

*Resolve 4-12/13
Tab 15 12-17-12*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**RESOLUTION IN SUPPORT OF REDUCING GREENHOUSE GAS
POLLUTION UNDER THE CLEAN AIR ACT**

WHEREAS, according to the National Aeronautic and Space Administration, the decade from 2000 to 2010 was the warmest in recent historical climate record; and

WHEREAS, according to the National Oceanic and Atmospheric Administration (NOAA), the current level of carbon dioxide in the atmosphere is approximately 392 parts per million (ppm); and

WHEREAS, one of the world's leading climate scientists, Dr. James Hansen, stated in 2008; "If humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted, paleoclimate evidence and climate change suggest that carbon dioxide will need to be reduced from its current 385 ppm to almost 350 ppm;" and

WHEREAS, the Environmental Protection Agency (EPA) determined that current and future greenhouse gas concentrations endanger public health and according to the Global Humanitarian Forum, climate change is already responsible every year for some 300,000 deaths, 325 million people seriously affected, and economic losses worldwide of US \$125 Billion; and

WHEREAS, according to the Intergovernmental Panel on Climate Change (IPCC), extreme weather events, most notably heat waves and precipitation extremes, are striking with increasing frequency, with deadly consequences for people and wildlife; in the United States in 2011 alone, a record fourteen weather and climate disasters occurred, including droughts, heat waves, and floods, according to NOAA that cost at least \$1 Billion each in damages and loss of human lives; and

WHEREAS, according to scientists, climate change is affecting food security by negatively impacting the growth and yields of important crops, and according to the U. S. Global Change Research Program, droughts, floods, and changes in snowpack are altering water supplies; and

WHEREAS, scientists have concluded that by 2100 as many as one in ten species may be on the verge of extinction due to climate change; and

WHEREAS, according to the IPCC, the world's land-based ice is rapidly melting, threatening water supplies in many regions and raising sea levels, and according to scientists, Arctic summer sea ice extent has decreased to about half what it was several decades ago, and according to the Polar Science Center, an accompanying drastic

reduction in sea-ice thickness and volume, which, according to the Center for Biological Diversity and Care for the Wild International, is severely jeopardizing ice-dependent animals; and

WHEREAS, according to scientists, sea level is rising faster along the U. S. East Coast than it has for at least 2,000 years, and is accelerating in pace, and could rise by one to two meters in this century, threatening millions of Americans with severe flooding; and

WHEREAS, for four decades, the Clean Air Act has protected the air we breathe through a proven, comprehensive, successful system of pollution controls that save lives and creates economic benefits exceeding its costs by many times; and

WHEREAS, with the Clean Air Act, air quality in this country has improved significantly since 1970, despite major growth both in our economy and industrial production; and

WHEREAS, between 1970 and 1990, the six main pollutants covered by the Clean Air Act – particulate matter and ground-level ozone (both of which contribute to smog and asthma), carbon monoxide, lead, sulfur, and nitrogen oxides (the pollutants that cause acid rain) – were reduced by between 47 percent and 93 percent, and airborne lead was virtually eliminated; and

WHEREAS, the Clean Air Act has produced economic benefits valued at \$2 Trillion or 30 times the cost of regulation; and

WHEREAS, the U. S. Supreme Court ruled in *Massachusetts vs. EPA* (2007) that greenhouse gases are “air pollutants” as defined by the Clean Air Act and the EPA has the authority to regulate them; and

WHEREAS, the City of Portland is a leader in the fight against climate change and for clean air as demonstrated through its programs and projects not limited to:

- Comprehensive energy efficiency upgrades made throughout City and School reducing greenhouse gas emissions by 4,110 metric Tons and saving over \$1 Million in energy costs per year;
- Signing the Mayor’s Climate Protection Agreement;
- Reducing solid waste generation and therefore greenhouse gas emissions through municipal recycling programs;
- Investing in a geothermal heating system at the Portland Jetport to reduce fuel oil use by 50,000 gallons per year.
- Promoting green building in Portland through a green building ordinance; and
- Promoting alternative energy generation in the community through a Wind Energy Ordinance.

NOW THEREFORE BE IT RESOLVED, that climate change is not an abstract problem for the future or one that will only affect far-distant places, but rather climate change is happening now, we are causing it, and the longer we wait to act, the more we lose and the more difficult the problem will be to solve; and we, the Portland City Council, on behalf of the residents of Portland, do hereby urge the administrator of the EPA, Lisa P. Jackson, and President Barack Obama to move swiftly to fully employ and enforce the Clean Air Act to do our part to reduce carbon in our atmosphere to no more than 350 parts per million.

BE IT FURTHER RESOLVED, that the City Clerk shall forward a copy of this resolution to Lisa P. Jackson of the EPA and President Barack Obama.

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

Order 110 - 12/13
Sub 8 12-3-12
Sub 16 12-17-12
JOHN K. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER APPROVING COLLECTIVE BARGAINING AGREEMENT WITH
POLICE SUPERIOR OFFICERS BENEVOLENT ASSOCIATION FOR 2012-2013**

ORDERED, that the attached Collective Bargaining Agreement with the Police Superior Officers Benevolent Association for January 2, 2012 through December 31, 2013, is hereby approved.

CITY OF PORTLAND, MAINE

Memorandum REVISED

TO: Mayor Brennan and Members of the City Council
FROM: Thomas A. Caiazzo, Employee Relations Manager
DATE: December 6, 2012
RE: Tentative Agreement with:
Police Superior Officers Benevolent Association (PSOBA)
Second Reading on December 17, 2012

City staff has reached a tentative agreement with the Police Superior Officers Benevolent Assoc. (PSOBA) on a successor two year contract. The prior collective bargaining agreement expired December 31, 2011. The PSOBA, which is comprised of 31 Police Captains, Lieutenants and Sergeants, has ratified the tentative agreement and the Administration is recommending your support for the agreement. The tentative agreement is within the guidance received by the City Council on July 2, 2012.

The contract term is January 2, 2012 through December 31, 2013.

Terms of the Agreement include a 1% base wage increase effective January 1, 2012 and 1.5% base wage increase effective January 6, 2013. The total direct cost of the two year agreement is \$51,100.00.

Cc: Mark Rees, City Manager
Michael Sauschuck, Police Chief
Vernon Malloch, Assistant Police Chief
Michael Miles, Director of Human Resources
Anita LaChance, Assistant City Manager
Danielle West-Chuta, Acting Corporation Counsel
Ellen Sanborn, Finance Director
Suzanne Knight, Asst. Budget Director
Carlene Kessler, PAO, Human Resources
Clarkson Woodward, PAO, Police Department
Jennifer Lodge, Budget Analyst
Lori Schools, Financial Specialist

POLICE SUPERIOR OFFICERS-Tentative Agreement

ITEM	BASE COST	YEAR 1 (1/1/12)	% INCR	YEAR 2 (1/1/13)	% INCR	NOTES:
Base Wages	1,883,520	18,835	1.0%	28,535	1.5%	
Educational Stipend	3,995	0	0.0%	0	0.0%	
Specialty Pay	155,690	0	0.0%	0	0.0%	
	-----	-----		-----		
Total Wages	2,043,205	18,835	0.9%	28,535	1.4%	
Overtime	147,000	1,470	1.0%	2,230	1.5%	Based on increase in base wages
Holidays	57,750	532	0.9%	876	1.5%	Based on increase in base wages
Clothing Allowance	13,000	0	0.0%	0	0.0%	
	-----	-----		-----		
Total Direct Cost	2,203,205	20,305	0.9%	30,765	1.4%	
Health Insurance	367,980	7,360	2.0%	22,520	6.0%	
Group Life	11,915	108	0.8%	165	1.4%	Based on increase in total wages
Pension	139,375	1,285	0.9%	1,945	1.4%	Based on increase in total wages
Workers' Compensation	57,620	533	0.9%	805	1.4%	Based on increase in total wages
	-----	-----	-----	-----	-----	
Total Indirect Cost	576,890	9,285	1.6%	25,435	6.0%	
Total	2,780,095	29,590	1.1%	56,200	2.0%	

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

Order 111-12/13
~~*Tab 9 12-3-12*~~
Tab 17 12-17-12

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER APPROVING CITY STATE AGREEMENT
WITH MAINE DEPARTMENT OF TRANSPORTATION
RE: PAVING PROJECTS**

ORDERED, that the attached City-State Agreements with the Maine Department of Transportation are hereby approved substantially in the form attached:

PIN #19931.00 Baxter Blvd, Divided Section Only
PIN #19095.00 Eastern Promenade, Atlantic St to Washington Ave
PIN#19930.00 Lambert Street, Auburn St to City Line
PIN#19093.00 Veranda Street, Washington Ave Northerly ½ Mile

**City of Portland, Maine
City Council Agenda Request Form**

TO: Mayor Michael Brennan
Mark Rees, City Manager
Danielle West-Chuhta, Acting Corporation Counsel
Theresa Bourgoin, Administrative Assistant
Sonia Bean, Senior Administrative Assistant

FROM: Katherine Earley, PE, Engineering Services Manager

CC: Michael Bobinsky, Director of Public Services

DATE: Nov. 19, 2012

- 1) Council meeting at which action is requested:

1st reading: Dec 3, 2012
Final action: Dec 17, 2012

- 2) Can action be taken at a later date: YES X NO
If not, why not: Postponing action will defer MaineDOT's ability to put the contracts together and bid by late February 2013 for construction beginning in May 2013.

- 3) This item is sponsored by: City Manager Mark Rees

(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

The City receives Federal & State funding every two years via the Portland Area Comprehensive Transportation System (PACTS) in order to pave Collector Streets. Four specific paving activities will be conducted by MaineDOT beginning in May 2013 and in order for them to proceed with contract specifications and bidding we are required to enter into four (4) two-party (City / MaineDOT) agreements.

Two of the four projects (E. Prom and Veranda) were previously authorized by Order #11-11/12, and the other two (Baxter and Lambert) are equivalent value substitutions for a third project (Fore Street) also authorized by Order #11-11/12.

Among other details, these agreements stipulate the pavement preservation methodology and the City's financial obligation under the PACTS Local Share rule as well as our own costs of utility system adjustments and/or repairs.

In addition, because of a rapid change in programming of two of the four paving projects, we are also asked to concurrently sign three-party (City / MaineDOT / PACTS) agreements. Normally these three-party agreements precede the two-party agreements by several months – they stipulate the basic scope, initial estimated costs, and expectation that all parties will work together to achieve the regionally important project.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

Entering into these agreements is required for MaineDOT to proceed with these paving projects in 2013, and they obligate the City to its 15% Local Share and utility costs.

III. INTENDED RESULT (How does it resolve the issue/problem?)

IV. FINANCIAL IMPACT

The total value of all paving projects is \$2,103,129. The City's financial obligation is a total of \$366,438 (*\$375,000 is the rounded FY14 CIP entry total*).

Each agreement stipulates the dollar amount of the 15% Local Share, and the total estimated value of City utility system costs. The table below summarizes the individual figures:

Name	PIN/WIN #	Description	Estimated Cost (excludes ineligible)	Local Share Amount (15% min.)	Utility ineligible	Total Local obligation
Baxter Blvd	WIN #19931.00	Divided section only	\$354,249	\$53,138	N/A	\$53,138
Eastern Promenade	WIN #19095.00	Atlantic St. to Washington Ave	\$1,107,915	\$117,602	\$36,000	\$153,602
Lambert St	WIN #19930.00	Auburn St. to city line	\$286,875	\$43,031	\$25,000	\$68,031
Veranda St	WIN #19093.00	Washington Ave northerly one-half mile	\$354,090	\$37,667	\$54,000	\$91,667
		Estimated Minimum costs:	\$2,103,129	\$251,438	\$115,000	\$366,438

These paving project Local cost obligations were previously approved in the City's five-year CIP program for funding in the FY14 CIP, and are being updated this year with the final cost estimate figures.

