 04/18/2023 - 21:29**

**Full Name**

Erik Anderson

**Email**

[andy42152@aol.com](mailto:andy42152@aol.com)

**Subject**

McIntyre Building

**Address**

38 Georges Terrace

**Message**

Dear Councilors,

Just Created a public comment on the McIntyre Building and it was not properly sent, I think.

This additional message will be short

1) Negotiate with GSA on a reasonable price for the property.

2) Do NOT trust our zoning structure to prevent a private developer from massing in density and profit and pursuing any litigation to do so.

3) This is a LEGACY decision. Don't be lazy in saying you're tired of the matter !!

4) Better information is needed for the public to comment.

5) A May 1 council meeting is not enough time to get a value on the property or any negotiations with GSA.

6) Informally contact Mr. Binnie to understand if he still has interest in an arrangement.

With thanks to your time and any reply.

Erik Anderson

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

---

**Full Name**

John Ragonese

**Email**

[john.ragonese@gmail.com](mailto:john.ragonese@gmail.com)

**Subject**

McIntyre - next step

**Address**

74 Cabot Street,

**Message**

City Councilor John Tabor, who made the motion Monday to delay making a decision on the issue, said he wants the city "to further pursue a negotiated sale. I think we owe it to the city and the residents ...to explore the benefits of a negotiated sale," Tabor said.

One way that could work for the city, he said, is to "buy the land, split the parcel, sell the federal building to recoup costs, and put a park on the rest."

I totally agree with Councilman John Tabor - buildings come and go. Land does not. All along this quest for the McIntyre, the underlying interest of many citizens has less to do with the development of the building(s) and more of a desire to keep the open area next to the waterfront accessible and public. Its landscape and topography lends itself to some sort of bowl or showcase area. Pursue this; or at least look into it further. Even if, after selling off the building and footprint, it costs taxpayer dollars, its worth getting the land; and maintaining it as a public open space. 100 years from now at the city's 500th birthday, they will still be talking about how smart it was to make the investment and do so when we had the chance to.

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

---

**Submitted on Wed, 04/19/2023 - 15:29**

**Full Name**

Jason Loui

**Email**

[miseria@comcast.net](mailto:miseria@comcast.net)

**Subject**

Outdoor Cafe Seating Restaurants 2023

**Address**

146 Congress Street

**Message**

Dear Council Members,

My name is Jason Loui, owner of Iron Works Tattoo LLC. As a member of the Portsmouth business community for the past 14 years I would like to address some concerns I have for the proposed temporary outdoor dining. Of course during the pandemic, ALL businesses were financially impacted and I completely understood the need for restaurants to provide an open-air alternative to traditional dining. Now that the President has declared an end to the pandemic I think we also need to consider some of the non-restaurant businesses that rely on storefront exposure especially during the busy summer season. If the City has been covering the extra insurance for the outdoor dining areas, why wouldn't all businesses be allowed an opportunity to set up their own seating areas? That only seems fair? I know that the Council overwhelmingly likes the idea of the outdoor dining but for the businesses that are paying a premium to rent a storefront for exposure, it does little to help other types of small businesses. Often it creates situations where diners are blocking entrances while waiting for tables, using the portico or entryway as a smoking section or as a baby carriage holdover. As a business we try very hard to respect the space of our neighbors. I personally have invested a considerable amount of money into creating a storefront that is classy and appealing which compliments the historic nature of the City. My hope being that my investment would return in the height of seasonal tourism. This becomes difficult when potential customers aren't able to see our actual storefront. I am a person that likes to find solutions, instead of just filing complaints. Perhaps the City can work with the small businesses that are not restaurants and allow additional signage on barriers? Or maybe allowing us our own outdoor designated seating for waiting customers? Or considering creating reasonable height guidelines for outdoor dining that does not impede the view of an existing storefront. (instead of an arbitrary 3-4 ft barrier which then has mesh wind/noise barriers placed on top of them further obscuring a storefront.) I appreciate the Council considering my suggestions and await your feedback. Thank you for the consideration.

Regards,

Jason W Loui

Iron Works Tattoo LLC

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes**

---

**Submitted on Wed, 04/26/2023 - 15:50**

**Full Name**

Ken Goldman

**Email**

[krgoldman@comcast.net](mailto:krgoldman@comcast.net)

**Subject**

Please don't purchase the McIntyre Building

**Address**

271 Islington Street

**Message**

Dear City Councilors,

I beseech you to not purchase the McIntyre Building. Please allow me rehash, update and add to, some of my previous comments...

I see the costs of the McIntyre Building to be high. A lot of city funds have already been spent to get us to this point. More funds have been spent to maintain the building, and, if the city were to buy it, we would be looking at potentially high costs for design and development. Also, you need to add to that the cost of the impending legal battle with Redgate-Kane.

Perhaps, though, the highest cost I have seen is how divisive this issue has been in our community. In the short time I have lived here, I don't think I have seen any other issue divide the Community, and continue to divide the Community, the way development of the McIntyre property has.

Some statements on this subject from the City Council resonated with me. First, was when Mayor McEachern quoted his father, Paul McEachern, who said "...the city shouldn't be in the development business." Then there were, Councilor Denton's statements, which mirror my thoughts, that "I don't relate to the passion regarding this building. However, I believe it's time to let the building go at private auction." Finally, there were Councilor Bagley's comments that the city's attempt to acquire the property "...didn't work at the price of a dollar. I don't need to do any more research to determine on my own it won't work for \$20 million..."

I believe that, in these words, a good case has been made to NOT purchase the McIntyre Building.

Therefore, I ask you, the City Council to consider the following questions before making a decision:

- Why would we do this?
- What is in it for the City of Portsmouth and the citizens?
- What benefits do we derive from owning and developing this property?
- And finally, are the costs commensurate with the potential gains? Are the costs commensurate with the potential gains?

Thank you,  
Ken Goldman

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes**

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April 18, 2023

Dear Mayor McEachern and Portsmouth City Council,

I am the Chief Marketing Officer & Executive Vice President, Sales at Sig Sauer in Newington, NH. In addition, I founded and serve as Chairman and Executive Director for a veteran's non-profit called Honored American Veterans Afield (HAVA). Our mission is to get disabled veterans actively participating in outdoor sports. I've recently become aware of an outstanding opportunity with another veteran's non-profit called Skeleton Crew Adventures which promotes veterans' mental health and suicide awareness. I would like to make a formal request for a special event in Portsmouth to support Skeleton Crew Adventures and this veteran mental health and suicide issue.

Sig Sauer supports a number of veteran and law enforcement organizations across a wide gamut of causes. About one-third of our 3,200+ employees are veterans or retired law enforcement; so, these causes are very dear to our hearts. As mentioned, I have personally been involved in many veteran support programs since 2007. Sig Sauer hosts a very large charity golf event at Pease Golf Course each year and many dignitaries have supported this event, up to and including Governor Sununu with multiple appearances. I would invite him as well as Senator Shaheen to this event.

The specific event we would like to host on one of the piers in Portsmouth on **July 12, 2023** is a cast-off event for a retro sailboat that will be bound for England to take part in one of the most prestigious sailing races in the world. This race is called the Ocean Globe Race 2023 (see website: <https://oceangloberrace.com/>). This race was founded in 1973 and has taken place for the last 50 years. It is a massive event outside of the U.S., followed by millions of fans worldwide. In the race, 33 non-electronic (retro) sailboats will leave England in September for a 6-month race around the world. These boats and crews are largely well funded with full-time professional crews.

### **Specifics**

- Date of Actual Event: July 12, 2023
- Time of Event: 6:30 – 7:30
- Set up Time: 4:00 – 6:30
- Take down Time: 7:30 – 8:30
- Length of time for pier needed: July 9 – 12
- Location: Any Prescott Park dock sufficient for 51' sailboat and area within Prescott Park for cast off gathering. Need to be able to see dock from shore.
- Logistics: (All provided) – small riser, microphone, free refreshments (no alcohol)
- Crowd Size: Unknown but likely under 200
- Speakers: Tom Taylor, Taylor Geiger (Sailboat Captain), Gov. Sununu to be invited once date/location confirmed, Mayor McEachern to be invited to speak
- Topics: Introductions, purpose of Skeleton Crew Adventures (veteran mental health/suicide awareness), best wishes for a safe journey around the world
- Event Promotion: Local/Regional media/businesses
- Other: It has been suggested that Navy/Coast Guard might provide a water cannon salute in the river (Fire Chief suggested that Portsmouth Fire Dept. might like to provide a water cannon as well)

The sailboat to cast-off here in Portsmouth is funded by a non-profit, 501(c)3 organization called Skeleton Crew Adventures (<https://skeletoncrewadventures.org/>) and Sig Sauer is a significant sponsor. The boat will have a crew of U.S. military veterans who are all dealing with mental and/or

physical disabilities. The “cause” is to raise awareness of mental health and suicide issues for U.S. veterans and active-duty military. Their primary, day-to-day mission is to use sailing excursions to help the mental healing process for veterans. The organizers of the Ocean Globe Race recognized the value of their mission and has waived the onerous \$60,000 entry fee for the race. They are not competing to win against much better funded and staffed boats, but rather to advance their mission.