V. STAFF ANALYSIS & RECOMMENDATION

The Department of Public Services recommends approval of these agreements in order to accomplish significant pavement preservation on important street segments within the City and Region's Transportation system.

Attachments

- Four (4) two-party agreements
- Two (2) three-party agreements

Internal Use Only

CT#: _____
CSN: _____
TEDOCS #: _____
PROGRAM: _____



MaineDOT

MAINE DEPARTMENT OF TRANSPORTATION THREE-PARTY PARTNERSHIP AGREEMENT

WIN 19931.00 PORTLAND: BAXTER BLVD

This agreement ("Agreement") is entered into by the State of Maine Department of Transportation ("**MaineDOT**"), the Municipality of Portland (the "**Municipality**"), and the Portland Area Comprehensive Transportation System, the designated Metropolitan Planning Organization for the Portland Urbanized Area ("**PACTS**"), hereinafter referred to as "the **Parties**".

Whereas, **PACTS** programmed WIN 19931.00 for inclusion in the MaineDOT Biennial Capital Work Plan for 2012 to 2013, using Federal and State capital improvement funding allocated by **MaineDOT**; and

Whereas, the **Municipality** supports the decision by **PACTS** to program WIN 19931.00 (the "Project."); and

Whereas, the Project consists of PORTLAND: BAXTER BLVD; and

Whereas, the **Parties** have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the budget programmed, using a process that maximizes communication and cooperation; and

Whereas, the **Parties** agree that this document will cover the roles and responsibilities of each during the design, permitting and right-of-way stages of the Project through completion of final Plans, Specifications and Estimate ("PS&E"); a separate Municipal State Agreement will be executed by **MaineDOT** and the **Municipality** addressing the roles and responsibilities of each during the construction phases of the work.

NOW THEREFORE, this document will cover the financial responsibilities of the **Parties** through all stages of the Project as follows:

1. Total available funding for the Project is \$354,249.00, and the **Parties** agree to share costs through all stages of the Project under the terms outlined below:

Work Phase	MPO (Federal) Maximum Share	State Share	Local Share		Total Cost
			Amount	%	
Preliminary Engineering	9,255.00	1,234.00	1,851.00	15,000%	12,340.00
Right of Way	0	0	0	0%	0
Construction	TBD	TBD	TBD	TBD	TBD
Construction Engineering	TBD	TBD	TBD	TBD	TBD
TOTAL SHARE (PE & R/W)	9,255.00	1,234.00	1,851.00	15,000%	12,340.00

- **Federal share** – federally participating costs, up to a maximum of \$9,255.00.
- **State share** – 10% of federally participating costs, up to a maximum of \$1,234.00.
- **Local match** – 15% of federally participating costs, which is estimated at \$1,851.00, plus any additional cost in accordance with paragraph 2 of this Agreement.

2. The **Municipality** shall be fully responsible for any and all Project costs for PE and R/W exceeding \$12,340.00, unless otherwise agreed to in writing by the **Parties** through a Modification to this Agreement.
3. **MaineDOT** will develop construction plans and specifications for WIN 19931.00 within the scope agreed to by **PACTS** and the **Municipality** as described above, using MaineDOT's standard project development process to ensure adherence to federal and state regulations.
4. After the final PS&E package is prepared, **MaineDOT** and the **Municipality** will execute a Municipal/State Project Agreement covering Project advertise, award, construction and construction engineering. Said Municipal/State Agreement will carry the financial terms outlined in Sections 1 and 2 above, as well as a schedule for collection of the **Municipality's** share of Project costs.
5. **MaineDOT** will share information about the status of the Project with staff from **PACTS** and the **Municipality** at the following milestones:
 - Project kickoff/initial team meeting/formal public contact.
 - Completion of the preliminary design report (PDR).
 - Formal public meeting.
 - Completion of the plans, specifications and estimate (PS&E.)
 - Changes in the Project Schedule or Engineer's Estimate.
6. **MaineDOT** will consult with staff from **PACTS** and the **Municipality** before adjusting the Project scope or financial responsibilities. Additionally, **PACTS** and the **Municipality** will notify **MaineDOT** of any proposed changes in the Project limits or scope.
7. The **Parties** will participate as partners in any public meetings held to discuss the Project.
8. If **MaineDOT** withdraws from the Project before it has been advertised for construction, and that action was not directed by **PACTS** and the **Municipality**, **MaineDOT** will be responsible for all Project costs incurred to date.
9. If the **Municipality** withdraws its financial support for the Project as described in Section 1 above and Section 10 below, leading **MaineDOT** to cancel the Project before it has been advertised for construction, the **Municipality** shall reimburse **MaineDOT** fully for any and all Project costs incurred in reliance on the **Municipality's** commitment documented in this Agreement.
10. The **Municipality** represents that its Legislative body has taken all steps necessary and lawful to approve the Project and the **Municipality's** entry into this Agreement, has appropriated or authorized the use of any necessary funds in connection with the **Municipality's** participation, and has further authorized the undersigned Municipal representative to execute this Agreement.
11. All provisions of this Agreement shall expire at Project final voucher, or upon final payment by the **Municipality** of any Project costs as hereinbefore provided, whichever occurs later.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the day and date last signed.

Date _____
John Duncan, Director
Portland Area Comprehensive Transportation System

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____
Mark Rees, City Manager
Municipality of Portland

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____
Joyce Noel Taylor, Director, Bureau of Project Development
Maine Department of Transportation

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.



<i>MaineDOT use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO Baxter Blvd

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 019931.00
Federal Project #: STP-1993(100)X

Total Estimated Municipal Share: \$53,137.75
Vendor Customer #:
Agreement Begin Date:
Agreement End Date:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☐ Appendix C – Additional work requested by Municipality

This Agreement is entered into between the Maine Department Of Transportation (hereafter the “Department”) and the City Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (hereinafter the “Parties”) regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Baxter Blvd, in Portland, Maine, (hereafter Project) as follows:

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval, This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have five up to (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below:
1. The PM will submit the project for TAMING approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.
- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines notwithstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal

useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or maintenance described in this paragraph.

- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent *"Rules, Regulations and Policies for Highway Openings"*, which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

City of South Portland

Maine Department of Transportation

By: _____

Mark Rees
City Manager

By: _____

Joyce Taylor
Director – Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF City Portland

PROPOSED IMPROVEMENTS TO Baxter Blvd

FEDERAL AID PROJECT NO. STP-1993(000)X
STATE PROJECT IDENTIFICATION NUMBER (WIN) 019931.00

Project Scope: Baxter Blvd - . Mill & Fill Baxter Blvd - divided section only

Funding Outline: The Total Project Estimated Cost is \$354,249.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	15	1,851.00	10	1,234.00	75	9255.00			12,340.00
Right of Way	15	0.00	10	0.00	75	0.00			0.00
Construction	15	49,842.60	10	33,228.40	75	249,213.00			332,284.00
Construction Engineering	15	1,443.75	10	962.50	75	7,218.75			9,625.00
PROJECT SHARES		\$53,137.35		\$35,424.90		\$265,686.75		\$	\$354,249.00
Total Cost of Additional Work Requested by Municipality (Below)	100%								
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$53,137.75							

(Check if applicable)

☐ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
TYPE OF WORK	COST
TYPE OF WORK	COST
TYPE OF WORK	COST
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$TOTAL COST

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 100% of all additional work requested by the Municipality (when applicable).
2. **Final Voucher Payment to the Contractor.** A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$26,568.88	May 2013
City of Portland	\$26,568.87	December 2013
	\$	
	\$	
	\$	
	\$	



<i>MaineDOT use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

MAINE DEPARTMENT OF TRANSPORTATION MUNICIPAL/STATE AGREEMENT

PROPOSED IMPROVEMENTS TO Eastern Promenade

<i>(MaineDOT Use Only)</i>	
Project Location: <u>Portland</u>	Total Estimated Municipal Share: <u>\$153,602.00</u>
State WIN #: <u>019095.00</u>	Vendor Customer #: <u>VC1000073472</u>
Federal Project #: <u>AC-STP-1909(500)X</u>	Agreement Begin Date: _____
	Agreement End Date: <u>(3 years from the date last signed below)</u>

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "Department") and the City of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Eastern Promenade, in Portland, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☒ Appendix C – Additional work requested by Municipality

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below:
1. The PM will submit the project for TAMING approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc). **TAMING report was received back on 5/11/12 with no restrictions. City prefers day work and that the project not begin before July 4th and be completed before school starts.**
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.
- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines notwithstanding any municipal rules that are more lenient.

- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or maintenance described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent *"Rules, Regulations and Policies for Highway Openings"*, which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

City of Portland

Maine Department of Transportation

By: _____
Mark Rees, City Manager

By: _____
Joyce Noel Taylor, Director
Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
 Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO Eastern Promenade

FEDERAL AID PROJECT NO. AC-STP-1909(500)X
 STATE PROJECT IDENTIFICATION NUMBER (WIN) 019095.00

Project Scope: Eastern Promenade 3/4" Overlay - Beginning at Atlantic Street and extending 1.20 miles to Washington Street.

Funding Outline: The Total Project Estimated Cost is \$1,143,915.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25	11,000.00	10	4,400.00	65	28,600.00			44,000.00
Right of Way	25	350.00	10	140.00	65	910.00			1,400.00
Construction	10	99,651.50	10	99,651.50	80	797,212.00			996,515.00
Construction Engineering	10	6,600.00	10	6,600.00	80	52,800.00			66,000.00
PROJECT SHARES		\$117,601.50		\$110,791.50		\$879,522.00		\$	\$1,107,915.00
Total Cost of Additional Work Requested by Municipality (Below)	100%	\$36,000.00							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$153,601.50							

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
Utility adjustments	\$36,000.00
TYPE OF WORK	COST
TYPE OF WORK	COST
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$36,000

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 100% of all additional work requested by the Municipality (when applicable).
2. **Final Voucher Payment to the Contractor.** A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$76,800.75	May 2013
City of Portland	\$76,800.75	December 2013
	\$	
	\$	
	\$	
	\$	

Internal Use Only

CT#: _____
CSN: _____
TEDOCS #: _____
PROGRAM: _____



MaineDOT

MAINE DEPARTMENT OF TRANSPORTATION THREE-PARTY PARTNERSHIP AGREEMENT

WIN 19930.00 PORTLAND: LAMBERT STREET

This agreement ("Agreement") is entered into by the State of Maine Department of Transportation ("MaineDOT"), the Municipality of Portland (the "**Municipality**"), and the Portland Area Comprehensive Transportation System, the designated Metropolitan Planning Organization for the Portland Urbanized Area ("**PACTS**"), hereinafter referred to as "the **Parties**".

Whereas, **PACTS** programmed WIN 19930.00 for inclusion in the MaineDOT Biennial Capital Work Plan for 2012 to 2013, using Federal and State capital improvement funding allocated by **MaineDOT**; and

Whereas, the **Municipality** supports the decision by **PACTS** to program WIN 19930.00 (the "Project."); and

Whereas, the Project consists of PORTLAND, LAMBERT ST; and

Whereas, the **Parties** have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the budget programmed, using a process that maximizes communication and cooperation; and

Whereas, the **Parties** agree that this document will cover the roles and responsibilities of each during the design, permitting and right-of-way stages of the Project through completion of final Plans, Specifications and Estimate ("PS&E"); a separate Municipal State Agreement will be executed by **MaineDOT** and the **Municipality** addressing the roles and responsibilities of each during the construction phases of the work.

NOW THEREFORE, this document will cover the financial responsibilities of the **Parties** through all stages of the Project as follows:

1. Total available funding for the Project is \$286,875.00, and the **Parties** agree to share costs through all stages of the Project under the terms outlined below:

Work Phase	MPO (Federal) Maximum Share	State Share	Local Share		Total Cost
			Amount	%	
Preliminary Engineering	15,000	2,000	3,000	15,000%	20,000
Right of Way	0	0	0	0%	0
Construction	TBD	TBD	TBD	TBD	TBD
Construction Engineering	TBD	TBD	TBD	TBD	TBD
TOTAL SHARE (PE & R/W)	15,000	2,000	3,000	15,000%	20,000

- **Federal share** – federally participating costs, up to a maximum of \$15,000.
- **State share** – federally participating costs, up to a maximum of \$2,000.
- **Local match** – 15% of federally participating costs, which is estimated at \$3,000, plus any additional cost in accordance with paragraph 2 of this Agreement.

2. The **Municipality** shall be fully responsible for any and all Project costs for PE and R/W exceeding \$20,000.00, unless otherwise agreed to in writing by the **Parties** through a Modification to this Agreement.
3. **MaineDOT** will develop construction plans and specifications for WIN 19930.00 within the scope agreed to by **PACTS** and the **Municipality** as described above, using MaineDOT's standard project development process to ensure adherence to federal and state regulations.
4. After the final PS&E package is prepared, **MaineDOT** and the **Municipality** will execute a Municipal/State Project Agreement covering Project advertise, award, construction and construction engineering. Said Municipal/State Agreement will carry the financial terms outlined in Sections 1 and 2 above, as well as a schedule for collection of the **Municipality's** share of Project costs.
5. **MaineDOT** will share information about the status of the Project with staff from **PACTS** and the **Municipality** at the following milestones:
 - Project kickoff/initial team meeting/formal public contact.
 - Completion of the preliminary design report (PDR).
 - Formal public meeting.
 - Completion of the plans, specifications and estimate (PS&E.)
 - Changes in the Project Schedule or Engineer's Estimate.
6. **MaineDOT** will consult with staff from **PACTS** and the **Municipality** before adjusting the Project scope or financial responsibilities. Additionally, **PACTS** and the **Municipality** will notify **MaineDOT** of any proposed changes in the Project limits or scope.
7. The **Parties** will participate as partners in any public meetings held to discuss the Project.
8. If **MaineDOT** withdraws from the Project before it has been advertised for construction, and that action was not directed by **PACTS** and the **Municipality**, **MaineDOT** will be responsible for all Project costs incurred to date.
9. If the **Municipality** withdraws its financial support for the Project as described in Section 1 above and Section 10 below, leading **MaineDOT** to cancel the Project before it has been advertised for construction, the **Municipality** shall reimburse **MaineDOT** fully for any and all Project costs incurred in reliance on the **Municipality's** commitment documented in this Agreement.
10. The **Municipality** represents that its Legislative body has taken all steps necessary and lawful to approve the Project and the **Municipality's** entry into this Agreement, has appropriated or authorized the use of any necessary funds in connection with the **Municipality's** participation, and has further authorized the undersigned Municipal representative to execute this Agreement.
11. All provisions of this Agreement shall expire at Project final voucher, or upon final payment by the **Municipality** of any Project costs as hereinbefore provided, whichever occurs later.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the day and date last signed.

Date _____
John Duncan, Director
Portland Area Comprehensive Transportation System

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____
Mark Rees, City Manager
Municipality of Portland

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____
Joyce Noel Taylor, Director, Bureau of Project Development
Maine Department of Transportation

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.



MaineDOT

<i>MaineDOT use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO Lambert Street

<i>(MaineDOT Use Only)</i>	
Project Location: <u>Portland</u>	Total Estimated Municipal Share: <u>\$68,031.25</u>
State WIN #: <u>019930.00</u>	Vendor Customer #:
Federal Project #: <u>STP-1993(000)X</u>	Agreement Begin Date:
	Agreement End Date:

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☒ Appendix C – Additional work requested by Municipality

This Agreement is entered into between the Maine Department Of Transportation (hereafter the “Department”) and the City Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (hereinafter the “Parties”) regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Lambert Street, in Portland, Maine, (hereafter Project) as follows:

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval, This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D.** Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have five up to (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E.** The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F.** The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below:
1. The PM will submit the project for TAMING approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
- G.** The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H.** The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.
- I.** The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines notwithstanding any municipal rules that are more lenient.
- J.** To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal

useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or maintenance described in this paragraph.

- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent *"Rules, Regulations and Policies for Highway Openings"*, which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

City of South Portland

Maine Department of Transportation

By: _____
Mark Rees
City Manager

By: _____
Joyce Taylor
Director – Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
 Transportation Improvement Project

MUNICIPALITY OF City Portland

PROPOSED IMPROVEMENTS TO Lambert Street

FEDERAL AID PROJECT NO. STP-1993(000)X
 STATE PROJECT IDENTIFICATION NUMBER (WIN) 019930.00

Project Scope: Lambert Street - 3/4" Overlay – Beginning at Auburn Street and extending to the Portland-Falmouth Town Line.

Funding Outline: The Total Project Estimated Cost is \$311,875.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	15	3,000.00	10	2,000.00	75	15,000.00			20,000.00
Right of Way	15	0.00	10	0.00	75	0.00			0.00
Construction	15	34,425.00	10	22,950.00	75	172,125.00			229,500.00
Construction Engineering	15	5,606.25	10	3,737.50	75	28,031.25			37,375.00
PROJECT SHARES		\$43,031.25		\$28,687.50		\$215,156.25		\$	\$286,875.00
Total Cost of Additional Work Requested by Municipality (Below)	100%	\$25,000.00							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$68,031.25							

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
Utility Adjustments	\$25,000
TYPE OF WORK	COST
TYPE OF WORK	COST
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$25,000.00

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 100% of all additional work requested by the Municipality (when applicable).
2. Final Voucher Payment to the Contractor. A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$34,015.63	May 2013
City of Portland	\$34,015.62	December 2013
	\$	
	\$	
	\$	
	\$	



MaineDOT use only	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO Veranda Street

(MaineDOT Use Only)

Project Location: Portland
State WIN #: 019093.00
Federal Project #: AC-STP-1909(300)X

Total Estimated Municipal Share: \$91,666.35
Vendor Customer #: VC1000073472
Agreement Begin Date: _____
Agreement End Date: _____

The following checked appendices are hereby incorporated into this Agreement by reference:

- ☒ Appendix A – Project scope, cost sharing, and payment schedule
- ☐ Appendix B – Bicycle/Pedestrian Facility Maintenance
- ☐ Appendix B – Landscape Maintenance
- ☐ Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- ☐ Appendix B – Traffic Signal Operation and Maintenance
- ☒ Appendix C – Additional work requested by Municipality

This Agreement is entered into between the Maine Department Of Transportation (hereafter the “Department”) and the City of Portland, a municipal corporation located in the County of Cumberland (hereafter the “Municipality”) (hereinafter the “Parties”) regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Veranda Street, in Portland, Maine, (hereafter Project) as follows:

Highway resurfacing Veranda Street ¾” Overlay: Beginning at Washington Avenue and continuing northerly for 0.50 of one mile.

- A. The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval, This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project

because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D. Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have five up to (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments there under shall be the sole discretion of the Department.
- E. The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F. The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below:
 - 1. The PM will submit the project for TAMING approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc). **TAMING report was received on 5/1/12 with no restrictions. The Municipality wishes for daytime work and for the project to be constructed completed in June-July of 2013.**
 - 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 - 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 - 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
- G. The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H. The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.

- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or maintenance described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent *"Rules, Regulations and Policies for Highway Openings"*, which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by the

Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN **WITNESS WHEREOF**, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

City of Portland

Maine Department of Transportation

By: _____
Mark Rees
City Manager

By: _____
Joyce Taylor
Director – Bureau of Project Development

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
 Transportation Improvement Project

MUNICIPALITY OF City of Portland

PROPOSED IMPROVEMENTS TO Veranda Street

FEDERAL AID PROJECT NO. AC-STP-1909(300)X
 STATE PROJECT IDENTIFICATION NUMBER (WIN) 019093.00

Project Scope: Veranda Street – ¾" Overlay: Beginning at Washington Avenue and continuing northerly for 0.50 of one mile.

Funding Outline: The Total Project Estimated Cost is \$408,090.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	25	3,541.00	10	1,416.40	65	9,206.60			14,164.00
Right of Way	25	221.25	10	88.50	65	575.25			885.00
Construction	10	31,779.60	10	31,779.60	80	254,236.80			317,796.00
Construction Engineering	10	2,124.50	10	2,124.50	80	16,996.00			21,245.00
PROJECT SHARES		\$37,666.35		\$35,409.00		\$281,014.65		\$	\$354,090.00
Total Cost of Additional Work Requested by Municipality (Below)	100%	\$54,000.00							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$91,666.35							

(Check if applicable)

☒ Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
Utility adjustments	\$54,000
TYPE OF WORK	COST
TYPE OF WORK	COST
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$54,000

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 100% of all additional work requested by the Municipality (when applicable).
2. **Final Voucher Payment to the Contractor.** A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Payment Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Payment Amount	Estimated Invoice Date
City of Portland	\$45,833.17	April 2013
City of Portland	\$45,833.18	December 2013
	\$	
	\$	
	\$	
	\$	

Order 11-11/12

Given first reading on 7/18/11

Passage: 8/1/11 6-0 (Waxman, Coyne and Leeman absent)

NICHOLAS M. MAVODONES (MAYOR)

KEVIN J. DONOGHUE (1)

DAVID A. MARSHALL (2)

EDWARD J. SUSLOVIC (3)

CHERYL A. LEEMAN (4)

CITY OF PORTLAND

IN THE CITY COUNCIL

JOHN R. COYNE (5)

JOHN M. ANTON (A/L)

JILL C. DUSON (A/L)

DORY RICHARDS WAXMAN (A/L)

ORDER APPROVING THREE-PARTY PARTNERSHIP AGREEMENTS BETWEEN THE CITY OF PORTLAND, THE MAINE DEPARTMENT OF TRANSPORTATION AND THE PORTLAND AREA COMPREHENSIVE TRANSPORTATION SYSTEM

ORDERED, that the City Manager is authorized to enter into three-party partnership agreements between the City of Portland, the Maine Department of Transportation and the Portland Area Comprehensive Transportation System, in substantially in the form attached, for the following City transportation projects:

- Back Cove Trail Connection
- Park Avenue Bike/Ped Improvements
- St. John Street Safety Improvements
- Paving of Capisic Street from Brighton Ave. to Stevens Ave.
- Paving of Congress Street from Eastern Prom to Washington Ave.
- Paving of Eastern Promenade from Atlantic St. to Washington Ave.
- Paving of Fore St. from Franklin St. to Center St.
- Paving of Veranda St. from Washington Ave., northerly one-half mile

Internal Use Only

CT#: _____
CSN: _____
TEDOCS #: _____
PROGRAM: _____



MaineDOT

MAINE DEPARTMENT OF TRANSPORTATION THREE-PARTY PARTNERSHIP AGREEMENT

PIN 019122.00-Portland, Fore Street

This agreement ("Agreement") is entered into by the State of Maine Department of Transportation ("MaineDOT"), the Municipality of Portland (the "**Municipality**"), and the Portland Area Comprehensive Transportation System, the designated Metropolitan Planning Organization for the Portland Urbanized Area ("**PACTS**"), hereinafter referred to as "the **Parties**".