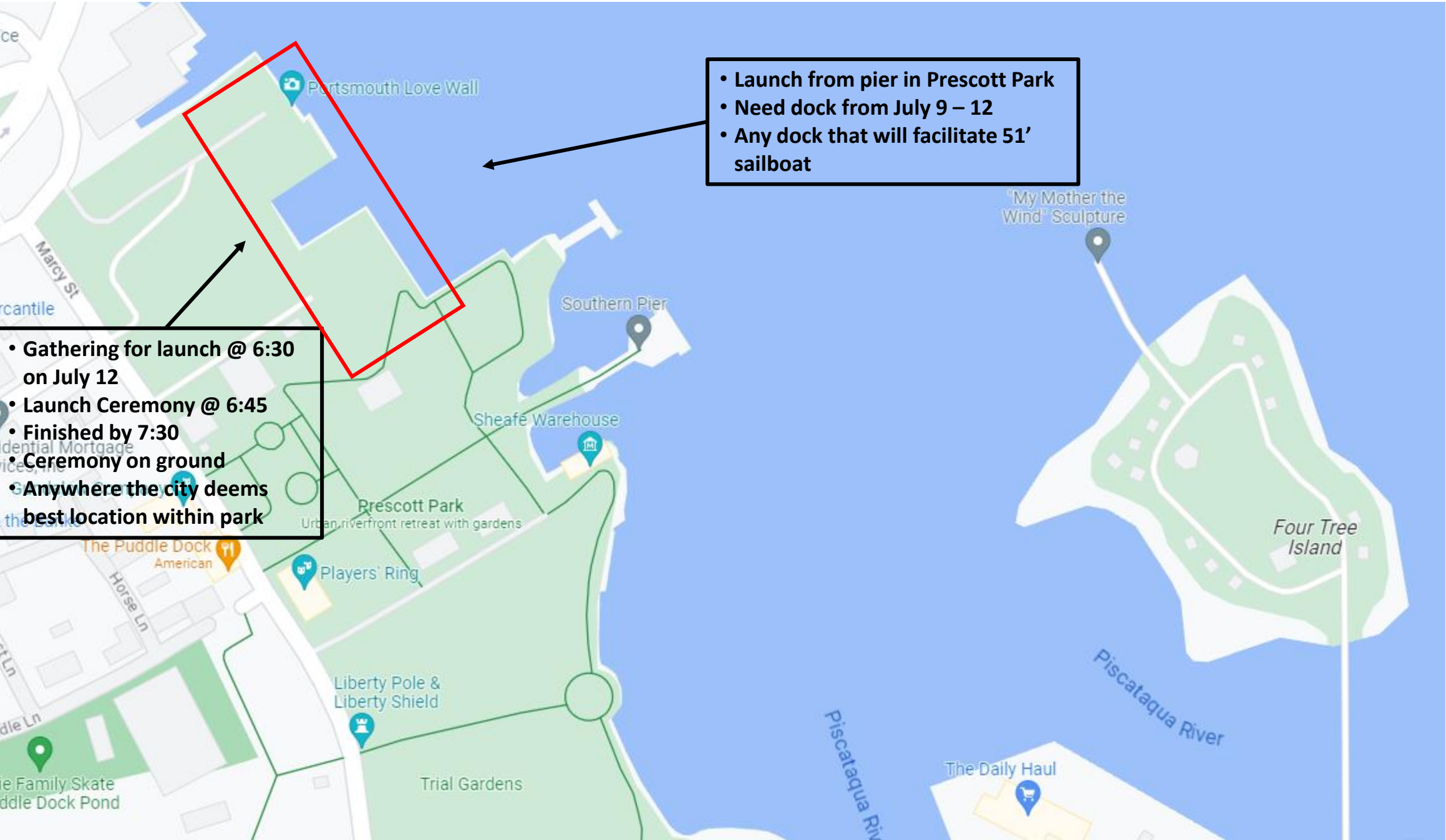
Notably, the organization’s founder, Taylor Geiger has historically dealt with mental health issues. In 2017, Taylor decided to sail from Pensacola, FL to Cape Horn at the southern tip of South America to raise awareness for the organization. His sailboat was in very poor condition and restored by him personally by watching instructional YouTube videos to make this voyage. He experienced many life-threatening challenges in very treacherous conditions, navigating through the Panama Canal, down the South American coast, and the through the Patagonia inner waterway, finally reaching Cape Horn at the southern tip of South America, all while in a less than optimum sailboat. He was able to provide enough rough camera footage to work with Amazon Prime to produce a documentary called “*Hell or High Seas*” (<https://www.hellorhighseas.com/>). This documentary is an excellent way to understand their story and their mission. The Ocean Globe Race odyssey will be filmed by a professional film crew this time and will be produced into a full documentary series. Again, the effort here is to bring awareness to veteran mental health. If we can host a U.S. cast-off event here in Portsmouth, this will be included in the documentary. After the success of “*Hell or High Seas*”, negotiations are in process with Amazon Prime, Netflix, HBO Max, and others for rights to this documentary.