Whereas, **PACTS** programmed PIN 019122.00 for inclusion in the MaineDOT Biennial Capital Work Plan for 2012 to 2013, using Federal and State capital improvement funding allocated by **MaineDOT**; and

Whereas, the **Municipality** supports the decision by **PACTS** to program PIN 019122.00 (the "Project."); and

Whereas, the Project consists of Highway Resurfacing: 3/4" Overlay beginning at Franklin Street and extending northerly 0.44 miles to Center Street; and

Whereas, the **Parties** have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the budget programmed, using a process that maximizes communication and cooperation; and

Whereas, the **Parties** agree that this document will cover the roles and responsibilities of each during the design, permitting and right-of-way stages of the Project through completion of final Plans, Specifications and Estimate ("PS&E"); a separate Municipal State Agreement will be executed by **MaineDOT** and the **Municipality** addressing the roles and responsibilities of each during the construction phases of the work.

NOW THEREFORE, this document will cover the financial responsibilities of the **Parties** through all stages of the Project – as follows:

1. Total available funding for the Project is \$678,875.00, and the **Parties** agree to share costs through all stages of the Project under the terms outlined below:

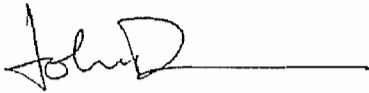
Work Phase	MPO (Federal) Maximum Share	State Share	Local Share		Total Cost
			Amount	%	
Preliminary Engineering	\$23,800.00	\$1,700.00	\$8,500.00	25%	\$34,000.00
Right of Way	\$1,120.00	\$80.00	\$400.00	25%	\$1,600.00
Construction	\$476,620.00	\$59,577.50	\$59,577.50	10%	\$595,775.00
Construction Engineering	\$38,000.00	\$4,750.00	\$4,750.00	10%	\$47,500.00
TOTAL SHARE	\$539,540.00	\$66,107.50	\$73,227.50		\$678,875.00

- **Federal share** – federally participating costs, up to a maximum of \$539,540.00.
- **State share** – federally participating costs, up to a maximum of \$66,107.50.

- **Local match** – 10% of federally participating costs, which is estimated at \$73,227.50 plus any additional cost in accordance with paragraph 2 of this agreement.
2. The **Municipality** shall be fully responsible for any and all Project costs exceeding \$678,875.00, unless otherwise agreed to in writing by the **Parties** through a Modification to this Agreement.
 3. **MaineDOT** will develop construction plans and specifications for PIN 019122.00 within the scope agreed to by **PACTS** and the **Municipality** as described above, using MaineDOT's standard project development process to ensure adherence to federal and state regulations.
 4. After the final PS&E package is prepared, **MaineDOT** and the **Municipality** will execute a Municipal/State Project Agreement covering Project advertise, award, construction and construction engineering. Said Municipal/State Agreement will carry the financial terms outlined in Sections 1 and 2 above, as well as a schedule for collection of the **Municipality's** share of Project costs.
 5. **MaineDOT** will share information about the status of the Project with staff from **PACTS** and the **Municipality** at the following milestones:
 - Project kickoff/initial team meeting/formal public contact.
 - Completion of the preliminary design report (PDR).
 - Formal public meeting.
 - Completion of the plans, specifications and estimate (PS&E.)
 - Changes in the Project Schedule or Engineer's Estimate.
 6. **MaineDOT** will consult with staff from **PACTS** and the **Municipality** before adjusting the Project scope or financial responsibilities. Additionally, **PACTS** and the **Municipality** will notify **MaineDOT** of any proposed changes in the Project limits or scope.
 7. The **Parties** will participate as partners in any public meetings held to discuss the Project.
 8. If **MaineDOT** withdraws from the Project before it has been advertised for construction, and that action was not directed by **PACTS** and the **Municipality**, **MaineDOT** will be responsible for all Project costs incurred to date.
 9. If the **Municipality** withdraws its financial support for the Project as described in Section 1, leading **MaineDOT** to cancel the Project before it has been advertised for construction, the **Municipality** shall reimburse **MaineDOT** fully for any and all Project costs incurred in reliance on the **Municipality's** commitment documented in this Agreement.
 10. The **Municipality** represents that its Legislative body has taken all steps necessary and lawful to approve the Project and the **Municipality's** entry into this Agreement, has appropriated or authorized the use of any necessary funds in connection with the **Municipality's** participation, and has further authorized the undersigned Municipal representative to execute this Agreement.

11. All provisions of this Agreement shall expire at Project final voucher, or upon final payment by the **Municipality** of any Project costs as hereinbefore provided, whichever occurs later.

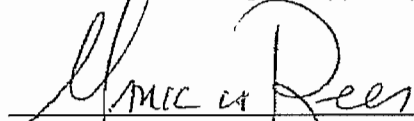
IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the day and date last signed.



Date 8/31/11

John Duncan, Director
Portland Area Comprehensive Transportation System

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.



Date 8-11-11

Mark H. Rees, City Manager
Municipality of Portland

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____

Debora B. Farrell, Director of Contract Procurement
On behalf of Joyce Noel Taylor, Director, Bureau of Project Development
Maine Department of Transportation

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Internal Use Only

CT#: _____
CSN: _____
TEDOCS #: _____
PROGRAM: _____



MaineDOT

MAINE DEPARTMENT OF TRANSPORTATION THREE-PARTY PARTNERSHIP AGREEMENT

PIN 019095.00-Portland, Eastern Prom

This agreement ("Agreement") is entered into by the State of Maine Department of Transportation ("MaineDOT"), the Municipality of Portland (the "**Municipality**"), and the Portland Area Comprehensive Transportation System, the designated Metropolitan Planning Organization for the Portland Urbanized Area ("**PACTS**"), hereinafter referred to as "the **Parties**".

Whereas, **PACTS** programmed PIN 019095.00 for inclusion in the MaineDOT Biennial Capital Work Plan for 2012 to 2013, using Federal and State capital improvement funding allocated by **MaineDOT**; and

Whereas, the **Municipality** supports the decision by **PACTS** to program PIN 019095.00 (the "Project."); and

Whereas, the Project consists of Highway Resurfacing: 3/4" Overlay beginning at Atlantic street and extending 1.20 miles to Washington Street; and

Whereas, the **Parties** have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the budget programmed, using a process that maximizes communication and cooperation; and

Whereas, the **Parties** agree that this document will cover the roles and responsibilities of each during the design, permitting and right-of-way stages of the Project through completion of final Plans, Specifications and Estimate ("PS&E"); a separate Municipal State Agreement will be executed by **MaineDOT** and the **Municipality** addressing the roles and responsibilities of each during the construction phases of the work.

NOW THEREFORE, this document will cover the financial responsibilities of the **Parties** through all stages of the Project – as follows:

1. Total available funding for the Project is \$1,107,915.00, and the **Parties** agree to share costs through all stages of the Project under the terms outlined below:

Work Phase	MPO (Federal) Maximum Share	State Share	Local Share		Total Cost
			Amount	%	
Preliminary Engineering	\$29,040.00	\$3,960.00	\$11,000.00	25%	\$44,000.00
Right of Way	\$924.00	\$126.00	\$350.00	25%	\$1,400.00
Construction	\$797,212.00	\$99,651.50	\$99,651.50	10%	\$996,515.00
Construction Engineering	\$52,800.00	\$6,600.00	\$6,600.00	10%	\$66,000.00
TOTAL SHARE	\$879,976.00	\$110,337.50	\$117,601.50		\$1,107,915.00

- **Federal share** – federally participating costs, up to a maximum of \$879,976.00.
- **State share** – federally participating costs, up to a maximum of \$110,337.50.

- **Local match** – 10% of federally participating costs, which is estimated at \$117,601.50, plus any additional cost in accordance with paragraph 2 of this agreement.
2. The **Municipality** shall be fully responsible for any and all Project costs exceeding \$1,107,915.00, unless otherwise agreed to in writing by the **Parties** through a Modification to this Agreement.
 3. **MaineDOT** will develop construction plans and specifications for PIN 019095.00 within the scope agreed to by **PACTS** and the **Municipality** as described above, using MaineDOT's standard project development process to ensure adherence to federal and state regulations.
 4. After the final PS&E package is prepared, **MaineDOT** and the **Municipality** will execute a Municipal/State Project Agreement covering Project advertise, award, construction and construction engineering. Said Municipal/State Agreement will carry the financial terms outlined in Sections 1 and 2 above, as well as a schedule for collection of the **Municipality's** share of Project costs.
 5. **MaineDOT** will share information about the status of the Project with staff from **PACTS** and the **Municipality** at the following milestones:
 - Project kickoff/initial team meeting/formal public contact.
 - Completion of the preliminary design report (PDR).
 - Formal public meeting.
 - Completion of the plans, specifications and estimate (PS&E.)
 - Changes in the Project Schedule or Engineer's Estimate.
 6. **MaineDOT** will consult with staff from **PACTS** and the **Municipality** before adjusting the Project scope or financial responsibilities. Additionally, **PACTS** and the **Municipality** will notify **MaineDOT** of any proposed changes in the Project limits or scope.
 7. The **Parties** will participate as partners in any public meetings held to discuss the Project.
 8. If **MaineDOT** withdraws from the Project before it has been advertised for construction, and that action was not directed by **PACTS** and the **Municipality**, **MaineDOT** will be responsible for all Project costs incurred to date.
 9. If the **Municipality** withdraws its financial support for the Project as described in Section 1, leading **MaineDOT** to cancel the Project before it has been advertised for construction, the **Municipality** shall reimburse **MaineDOT** fully for any and all Project costs incurred in reliance on the **Municipality's** commitment documented in this Agreement.
 10. The **Municipality** represents that its Legislative body has taken all steps necessary and lawful to approve the Project and the **Municipality's** entry into this Agreement, has appropriated or authorized the use of any necessary funds in connection with the **Municipality's** participation, and has further authorized the undersigned Municipal representative to execute this Agreement.

11. All provisions of this Agreement shall expire at Project final voucher, or upon final payment by the **Municipality** of any Project costs as hereinbefore provided, whichever occurs later.

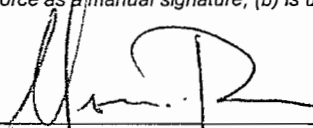
IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the day and date last signed.



Date 8/31/11

John Duncan, Director
Portland Area Comprehensive Transportation System

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.



Date 8-11-11

Mark H. Rees, City Manager
Municipality of Portland

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____

Debora B. Farrell, Director of Contract Procurement
On behalf of Joyce Noel Taylor, Director, Bureau of Project Development
Maine Department of Transportation

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Internal Use Only

CT#: _____
CSN: _____
TEDOCS #: _____
PROGRAM: _____



MAINE DEPARTMENT OF TRANSPORTATION THREE-PARTY PARTNERSHIP AGREEMENT

MaineDOT

PIN 019093.00-Portland, Veranda Street

This agreement ("Agreement") is entered into by the State of Maine Department of Transportation ("MaineDOT"), the Municipality of Portland (the "**Municipality**"), and the Portland Area Comprehensive Transportation System, the designated Metropolitan Planning Organization for the Portland Urbanized Area ("**PACTS**"), hereinafter referred to as "the **Parties**".

Whereas, **PACTS** programmed PIN 019093.00 for inclusion in the MaineDOT Biennial Capital Work Plan for 2012 to 2013, using Federal and State capital improvement funding allocated by **MaineDOT**; and

Whereas, the **Municipality** supports the decision by **PACTS** to program PIN 019093.00 (the "Project."); and

Whereas, the Project consists of Highway resurfacing: 3/4" Overlay beginning at Washington Avenue and continuing northerly for 0.50 of one mile; and

Whereas, the **Parties** have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the budget programmed, using a process that maximizes communication and cooperation; and

Whereas, the **Parties** agree that this document will cover the roles and responsibilities of each during the design, permitting and right-of-way stages of the Project through completion of final Plans, Specifications and Estimate ("PS&E"); a separate Municipal State Agreement will be executed by **MaineDOT** and the **Municipality** addressing the roles and responsibilities of each during the construction phases of the work.

NOW THEREFORE, this document will cover the financial responsibilities of the **Parties** through all stages of the Project – as follows:

1. Total available funding for the Project is \$354,090.00, and the **Parties** agree to share costs through all stages of the Project under the terms outlined below:

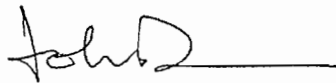
Work Phase	MPO (Federal) Maximum Share	State Share	Local Share Amount	%	Total Cost
Preliminary Engineering	\$9,348.24	\$1,274.76	\$3,541.00	25%	\$14,164.00
Right of Way	\$584.10	\$79.65	\$221.25	25%	\$885.00
Construction	\$254,236.80	\$31,779.60	\$31,779.60	10%	\$317,796.00
Construction Engineering	\$16,996.00	\$2,124.50	\$2,124.50	10%	\$21,245.00
TOTAL SHARE	\$281,165.14	\$35,258.51	\$37,666.35		\$354,090.00

- **Federal share** – federally participating costs, up to a maximum of \$281,165.14.
- **State share** – federally participating costs, up to a maximum of \$35,258.51.

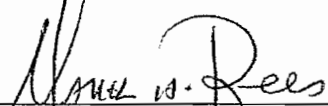
- **Local match** – 10% of federally participating costs, which is estimated at \$37,666.35, plus any additional cost in accordance with paragraph 2 of this agreement.
2. The **Municipality** shall be fully responsible for any and all Project costs exceeding \$354,090.00, unless otherwise agreed to in writing by the **Parties** through a Modification to this Agreement.
 3. **MaineDOT** will develop construction plans and specifications for PIN 019093.00 within the scope agreed to by **PACTS** and the **Municipality** as described above, using MaineDOT's standard project development process to ensure adherence to federal and state regulations.
 4. After the final PS&E package is prepared, **MaineDOT** and the **Municipality** will execute a Municipal/State Project Agreement covering Project advertise, award, construction and construction engineering. Said Municipal/State Agreement will carry the financial terms outlined in Sections 1 and 2 above, as well as a schedule for collection of the **Municipality's** share of Project costs.
 5. **MaineDOT** will share information about the status of the Project with staff from **PACTS** and the **Municipality** at the following milestones:
 - Project kickoff/initial team meeting/formal public contact.
 - Completion of the preliminary design report (PDR).
 - Formal public meeting.
 - Completion of the plans, specifications and estimate (PS&E.)
 - Changes in the Project Schedule or Engineer's Estimate.
 6. **MaineDOT** will consult with staff from **PACTS** and the **Municipality** before adjusting the Project scope or financial responsibilities. Additionally, **PACTS** and the **Municipality** will notify **MaineDOT** of any proposed changes in the Project limits or scope.
 7. The **Parties** will participate as partners in any public meetings held to discuss the Project.
 8. If **MaineDOT** withdraws from the Project before it has been advertised for construction, and that action was not directed by **PACTS** and the **Municipality**, **MaineDOT** will be responsible for all Project costs incurred to date.
 9. If the **Municipality** withdraws its financial support for the Project as described in Section 1, leading **MaineDOT** to cancel the Project before it has been advertised for construction, the **Municipality** shall reimburse **MaineDOT** fully for any and all Project costs incurred in reliance on the **Municipality's** commitment documented in this Agreement.
 10. The **Municipality** represents that its Legislative body has taken all steps necessary and lawful to approve the Project and the **Municipality's** entry into this Agreement, has appropriated or authorized the use of any necessary funds in connection with the **Municipality's** participation, and has further authorized the undersigned Municipal representative to execute this Agreement.

11. All provisions of this Agreement shall expire at Project final voucher, or upon final payment by the **Municipality** of any Project costs as hereinbefore provided, whichever occurs later.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the day and date last signed.

 Date 8/31/11
John Duncan, Director
Portland Area Comprehensive Transportation System

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

 Date 8-11-11
Mark H. Rees, City Manager
Municipality of Portland

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

Date _____
Debora B. Farrell, Director of Contract Procurement
On behalf of Joyce Noel Taylor, Director, Bureau of Project Development
Maine Department of Transportation

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

Order 112-12/13
~~*Tab 18 - 123-12*~~
Tab 18 12.17-12
JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER AUTHORIZING NON-UNION WAGE ADJUSTMENT

ORDERED, that a 1.5% wage increase is hereby approved for all Non-Union employees, which includes Mayor, and City Councilors retroactive to July 1, 2012.



Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

Executive Office

Mark H. Rees, City Manager

MEMO

TO: Mayor Brennan and City Councilors

FROM: Mark H. Rees, City Manager

DATE: November 29, 2012

RE: Order Authorizing Non-Union Employees, Mayor, and City Councilors

The Personnel Policy provides that any "annual across the board adjustments (for non-union employees) will be made only to the extent authorized by Order of the City Council". The City Charter states that "the council shall by order establish the amount each member shall be entitled to receive..." and further "during the mayor's term, the city council may adjust the mayor's compensation".

Order 112-12/13 combines all three actions into one order providing a 1.5% increase to current compensation retroactive to July 1, 2012 for non-union employees (total cost \$150,000), Councilors (total cost \$698) and the mayor (total cost \$981). The 1.5% adjustment is consistent with collective bargaining agreements for the same period of time.

Normally, action on this order would take place at the same time the operating budget of the city is adopted. However, for FY13 the order was delayed with the expectation that it would be included as part of another order adopting an updated wage and classification plan for non-union employees. The work on the wage and classification plan is taking much longer than expected, hence the recommendation and need to approve this across the board adjustment separate from adoption of the wage and classification plan.

Due to changes in the Charter regarding compensation for the City Manager, City Clerk and Corporation Counsel; their wage adjustments will be taken up at a future council meeting.

*Order 120-12/13
Gab 19 12-17-12*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

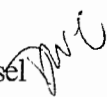
CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER AUTHORIZING WAGE INCREASE
FOR CITY MANAGER AND CITY CLERK**

ORDERED, that a 1.5% wage increase is hereby approved for the City Manager and City Clerk retroactive to July 1, 2012; and

Memo

To: Mayor Brennan and City Councilors
From: Danielle P. West-Chuhta, Acting Corporation Counsel 
Date: December 12, 2012
Re: Order Authorizing City Manager and City Clerk Wage Adjustments

As the City Manager's memorandum makes clear regarding the 1.5% non-union wage adjustment, the City Charter and Personnel Policy require that any adjustment to the City Manager, City Clerk and/or Corporation Counsel's compensation must be approved by the entire City Council.

More specifically, the City Charter requires that "the city council shall fix by order the salaries of the appointees of the city council[.]" which includes the City Manager, City Clerk and Corporation Counsel. City Charter at Article VI, sections 1 and 4. Additionally, the City's Personnel Policy provides that "[a]ny adjustment in salary after appointment [by the City Council] shall be made annually on the basis of the performance evaluations. . ." Personnel Policy at Article II.

As a result of the recently conducted annual performance evaluations of the City Manager and City Clerk, the proposed 1.5% compensation adjustment for both positions is now being presented to the City Council for review and approval. Since the non-union wage adjustment is being presented to the City Council for its second reading on December 17th, it has been requested that the Council dispense with the second reading of this item as allowed by City Council Rule 7, and thereby allow the Council to vote on both items on December 17th.

*Order 121-12/13
Tab 20 12-17-12*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER AMENDING COMPREHENSIVE PLAN TO INCLUDE THE
CAPISIC BROOK WATERSHED MANAGEMENT PLAN**

ORDERED, that the Capisic Brook Watershed Management Plan dated 11/9/12 attached hereto, is hereby added to and included as part of the City's Comprehensive Plan.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant

FROM: Alexander Jaegerman, Planning Director, FAICP

DATE: November 19, 2012

Re: Capisic Brook Watershed Management Plan

1) Council meeting at which action is requested:

1st reading: ____

Final action: December 17, 2012

2) Can action be taken at a later date: X YES NO

If not, why not: _____

3) This item is sponsored by: Carol Morrisette, Chair, Portland Planning Board
(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

cc: Mark Rees, City Manager, Mayor Brennan, Danielle West-Chuhta, Acting Corporation Counsel, Ann Freeman, Associate Corporation Counsel, Terry Bourgoin, Administrative Assistant

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

Portland's Planning Board is recommending adoption of the *Capisic Brook Watershed Management Plan*, as an element of the City's Comprehensive Plan, to the City Council. Capisic Brook is recognized by the Maine Department of Environmental Protection (MaineDEP) as an urban impaired stream. Capisic Brook is not meeting water standards under the federal Clean Water Act as a result of polluted storm water runoff created from extensive development and combined sewer overflows within the watershed. Federal and state water quality regulations require that Portland and Westbrook take action to restore water quality in Capisic Brook. The Department of Public Services, with the consulting services of Woodard and Curran, has prepared the draft report titled *Capisic Brook Watershed Management Plan*. The Planning Board voted (4-0) to amend the report to include the word "consider" before the land use code recommendations, specifically related to the expansion of the stream protection zone and requiring private drainage infrastructure to connect during combined sewer separation projects. Those amendments have been incorporated into the draft report before the City Council. The Board recommended (3-1, Dean opposed) the adoption of the plan as an element of the Comprehensive Plan.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The Capisic Brook Watershed Management Plan was financially supported under an American Recovery and Reinvestment Act grant awarded in 2009. The management plan builds on past studies and was developed under the guidance of a task force over a two year period. The

MaineDEP approved the plan as drafted in October 2011. The Transportation, Sustainability, and Energy Committee held a workshop on the draft plan on April 18, 2012, at which time the Committee unanimously referred the plan to the Planning Board for a recommendation regarding its adoption as part of the Comprehensive Plan. The purpose of the plan is to “Develop a comprehensive scientifically based watershed management plan that will act as a guidance document to engage the community, establish guidelines to effect supportive local policy and a pragmatic financing strategy, and increase political support for necessary actions.”

III. INTENDED RESULT (How does it resolve the issue/problem?)

The Plan recommendations are contained in Section 3, Overcoming Obstacles to a Sustainable Watershed (pages 3-1 through 3-30). The recommendations were developed by four teams of participants as follows: Retrofit Inventory Strategy, Planning/Policy Initiatives, Marketing Initiatives and Financing Plan. The full scope of each recommendation, including a cost estimate and implementation schedule, is contained within the report. The recommendations are summarized within the Planning Board report (attached) and are listed under the following headings:

1. Pollution Prevention and Best Management
2. Structural Stormwater Management
3. Asset Management and Mapping
4. Education Station Development
5. School Outreach Program
6. Combined Sewer Abatement
7. Planning and Policy Recommendations

IV. FINANCIAL IMPACT

The projected costs for implementing the Capisic Brook Watershed Management Plan are estimated to be a total of \$18,516,000. The costs are presented in the Section 4 Financing of the report and are aggregated under annual operations and maintenance, structural capital improvement costs, and short-term restoration program costs. The estimated costs and potential funding sources are outlined in the report.