As a New Hampshire based company and for me personally a resident of Portsmouth, the employees of Sig and I would love the opportunity to host this cast-off event on the piers of Portsmouth with the Naval Shipyard in the background. It would be an outstanding opportunity to have our community highlighted in support of the cause, celebrate PORTSMOUTH 400, and to bring very positive publicity to our wonderful and historic city, where so much of America’s nautical history existed. Sig Sauer will provide virtually all support needed for the event with very little cost/effort needed from the city.

Thank you for your kind consideration,



Tom Taylor



- Gathering for launch @ 6:30 on July 12
- Launch Ceremony @ 6:45
- Finished by 7:30
- Ceremony on ground
- Anywhere the city deems best location within park

- Launch from pier in Prescott Park
- Need dock from July 9 – 12
- Any dock that will facilitate 51' sailboat







Please list any organizations, groups, or other committees you are involved in:

none

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Please list two character references not related to you or city staff members:  
*(Portsmouth references preferred)*

- 1) Len Polizzotto Middle St. Portsmouth 617-877-0569  
Name, address, telephone number
- 2) Kevin Coyle Middle St. Portsmouth 603- 234-8654  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

- 1. This reappointment application is for consideration and does not mean you will necessarily be reappointed to this Board/Commission; and
- 2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
- 3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
- 4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
- 5. Application will be kept on file for one year from date of receipt.

Signature: Eva Boice Digitally signed by Eva Boice  
Date: 2023.04.17 04:40:33 -04'00' Date: 4/17/2023

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: \_\_\_\_\_

Annual Number of Meetings: \_\_\_\_\_ Number of Meetings Absent: \_\_\_\_\_

Date of Original Appointment: \_\_\_\_\_

**Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801**



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information  
Please submit resume' along with this application*

Committee: CEMETERY COMMITTEE **Renewing applicant**

Name: CELESTE BROOKS Telephone: 6039887413

Could you be contacted at work? YES  NO  If so, telephone  
# No work phone

Street address: 75 Monroe street apt 4 portsmouth, nh 03801

Mailing address (if different ): \_\_\_\_\_

Email address (for clerk's office  
communication ): celeste.portsmouthcemeterycmte@gmail.com

How long have you been a resident of Portsmouth? 35 years

Occupational background:

Data Entry Clerk for Dept of State

House manager at the Music Hall

Would you be able to commit to attending all meetings? YES X  NO

Reasons for wishing to continue serving: \_\_\_\_\_

I enjoy giving back to the city, by volunteering my time. I find cemeteries, and gravestones

particularly interesting, and learning about the preservation of said stones has been illuminating. I'm

interested to see the direction the committee goes in the year(s) ahead.



Please list any organizations, groups, or other committees you are involved in:

Local Union 228 steward

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list two character references not related to you or city staff members:  
*(Portsmouth references preferred)*

- 1) IALEEN DURLING PORTSMOUTH, NH 6035574673  
GIRELLIS CENTENO, Hampton Falls, NH 6039971810

2) \_\_\_\_\_  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

- 1. This reappointment application is for consideration and does not mean you will necessarily be reappointed to this Board/Commission; and
- 2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
- 3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
- 4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
- 5. Application will be kept on file for one year from date of receipt.

Signature: Celeste Brooks Date: 24april2023

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: \_\_\_\_\_

Annual Number of Meetings: \_\_\_\_\_ Number of Meetings Absent: \_\_\_\_\_

Date of Original Appointment: \_\_\_\_\_

**Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801**



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.*

Committee: for Cemeteries Initial applicant

Name: Deirdre (Dee) Forte Telephone: 603-812-3428

Could you be contacted at work? YES  NO  If so, telephone# Retired ↑

Street address: 98 Court Street Unit 2

Mailing address (if different ): \_\_\_\_\_

Email address (for clerk's office communication ): deedee.forte@yahoo.com

How long have you been a resident of Portsmouth? 6 years

Occupational background:

Liberty Mutual 38 years  
Actuarial, IT & Marketing

Please list experience you have in respect to this Board/Commission:

1 1/2 years

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES  NO

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to serve: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list any organizations, groups, or other committees you are involved in:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list two character references not related to you or city staff members:  
*(Portsmouth references preferred)*

1) \_\_\_\_\_  
Name, address, telephone number

2) \_\_\_\_\_  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: Donna E. Fort Date: April 6, 2023

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes  No

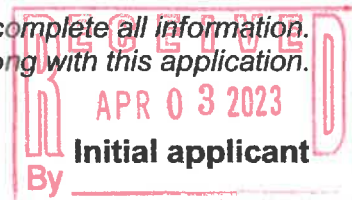
**Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801**



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.