V. PLANNING BOARD RECOMMENDATION

The Planning Board report to City Council is included as Attachment 1. On August 14, 2012, the Planning Board voted 4-0 (O'Brien, Lewis and Venne absent) to recommend amending the recommendations for the Urban Impaired Stream and the connection of private infrastructure at the time of combined sewer separation projects to include the word “consider” incorporating these requirements within the City Code. The Planning Board voted (3-1, Dean opposed, O'Brien, Lewis and Venne absent) that the *Capisic Brook Watershed Management Plan* is consistent with Portland's Comprehensive Plan and recommends that the City Council adopt the *Capisic Brook Watershed Management Plan*, as an element of the City of Portland's Comprehensive Plan. Mr. Dean indicated that there were many positive recommendations in the plan, but his concerns centered on the associated local costs of improving the watershed to meet Federal and state requirements and the potential restrictions and costs to development.

Attachments:

1. Capisic Brook Watershed Management Plan
2. Planning Board Report



Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Public Services Department
Michael J. Bobinsky

To: Michael F. Brennan, Mayor and Elected City Councilors
From: Michael J. Bobinsky, Director
Katherine Earley, Engineering Services Manager
Doug Roncarati, Storm Water Program Coordinator
Date: December 6, 2012
Subject: Capisic Brook Watershed Management Plan

The Department of Public Services is pleased to present to you the Capisic Brook Watershed Management Plan, which we are recommending for adoption as part of the City's Comprehensive Plan. Capisic Brook does not meet state water quality standards established under the federal Clean Water Act and as such, is designated as an Urban Impaired Stream by the Maine Department of Environmental Protection (MaineDEP) making it subject to provisions under state wastewater and stormwater regulations aimed at reducing the impacts of polluted urban runoff and combined sewer overflows. The City has made significant water quality improvements in the brook through its combined sewer overflow abatement program and has begun to address the effects of polluted urban runoff through its citywide Stormwater Program Management Plan, developed under its Municipal Separate Storm Sewer System Permit (MS4 Permit).

The Capisic Brook Watershed Management Plan builds upon the actions the City is already taking and charts a course for restoring water quality within Capisic Brook. The Plan addresses the impacts of polluted runoff from the extensively developed areas of the watershed using a combination of structural retrofits, planning practices and pollution prevention programs. It was developed over a two year period under the guidance of a broad-based task force and has been approved by the MaineDEP. Portland's Planning Board has also reviewed the Plan and recommends its adoption.

The Capisic Brook Watershed Management Plan was presented to the City Council at a Workshop held on Monday, November 19. The Workshop provided an opportunity for staff to discuss key recommendations and findings of the Plan and to answer Council questions. We are ready to advance the Plan for formal adoption by the City Council at the December 17th meeting. Planning Chair Carol Morrisette will present the recommendations from the Planning Board and staff and our project consultant will provide a brief summary of the report recommendations as well.

We look forward in reviewing the Capisic Brook Watershed Management with you and seeking your approval for adopting the plan as an amendment to the City's Comprehensive Plan.



PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

Capisic Brook Watershed Management Plan
Proposed Element of the Comprehensive Plan
City of Portland, Department of Public Services, Applicant

Submitted to: Portland City Council
Workshop Date: November 19, 2012

Prepared by: Portland Planning Board
Date: ~~August 10, 2012~~ *Nov 9, 2012*
Planning Board Report Number: 50-12

I. INTRODUCTION

Portland's Planning Board is recommending the adoption of the *Capisic Brook Watershed Management Plan* as an element of the City's Comprehensive Plan to the City Council. Capisic Brook is recognized by the Maine Department of Environmental Protection (MaineDEP) as an urban impaired stream, which is not meeting water standards under the federal Clean Water Act. Capisic Brook is not meeting federal standards due to the polluted urban runoff created from extensive development and combined sewer overflows within the watershed. Federal and state water quality regulations require that Portland and Westbrook take action to restore water quality in Capisic Brook. Portland's Department of Public Services, with the consulting services of Woodard and Curran, has prepared a draft report titled *Capisic Brook Watershed Management Plan*.

The Planning Board voted (4-0, O'Brien, Lewis and Venne absent) to include the word "consider" in the land use recommendations for the expansion of the stream protection zone and the requirement for private drainage infrastructure to connect during combined sewer separation projects. The Board recommended (3-1, Dean opposed, O'Brien, Lewis and Venne absent) the adoption of the plan as an element of the Comprehensive Plan. The Planning Board's recommended edits have been incorporated into the final draft plan that is before the City Council. Mr. Dean indicated that there were many positive recommendations in the plan, but his concerns centered on the associated local costs of improving the watershed to meet federal and state requirements and the potential restrictions and costs to development.

The Capisic Brook Watershed Management Plan was financially supported under an American Recovery and Reinvestment Act grant awarded in 2009. The management plan builds on past studies and was developed under the guidance of a task force over a two year period (see Section VI. Planning Process below). The MaineDEP approved the plan as drafted in October 2011 (Attachment 1). The Transportation, Sustainability, and Energy Committee held a workshop on the draft plan on April 18, 2012, at which time the Committee unanimously referred the plan to the Planning Board for a recommendation regarding its adoption as part of the Comprehensive Plan (Attachment 3, minutes).

Doug Roncarati, Stormwater Coordinator, is the project manager from DPS for this project. Zachery Henderson and Barry Sheff, are the consultants from Woodard and Curran.

II. PURPOSE AND STREAM RESTORATION OBJECTIVES OF THE PLAN

Capisic Brook is designated as an urban impaired stream under the Chapter 502 Maine Stormwater Management regulations. The purpose of the study is below and the 8 objectives are found on page 1-1:

Develop a comprehensive scientifically based watershed management plan that will act as a guidance document to engage the community, establish guidelines to effect supportive local policy and a pragmatic financing strategy, and increase political support for necessary actions.

The water quality impacts of the brook and the biological monitoring are presented in Section 1, 1.2.1, A Watershed (page 1-1 through 1-3). Based upon DEP's assessment, roughly 29% of the Capisic Watershed is covered by impervious surfaces. According to their research, small urban watersheds with in excess of 10% of impervious surfaces are generally impaired. In addition, there are two remaining active combined sewer overflows (CSO's) in the watershed. DEP found the upper reaches of Capisic to be healthy, but the lower reaches had impaired biota, poor water quality and degraded habitat. The variation between the two monitoring stations is attributed to the land uses and extent of land cover in this urban watershed. Thus, Capisic Brook is not meeting Class C water quality standards assigned to it by DEP under the Clean Water Act. DEP has identified the following watershed restoration efforts needed identified to improve the overall health of the stream:

1. Improve in-stream habitat quality;
2. Restore the natural hydrology;
3. Reduce inputs of toxics, nutrients, elevated water temperature in runoff and bacteria; and
4. Improve dissolved oxygen levels.

Section 1 lists the potential ecological and recreational resources of Capisic Brook (Section 1.2.3 and lists recommendations contained in previous studies Section 1.2.4). Please refer to Section 1.3 for the federal and State regulations that apply to the Capisic Brook Watershed Management Plan, Section 1.3 (pages 1-10 through 1-19).

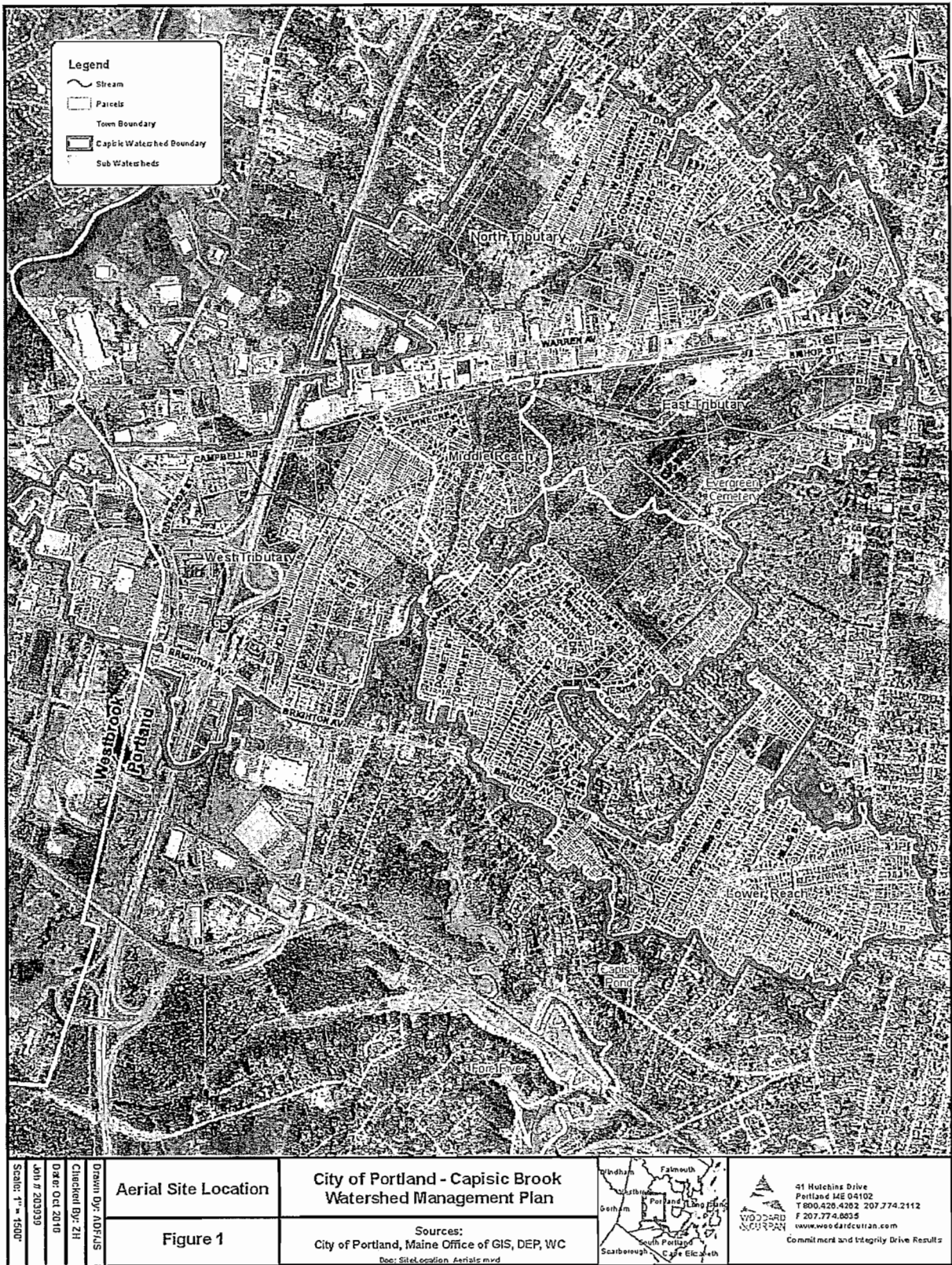
III. CAPISIC BROOK WATERSHED – EXISTING CONDITIONS

Capisic Brook is approximately 2.5 miles long with several tributaries feeding into the brook. The headwaters of the stream are located near Evergreen Cemetery and just west of I-95 in Westbrook. The brook drains to the Capisic Pond and then to the Fore River. The Capisic Brook Watershed as defined for this report contains 1,418 acres (see inset map from report on page 3). The majority of the watershed is located within Portland with a portion of the West Tributary encompassing the Larabee Road area of Westbrook. There are five sub-watersheds that are shown on the map as the North Tributary, West Tributary, East Tributary, Middle Reach and Lower Reach. There are three "holes" shown within the watershed boundary, which are excluded from the watershed as stormwater from these areas does not remain in the watershed to recharge the brook.

Section 2 of the Capisic Brook Watershed Management Plan analyzes existing conditions. It begins with a description of watershed's natural resources, land cover, and hydrology. The second component is a description of the community, including land uses and zoning; infrastructure and assets; schools, parks and open spaces; and community organizations. The third component is a summary of combined sewer overflows within the watershed.

Briefly, the Capisic Brook Watershed is a developed watershed with approximately 31% of the watershed covered in impervious surfaces. The majority of the impervious cover is located within residential and commercial areas, which comprise 35% and 11% of the watershed, respectively. Vacant land and the Evergreen Cemetery comprise 15% and 12 % of the total watershed, respectively. Within the impervious area figures for commercial areas, parking accounts for 66% of the impervious surface, while building coverage is only 32%. The reverse occurs in the residential areas where 50% of the impervious surface area is attributed to buildings. The land use cover section analyzes the land cover in each of the five sub-watersheds (Section 2, page 2-2 through 2-4) and within the 135 catchment areas (areas within sub-

watersheds of 135 acres or less as defined by DEP). The breakdown of watershed acreage by zone is as follows: residential, 62%; business, 20%; recreation/open space 15%; and industrial, 3%.



In general the watershed has soils with slow to very slow permeability and in some areas shallow depth to water table and bedrock. Approximately 78% of the watershed is comprised of soils with high runoff potential and a limited potential for infiltration. As an intensely developed urban watershed, there are 11 stream crossings (culverts and bridges), which can impede the flow of water upstream of the crossing and increase the rate of flow below the crossing. In 1999, the City evaluated the potential flow restrictions of the stream crossings and the Capisic Brook dam. Significant flow restrictions were identified and many of the recommendations, except for Taft and Holm, have been implemented, so that the crossings appropriately convey a 25 year storm event in a 24 hour period. Minor flooding continues to occur in the Violette and Brighton Avenue area. The potential risks for flooding are outlined on page 2-5.

IV. PLAN RECOMMENDATIONS

The Plan recommendations are contained in Section 3, Overcoming Obstacles to a Sustainable Watershed (pages 3-1 through 3-30). The recommendations were developed by four teams of participants as follows: Retrofit Inventory Strategy, Planning/Policy Initiatives, Marketing Initiatives and Financing Plan. The full scope of each recommendation, including a cost estimate and implementation schedule, is contained within the report. The recommendations, as amended by the Planning Board, are summarized below along with the relevant citations to the report:

3.1 Pollution Prevention and Best Management

3.1.1 Commercial/Industrial, pages 3.2-3.3

One quarter of the watershed is occupied by commercial and industrial uses with the potential for generating higher than average metals and toxics concentrations in stormwater runoff due to frequent vehicle use and industrial processes. Thus commercial and industrial landowners are important stakeholders. Retrofitting measures in this watershed are difficult and expensive due to highly impervious private land, high seasonal groundwater, shallow drainage infrastructure and significant below grade utilities.

Recommendations

- Establish a targeted commercial pollution prevention program with a steering committee, focusing first on the Warren Avenue corridor. The program would rely on:
 - Municipal/watershed partner outreach to assist landowners to understand the interconnected stormwater system;
 - Identify potential sources of stormwater pollutants on each site,
 - Identify the best management of impervious surfaces through high-efficiency street sweeping and materials handling and storage.

3.1.2 Municipal, pages 3.4-3.6

Capisic Watershed contains 26 miles of roadways (including the Maine Turnpike and State routes), which represents 25% of the impervious cover. Structural retrofits of roadways are complicated and expensive. Non-structural strategies, such as street sweeping, catch basin cleaning and tree planting programs, have a positive impact and reduce roadway pollutants released into stormwater runoff.

Recommendations

- **Street Sweeping:** Conduct street sweeping in the Capisic Brook Watershed on a quarterly basis with the Tymco 500x regenerative air street sweeper recently purchased by the City. (Potential partners in the quarterly sweeping of streets include City of Westbrook, Maine Turnpike Authority (MTA), and Maine Department of Transportation (MDOT).)
- **Catch Basin Cleaning:** Annual cleaning of all catch basins within the city roadways.

- **Shade Tree Planting Program:** Consider a Commercial District Tree Planting Program for the commercial and industrial areas within the watershed.

Planning Comment: The shade tree planting program is a proposed retrofit strategy. The recently updated site plan ordinance requires street trees for new commercial and industrial development and there are standards for incorporating landscaping within proposed parking lots.

3.1.3 Residential Pollution Prevention, page 3.7-3.8

The National Stormwater Quality Database indicates that stormwater from residential areas contains the highest concentration of nutrients and bacteria of any land use. The Capiisic Brook Watershed has 2,800 residential properties comprising 35% of the watershed and 25% of the overall impervious area (rooftops and pavement). Structural retrofitting within the right-of-way is expensive (\$100,000 per impervious acre managed).

Recommendations:

- **Comprehensive Outreach Strategy:** Develop a comprehensive outreach strategy for residents of the watershed with the following objectives:
 - Build support for watershed improvement activities;
 - Engage residents in behaviors to reduce common residential pollutants from leaving their property; and
 - Create incentives to support the actions necessary to maintain private residential property without compromising watershed health.
 - Potential Partners include Maine Yardscaping Partnership, MaineDEP, U. Maine Sustainability Solutions Initiative, Cumberland County Soil and Water Conservation District, Portland Trails, Private Landscaping Contractors, Friends of Casco Bay.

3.2 Structural Stormwater Management

Structural retrofitting of developed areas is expensive and is challenging. For this report, structural retrofit opportunities were considered on public and private land; however these opportunities are concepts that must be evaluated with hydrologic and hydraulic modeling, detailed survey work and utility data.

3.2.1 Structural Stormwater Management Opportunity Assessment, pages 3.8-3.9

The Retrofit Inventory Strategy Team identified three priority areas within the watershed for a structural retrofit opportunity assessment. These areas include Exit 48 Commercial Area/Riverside Street, Sagamore Village and the Warren Avenue commercial district. Priority was assigned based upon existing impervious cover and miles of roadway.

Recommendations:

- **Three Priority Areas:** Woodard and Curran conducted a field-based structural retrofit inventory within the three priority areas. The systems selected for possible implementation have the potential to reduce stormwater volume discharges and reduce pollutant loading.

3.2.2 Structural Stormwater Management Recommendations, pages 3.9-3.21

The West Tributary sub-watershed of Capiisic Brook has 46%, or roughly 150 acres, covered by impervious surfaces. It is identified as priority area for stormwater structural treatment. The recommendations include “upstream” treatment systems, utilizing existing roadway setback areas and existing detention basins, in combination with “downstream” treatment system in the location of the previously recommended West Branch Detention Facility. Further study and analysis is required to assess the appropriate options.

The North Tributary, which contains the Warren Avenue commercial corridor, is a priority area. Retrofit opportunities for surface treatments are severely limited due to the proximity of development. Below grade storage and filtration within the Warren Avenue roadway or extensive undersized surface retrofits will most likely be needed in this area. The Commercial/Industrial Pollution Prevention Plan proposed above (3.1) is the first recommended step toward pollution reduction along with a regional facility that would address development in the upper portions of the tributary.

Recommendations:

- **Sagamore Village Stormwater Improvements (pages 3:10- 3:12):** Utilize large undeveloped open space within Sagamore Village and Hall School property for retrofit opportunities, such as below-ground storage and filtration systems.
- **Riverside Street Stormwater Improvements (pages 3.12-3.14):** Three opportunities to retrofit existing dry detention basins on private property with gravel wetlands were identified within the Riverside sub-watershed.
- **Larrabee Road Stormwater Improvements (pages 3.14-3.16):** The proposed improvements focus on utilization of existing drainage swales and closed drainage systems within the road right-of-way and within private developments. The units are clustered as multi-bay treatment units.
- **West Tributary Stormwater Improvements (pages 3.16-3.18):** Property held by MTA on the east side of the Turnpike, may be suitable for a regional stormwater treatment system. This parcel and a privately held property were previously identified for the West Branch Detention Facility.
- **Capisic Brook Wetlands Park (pages 3.18 through 3.20):** Approximately 27% of the north tributary is developed with impervious surface. This sub-watershed also contains large privately-held undeveloped areas, which could accommodate a regional stormwater treatment system. Acquisitions of private property or easements are required and could include recreation opportunities. The concept is for an on-line multi-bay system.

3.3 Asset Management and Mapping (page 3.21)

A comprehensive understanding of the urban hydrology is needed for the development of effective long-term strategies for the watershed. Currently, Portland, Westbrook, MTA and MDOT are mapping the watershed's infrastructure.

Recommendations:

- Develop a complete watershed map with hydrography geodata, which includes refinement of the catchment boundaries for each stormwater outfall, field assessment of open and closed drainage systems, and an inventory of existing detention and post-construction management systems.

3.4 Education Station Development (page 3.22)

The 2001 Capisic Brook Greenway Master Plan proposed education stations to offer educational opportunities related to habitat enhancements. The concept of the educational stations with interpretative signage is recommended in this study with some adjustments to location and design. Other more extensive recommendations from 2001 for trails and recreational improvements are not included in this study.

Recommendations:

- **Education Station #1 Hall School (page 3.22)**
- **Education Station #2 Capisic Pond (page 3.22)**

3.5 School Outreach Program (page 3.23)

A three day workshop, titled *Over the Watershed and Through the Woods: Local Field Studies and Service Projects*, was held in 2010 to train teachers about watersheds and to develop lesson plans and service projects. The Capisic Watershed was utilized to study forests, water quality and the relationship between the two.

Recommendations:

- **Outreach Program:** Build upon this program and work with at least one teacher at the Lincoln Middle School to develop and implement a service learning project on school property.

3.6 Combined Sewer Abatement (page 3.23)

Portland continues to implement the Tier II projects of the Long Term Control Plan for combined sewer overflow abatement in the Capisic Watershed. The abatement is critical to improving water quality and there are no new recommendations in this study.

3.7 Planning and Policy Recommendations (pages 3.24 through 3.29)

The National Stormwater Quality Databases uses land use types for predicting “typical” levels of pollutants in stormwater runoff. Thus land use regulatory mechanisms are potential tools for effective watershed management.

3.7.1 Modifications to the City of Portland Technical and Design Standards and Guidelines, (pages 3.25-3.27)

Section 1 – Transportation Systems and Street Design Standards

The current street standards promote a closed drainage system and deviations from this design require a waiver from the technical manual. Pervious pavement options are not addressed in the technical manual and parking space dimensions are established at 9 x 18 feet, which is consistent with the recommendations of the Center for Watershed Protection. Currently, 20% of the required parking can be compact spaces of 8 by 15 feet.

Recommendations:

- **Revise Street Standards to Allow Open Drainage Systems:** Develop standards for open drainage systems appropriate for Portland’s urban environment, including appropriate application, design details, long-term maintenance, curb-breaks or no curbs as part of a drainage system. Best management practices should be considered, such as curb inlets associated with open drainage systems, tree box filters and other applicable BMPs.
- **Increase Compact Space Percentage:** Increase the percentage of compact spaces up to 35% or more and make this a requirement with a waiver provision of standard parking sizes for specific uses (e.g. commercial, retail, construction supply) that must accommodate frequent changes or large vehicles.
- **Smaller Stall Size:** Consider additional strategies to further reduce the construction of new impervious surface area with consideration for smaller stall sizes.