Committee: Committee for Cemeteries

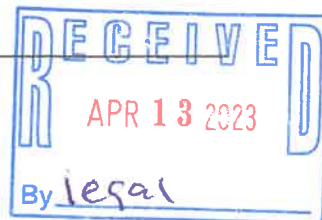
Name: Michael J. Griffin Telephone: (c) 603-498-8960

Could you be contacted at work? YES  NO  If so, telephone# \_\_\_\_\_

Street address: 579 Sagamore Avenue Unit 55

Mailing address (if different ): \_\_\_\_\_

Email address (for clerk's office communication ): mjggipper@aol.com



How long have you been a resident of Portsmouth? 70 years

Occupational background:

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Please list experience you have in respect to this Board/Commission:

current member of the Cemetery Committee

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➔ OVER

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES  NO

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to serve: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list any organizations, groups, or other committees you are involved in:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) George Remick South Street (c) 603-817-5645  
Name, address, telephone number

2) Jack Heath Lawrence Street (c) 603-714-2607  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: Michael J. Siffen Date: 4/3/23

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

**Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801**



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information  
Please submit resume' along with this application*

Committee: Cemetery Committee **Renewing applicant**

Name: Duncan MacCallum Telephone: (603) 431-1230

Could you be contacted at work? YES  NO  If so, telephone  
# (same as above)

Street address: 536 State Street, Portsmouth, N.H. 03801

Mailing address (if different ): \_\_\_\_\_

Email address (for clerk's office  
communication ): madbarrister@aol.com

How long have you been a resident of Portsmouth? 30 yr.

Occupational background:

Attorney  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to continue serving: Longtime, well-known, well-established commit-  
ment to historic preservation and local history.  
\_\_\_\_\_  
\_\_\_\_\_



Please list any organizations, groups, or other committees you are involved in:

Member, Portsmouth Historical Society, Portsmouth Athenaeum, Revisit McIntyre,

Seacoast Wind Ensemble

Former Member, Portsmouth Zoning Board of Adjustment, Committee to Save the Old

State House

Please list two character references not related to you or city staff members:  
*(Portsmouth references preferred)*

1) Esther Kennedy, 41 Pickering Avenue, Portsmouth, (603) 828-3209  
Name, address, telephone number

2) Rick Becksted, 1395 Islington Street, Portsmouth, (603) 817-1912  
Name, address, telephone number

**BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:**

1. This reappointment application is for consideration and does not mean you will necessarily be reappointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: /s/ Duncan J. MacCallum Date: April 21, 2023

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: \_\_\_\_\_

Annual Number of Meetings: \_\_\_\_\_ Number of Meetings Absent: \_\_\_\_\_

Date of Original Appointment: \_\_\_\_\_

**Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801**



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information  
Please submit resume' along with this application*

Committee: Cemetery Committe Renewing applicant

Name: Sue Polidura Telephone: 603-205-5552

Could you be contacted at work? YES  NO  If so, telephone # Retired

Street address: \_\_\_\_\_

Mailing address (if different ): P.O Box 1353, 03802

Email address (for clerk's office communication ): spolidura@aol.com

How long have you been a resident of Portsmouth? Over 40 yrs-

Occupational background:

Current Member of the Cemetery Committee.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to continue serving: \_\_\_\_\_

We are just getting started with the work that needs to be done.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Please list any organizations, groups, or other committees you are involved in:

Lots

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Please list two character references not related to you or city staff members:  
*(Portsmouth references preferred)*

1) \_\_\_\_\_  
Name, address, telephone number

2) \_\_\_\_\_  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This reappointment application is for consideration and does not mean you will necessarily be reappointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature:  \_\_\_\_\_ Date: 04/01/23

**CITY CLERK INFORMATION ONLY:**

New Term Expiration Date: \_\_\_\_\_

Annual Number of Meetings: \_\_\_\_\_ Number of Meetings Absent: \_\_\_\_\_

Date of Original Appointment: \_\_\_\_\_

**Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801**



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.*

Committee: Cemetery Initial applicant

Name: Susan Sterry Telephone: 603-988-8403

Could you be contacted at work? YES  NO  If so, telephone# \_\_\_\_\_

Street address: 548 Broad St. Apt 3R

Mailing address (if different ): \_\_\_\_\_

Email address (for clerk's office communication ): sterry10@ymail.com

How long have you been a resident of Portsmouth? 5 years

Occupational background:

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Please list experience you have in respect to this Board/Commission:

current Memeber of Cemetery Committee

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Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES  NO

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to serve: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list any organizations, groups, or other committees you are involved in:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list two character references not related to you or city staff members:  
*(Portsmouth references preferred)*

1) \_\_\_\_\_  
Name, address, telephone number

2) \_\_\_\_\_  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: **Susan Sterry**  Date: **April 3, 2023**

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes \_\_\_\_\_ No \_\_\_\_\_

**Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801**



CITY OF PORTSMOUTH, N.H.  
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.

Committee: Cemetery Initial applicant

Name: Peter Splaine Telephone: (603)812-8835

Could you be contacted at work? YES  NO  If so, telephone# same

Street address: 295 Bartlett St., Portsmouth, NH 03801

Mailing address (if different ): \_\_\_\_\_

Email address (for clerk's office communication ): splaine20@gmail.com

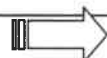
How long have you been a resident of Portsmouth? 55yrs. - born here

Occupational background:

carpenter - self-employed

Please list experience you have in respect to this Board/Commission:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES  NO

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to serve: Currently the Worshipful Master of St. John's Lodge No. 1. I would like to be a part of overseeing the Masonic portion of South Street Cemetery; volunteer in other committee activities.

Please list any organizations, groups, or other committees you are involved in:

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Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Glynn Reed, 125 Echo Ave, Portsmouth 427-0012  
Name, address, telephone number

2) Kevin Drohan, 1240 Maplewood Ave, Portsmouth 603 812-8587  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature:  Date: 4/4/23

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes  No

Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801



Jason Huett  
52 Daniel Street  
Apartment 7  
Portsmouth, NH 03801

4/19/2023

Suzanne M. Woodland  
Deputy City Manager/Deputy City Attorney  
City Of Portsmouth, New Hampshire  
1 Junkins Ave  
Portsmouth, NH 03801

Ms. Woodland:

It is with regret that I must resign from the Cable and Broadband Internet Commission with immediate effect. My current employment is causing me to relocate to upstate New York. As a result, I will no longer meet the qualifications to serve on the commission.

I am thankful for the opportunity I have had to serve and the opportunity to work with such talented and motivated people within the City Of Portsmouth.

Very truly yours,



Jason M. Huett

To: Planning Department  
City of Portsmouth NH 03801  
To Whom It May Concern,

With considerable regret I must resign from the Board of Adjustment effective prior to the next official meeting scheduled for April 17, 2023.

This decision results from my involvement in an undertaking which demands virtually all of my discretionary time.

It has been a pleasure working with you and the board members to support and protect the city that we all love.

Please let me know if there is anything I can do in the short term to facilitate the appointment of a new member.

Best regards,



Dave MacDonald

[bstreetcafe28@gmail.com](mailto:bstreetcafe28@gmail.com)

April 11, 2023



# Join Us For A Community Forum to Discuss

# Portsmouth's Climate Future

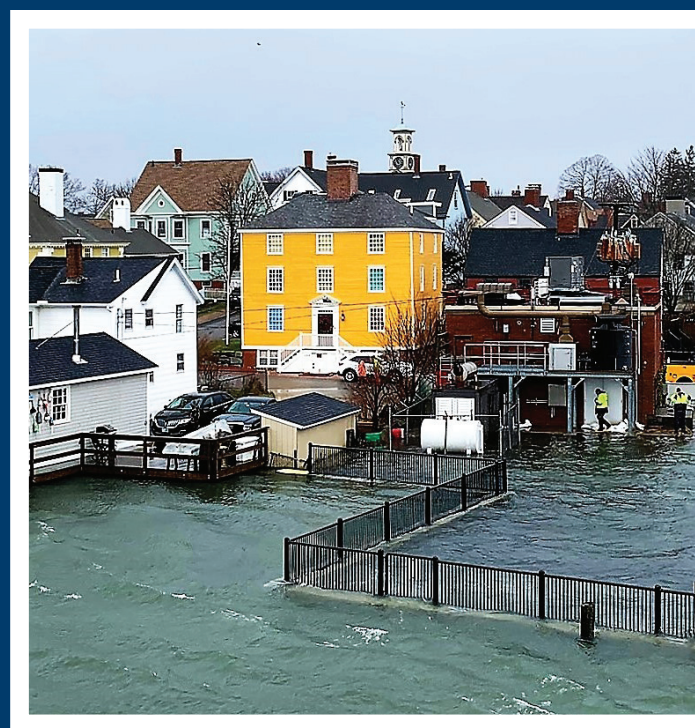


**6:30 - 8:30 PM**  
**May 4, 2023**  
**City Hall - Eileen  
Dondero Foley  
Council Chambers**

If you cannot attend in-person, a virtual option is available (pre-registration required). Please use the link or QR code below to register.

*For assistance with language or other accessibility needs please contact Kate Homet at [kehomet@cityofportsmouth.com](mailto:kehomet@cityofportsmouth.com).*

*Para asistencia de traducción u otras necesidades de accesibilidad, comuníquese con Kate Homet en [kehomet@cityofportsmouth.com](mailto:kehomet@cityofportsmouth.com).*



**SCAN ME**



For more information and to register, please visit:  
<https://portsnh.co/climatefuture>



## CITY OF PORTSMOUTH

CITY COUNCIL POLICY No. 2023 - \_\_\_\_\_

### Donation Policy

#### 1. Objective and Purpose

Donations of every type are offered to the City of Portsmouth for general or specific purposes. This policy will guide the review and acceptance of such donations, confirm that the City has relevant and adequate resources to manage such donations, and ensure that the City appropriately acknowledges the generosity of the donor. Partnership opportunities for donations for community benefits should respect relevant statutory limitations and guidance, honor policy goals and occur within an ethical framework that preserves the integrity of municipal decision-making processes.

The purpose of this policy is to:

- Establish guidelines that ensure donations occur at arm's length from any City decision-making process;
- Provide criteria and process for the acceptance of donations; and
- Confer upon and confirm the authority of the City Manager, the School Board, the Police Commission, the Fire Commission and the Library Board of Trustees, to accept and spend donations consistent with State law, the parameters contained herein, and their adopted policies and practices.

#### 2. Scope

**2.1** This policy is intended to encompass all donations made to the City, its boards, committees and commissions, and programs as well as donations requested or encouraged by staff directed to other organizations or community agencies unless excluded herein. That stated, this policy is not intended to interfere with or displace the policies and procedures of the School Board, the Trustees of Trust Funds, and Library Trustees which have certain authority granted to them under Charter, ordinance, and law. The City of Portsmouth desires to encourage donations, while at the same time considering fiscal impacts and on-going maintenance and operational costs. While this policy predominantly focuses on material donations,

this policy should be considered to have broad applicability for unseen future donations.

## 2.2 This policy does not apply to:

- a. Donations of public art which are the subject of a separate ordinance and policy;
- b. Individual volunteers who may serve in various capacities within municipal departments as part of an academic or other program, or individual volunteers who assist at various municipal-sponsored or run events, functions or programs;
- c. Gifts to individual employees which are governed by Ordinance under Chapter 1, Article 8 and subject to the policies and procedures implemented by the City Manager;
- d. Grants from any source are not covered by this Donation Policy and must be brought forward to the City Council for acceptance; ~~and~~
- e. Trust instruments which must be brought forward to the City Council for approval (although the general policy considerations expressed in this policy may be applicable and useful); and
- e.f. The Trustees of Trust Funds.

## 2.3 Definition

*“Donations”* are cash and other monetary instruments, tangible property including land, or in-kind contributions directed to the City or its boards, commission, committees, or programs. Donations do not constitute a business relationship since no reciprocal consideration is sought.

## 2.4 Examples of Donations:

- **Memorials:** trees, park benches, plaques
- **Monetary:** including cash from event ticket sales and payments for auction items associated with fundraisers that may be conducted by third parties and donated to the City, as well as gift certificates and discount deals from local businesses and nonprofits
- **In-kind services:** this includes organized multi-person volunteer activities by businesses and non-profits to repair, improve municipal facilities and properties
- **Tangible Items other than Art:** laptops and other equipment, instruments, food

## 2.5 Donation Process

The City Manager shall develop and implement such forms and processes necessary to comply with this policy and work with the Charter Departments and Library Trustee to align their policies and practices as needed for consistency of implementation. If the

donation is for a restricted purpose, that purpose should be clearly defined or described and any time limitation on the expenditure of those restricted funds identified.

### **3. Accepting Donations**

#### **3.1 General Authority**

The City may elect to accept or decline any donation.

#### **3.2 Accepting Authority**

- The School Board shall have authority to accept donations directed to the School Department and its programs provided it is consistent with this policy.
- The Library Board of Trustees shall have authority to accept donations directed to the Portsmouth Public Library and its programs provided it is consistent with this policy.
- The City Manager shall have the authority to accept donations of value of \$100 or less without action by the City Council. The City Manager shall prepare for informational purposes only a quarterly report to the City Council identifying all such donations so accepted. Generally, the name of the donor and the amount of the donation and any program or trust to which the donation was directed will be identified in the report.
- All other donations shall be submitted to the City Council for acceptance.

**3.3** Occasionally the City receives cash donations in circumstances in which it is unable or impractical to identify the donor. Such examples include when staff is directed to “keep the change” or to “round up . Nothing in this policy limits the City’s ability to accept these donations.

**3.4** There are donors and situations where it is preferred that the donation be treated as anonymous, to the extent possible, and as may be permitted by the State’s open meeting and public records laws. In addition, some departments, such as the Police Department, prefer to limit certain donor information to the Chief and the Police Commission due to their officers’ enforcement role. Nothing in this policy limits the City Manager’s authority to accept donations in instances where the donation is to be treated as anonymous to the extent allowable by law.

### **4. General Conditions**

**4.1** No advantage is to accrue to the donor (donor’s family, business or other close relations or interests) as a result of the donation.

**4.2** No donation shall be accepted which violates this policy, the City Charter or ordinances, or any State, federal law or order.

## **5. Eligible Uses**

- 5.1** Eligible donations are those that support approved programs and services, durable assets; capital facilities or projects; asset improvement, restoration or capital maintenance; or cash for such purposes.
- 5.2** Donations must be for purposes consistent with the receiving Departments' mandate, programs, services and activities and must be deemed to be in the public interest of the City.
- 5.3** Donations are only to be accepted if the receiving Department has the capacity to meet the initial and ongoing costs and obligations associated with the gift.
- 5.4** Donors who wish to make donations that support special purposes to be provided by an organization independent of the City should be directed, where possible, to the intended organization.

## **6. Ineligible Donors and Donations**

To the extent reasonably practical, donations from ineligible donors should be declined. Ineligible donors include, but are not limited to:

- Persons who may be suffering from mental illness, disability or duress;
- A party, committee, association, fund, or other organization (regardless of incorporation) that is regulated by election laws;
- Any organization that is required to be registered with the secretary of state under the lobbyist registration act;
- Proven or suspected criminal organizations;
- Organizations that promote hatred against individuals or groups; and
- Individuals, businesses, or organizations when adverse to the City in pending litigation.
- Persons and entities with pending applications for permits or other municipal approvals.

Donations from certain persons and entities such as arms manufacturers, certain drug manufacturers/distributors, and tobacco companies are not ineligible donors but donations from such entities may require special attention and consideration and evaluation of potential conflicts.

Donations shall not be accepted for programs, projects or other purposes which would be in violation of any anti-discrimination policies of the City of Portsmouth or any local, state or federal laws.

## **7. Authority to Accept and Spend Cash Donation**

The City Manager (and as applicable the department heads by extension) and Charter Departments shall have the authority to expend accepted donations for the purposes intended.

## **8. Declining Donations**

As stated above under Section 3, the City reserves the right to decline any donation for any reason. If the donation is not accepted, the City may, at its discretion, notify the donor of the reason the donation was declined.

## **9. Costs Associated with the Proposed Donation**

The City also has an interest in knowing in advance the full cost that may be associated with a donation, namely those which may relate to purchase, installation, maintenance and operation during the gift's expected life cycle. In the ordinary course the amount of the donation should be sufficient to cover all such expenses.

- Neither purchase nor installation shall commence until the donor's donation has been accepted and funds have been received by the City for such purposes.
- As to donations requiring on-going operation and maintenance, amounts which are estimated to exceed \$1,000 on an annual basis, the donation shall include an endowment sufficient to cover them, i.e. 20x the estimated amounts.

In rare and unusual circumstances where the City has determined that the value of the donation substantially exceeds the cost associated therewith, these requirements may be waived.

## **10. Procurement Decisions:**

**10.1** Voluntary donations for community benefits may not be solicited and offers may not be made by or accepted from a bidder, proponent or applicant to procurement, or their representative, concurrent to the procurement solicitation and award process.

**10.2** The City shall not accept donations that are conditional upon the endorsement of any product, service or supplier. Current and prospective suppliers to the City that decline solicitations for donations shall not be penalized in procurement decisions of the City.

## **11. Donations of Personal or Real Property**



- 11.1** Donations of real property should include consideration of any future or ongoing obligations arising from the donation. Where appropriate, approval of a donation of real property is to include the use and disposition of the real property including the net proceeds arising from a property transaction. Donations of real property will be held in the name of the City.
- 11.2** Donations of personal property will also be reviewed and considered by this policy and subject to approval by the appropriate department head.

## **12. Managing and Reporting Donations**

To cultivate an ongoing relationship with donors:

- Treat individual donors' names and amounts given, and any other private or personal information, with respect and, except where the donor authorizes release of such information, with confidentiality to the extent provided by the law;
- Reasonably limit the frequency of solicitations; and
- Respond promptly to a donor's question or complaint.

The City shall manage and record in accord with generally accepted governmental accounting principles donations that are restricted for uses or programs, whether such restrictions are temporary or permanent.

## **13. Acknowledgements, Forms and Receipts**

The City is committed to the highest standards of donor stewardship and accountability. This includes appropriate acknowledgement and recognition for donations. Accordingly, for donations valued at \$100 or more, a formal letter of acknowledgement and gratitude will be sent to the donor by the City.

## **14. Accounts**

- 14.1** Donations designated for specific purposes or for the general purpose of a specific program, are to be used by the program for the purpose specified by the donor. For purposes of financial control and accountability, donations are to be credited to appropriate accounts of the City.
- 14.2** Donations may not be managed informally or held in personal or external accounts or trust funds. This would not apply to independent community fundraising campaigns until such time that the campaign contributions are donated to the City.

- 14.3** Donations of cash or property to the City, where the purpose is not specified and which are not part of an approved fundraising initiative, are deemed to be undesignated and become contributions to general revenue of the City or assets of the City, unless the recipient Department seeks council approval for the requested purpose.

This policy shall take effect upon the passage by the City Council.

Adopted by the Portsmouth City Council on \_\_\_\_\_, 2023.

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Kelli L. Barnaby, CMC/CNHMC  
City Clerk