Planning Comment: The predominant uses in the Warren/Riverside Corridor are commercial and industrial uses, which are the uses suggested for a waiver of the required compact spaces. The waiver criteria will need to be clearly defined and limited in order to effect change in this auto-oriented corridor.

3.7.2 Soil Restoration

Development reduces the infiltration capacity of soils for groundwater recharge and increases stormwater runoff both in rate and volume due to the impervious surfaces, soil crusting and soil

compaction. The percentage of runoff can be reduced by 36 to 91% by adding organic material through mechanical tillage of compacted soils. This is particularly effective in residential areas where roughly 50% of the site is open space. Currently Portland does not require loam specifications for development and MaineDEP's Chapter 500 regulations do not include soil restoration as an allowable measure to meet stormwater quality standards.

Recommendation:

- **Soil Standard:** "Consider a loam material and installation specification (or standard) that will at a minimum meet MaineDOT standards. This may have implications for smaller thresholds of development and applicability of this recommendation for these projects should be considered by city planning staff. Additionally, consider the development of a Loam Restoration standard which will allow landscaped developed areas to meet state stormwater storage requirements within the soil profile (currently 0.4" rainfall depth times developed landscape area); an example standard is included in Appendix E. Verification of most material specifications requires lab testing, thus, this recommendation includes review by Planning and Public Services to develop effective strategies for the management and enforcement of proposed regulations along with review by local contractors and suppliers prior to final development of the standard."

Planning Comment: Soil restoration benefits the watershed by increasing the rate of stormwater infiltration on-site. During the preparation of this study, the Planning staff asked for clarification on the logistics of applying such as standard:

- what are the added costs of this standard for all types of development, including single family homes;
- what measures are used to verify the soil restoration standard has been met and what mitigation measures are required to correct a non-compliant mix; and
- are the soils readily available on the local market and/or are landscaping firms able to confirm the mix meets the standard prior to installation?

MDOT has a soil restoration standard for their projects, but at this time it is not a standardized product readily available from nurseries or landscaping firms nor is there a certification process from the supplier. Currently, the only way to verify the soil mix is to send samples to a lab for testing. The Planning staff raised concerns regarding the City's ability to inspect and assure compliance with such regulations, due to limited time and staff resources, and this requirement could encounter resistance from homebuilders and developers.

Portland's applicability provisions Chapter V, Stormwater, of the Technical Manual apply the State's Chapter 500 regulations to development projects that are below the threshold requiring a State stormwater permit. Portland has delegated authority to do the reviews for the State stormwater permits and the lower thresholds for local applicability were adopted in order for the city to meet other stormwater mandates. Based upon the Planning Board's July 24th workshop, the staff and consultants discussed whether the soil restoration provision might better serve as an option for meeting the stormwater quality standards for those projects that are regulated by the City, but do not require a stormwater permit under the State regulations. Portland could offer this flexibility for local projects because the city's regulations are more stringent or apply to smaller projects than required by the State. Standards and compliance with the rules would need to be developed, but the soil restoration provisions would be one of the available tools for meeting the stormwater quality standards. If the MaineDEP incorporates this option as an eligible tool for meeting State required regulations, then it could be offered as an option for all projects. The above recommendation

is included in the study and requires further evaluation by the City prior to the development of a standard and implementation. The Planning Staff suggest this implementation measure be developed initially as an experimental BMP, available as an option for achieving stormwater quality compliance for projects being reviewed under local applicability provisions, until such time it becomes an accepted best management practice by MaineDEP for projects requiring a Maine Stormwater Permit.

3.7.3 Modification to City of Portland Code of Ordinances –Land Use (pages 3-27 through 3.29)

There are four ordinance revisions recommended that address shared parking, expanding the stream protection zone, requiring stormwater management for redevelopment projects, and modifications to the sewer connection language. Please note that there is fifth ordinance revision suggested under General Recommendations.

Recommendations:

- **Shared Parking or Overall Parking Reduction:** Simplify the process for granting joint use parking arrangements and allow decisions to be made both administratively and by the Planning Board under section 14-343 (zoning code) and 14-526 (site plan ordinance). The objective is to allow off-street parking requirements, based upon ITE Parking Generation rates, parking demand/supply study, or consideration of available transit, shared use parking or other reduction strategies.

Planning Comment: The Site Plan Ordinance adopted in 2010 requires Transportation Demand Management Plans to be prepared for certain developments. Applicability includes all Level III projects in the B-7 zone, commercial and institutional uses with 50,000 or more square feet, and all commercial and institutional uses designed to accommodate 110 or more employees/students. One approach to implementing this recommendation may be accomplished through revisions to the applicability provisions for TDM to include projects within the watershed or the B-4 zone.

- **Stream Protection Zone – Zone Expansion:** “Consider expanding the Stream Protection Overlay District into hydrologically connected areas of Capisic Brook. Consider amending the language within the overlay zone to enhance/maintain riparian vegetation and conservation of wetland/riparian area hydrologic functions (i.e. fill placement, subsurface diversions, compaction, etc.). This recommendation will require field mapping, confirmation, documentation of hydro-logically connected areas and a public planning process to notify property owners of potential zone changes. Final mapped streams should be consistent with definitions of streams under the Maine Natural Resources Protection Act. Field documentation of stream and valley dimensions will increase the City’s capacity to accurately and effectively designate Stream Protection Overlay zone.”

Planning Comment: Portland’s Stream Protection Overlay District was created as part of Maine’s Shoreland Zoning requirements and the overlay zone applies to streams that require protection under that State statute. The Watershed Study provides a policy basis for extending the stream protection to tributaries and adjoining wetlands of Capisic Brook. Field documentation of the streams and the connected wetlands must be conducted, before zoning map and text amendments are drafted for consideration by the public and City. The map inset on page 11 shows current zoning and the stream protection overlay zone. Expanding the stream protection zone appears to be an effective approach to protect the existing resources within the watershed.

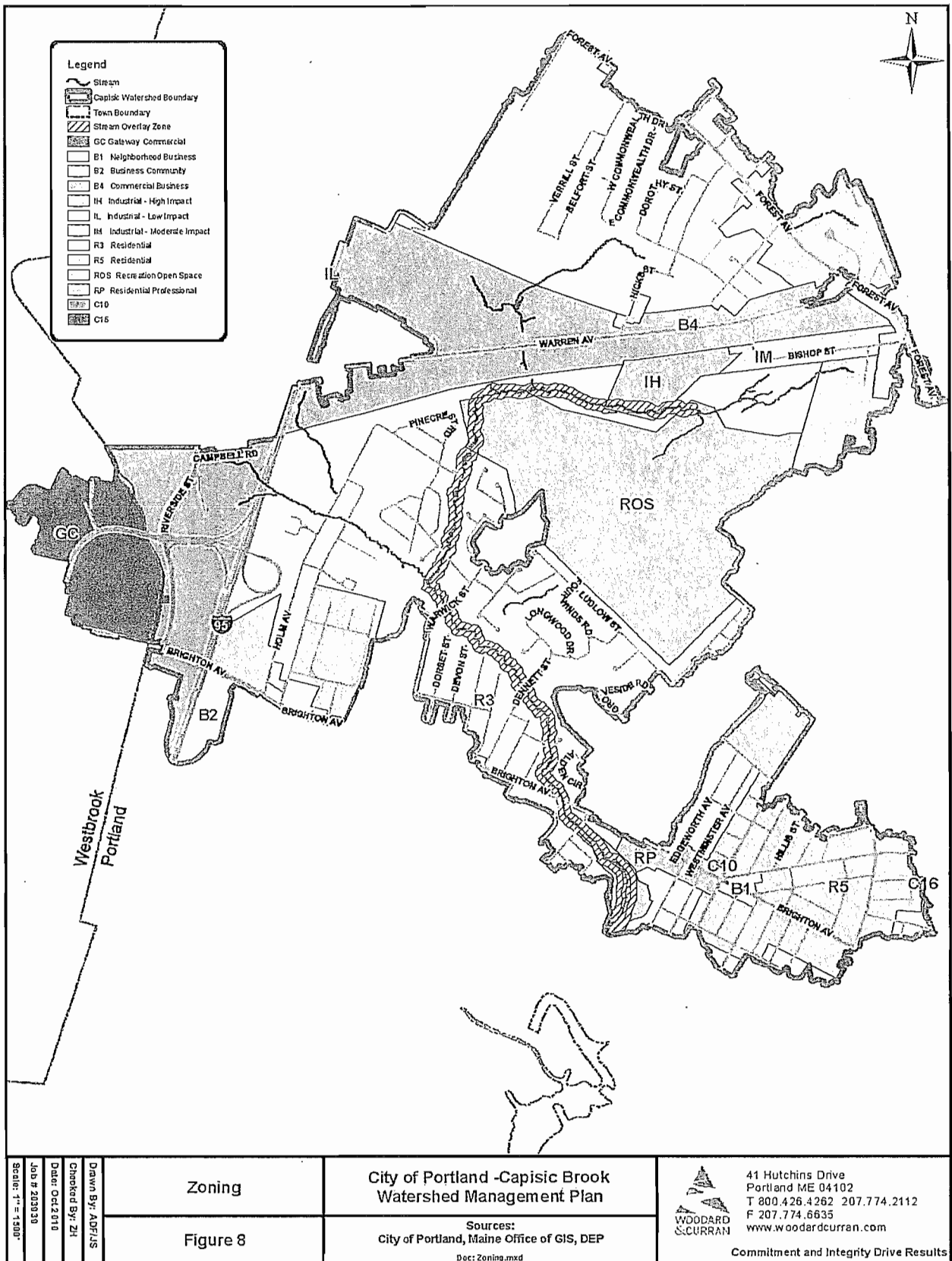
- **Stormwater Management During Redevelopment Projects:** Clearly define redevelopment and require some level of stormwater quality management during redevelopment projects of certain size thresholds. Consider reducing the area treated requirement, as appropriate, from state standards to make stormwater management less expensive or more manageable on small sites.

Planning Comment: Portland adopted the State's Chapter 500 Stormwater regulations in its entirety as chapter V in the Technical Manual and added an applicability section specific to Portland that requires review of smaller scaled projects. Engineers and developers have questioned the applicability provisions for some projects, as the Site Plan Ordinance and Chapter V of the Technical Manual are not internally consistent. The Planning Division and Department of Public Services are working closely with Woodard & Curran to review the stormwater regulations and determine where clarification can be made to the applicability provisions to make implementation of these regulations easier for staff and development applicants alike.

Secondly, the recommendation to require some level of stormwater quality management for redevelopment projects is suggested to improve existing conditions where re-investment in a site is occurring. Currently, Maine's Chapter 500 exempts redevelopment projects, although proposed regulations were under consideration to require some enhancements. Portland has encouraged upgrades for major redevelopment and required improvements where impervious surface area is increased. Requiring some level of treatment for redevelopment projects is a policy question. Imposing requirements beyond the State minimums results in additional costs to developers, but addresses other mandates that the City and private property owners may face in the near future. Being pro-active and requiring improvements or mitigation, which result in costs commensurate to the scope of redevelopment, can be a practical measure. As noted in the recommendation, the definition of redevelopment needs to be defined clearly, the level of stormwater improvements based upon the size and scope of the redevelopment, and consider assigning a portion of the site to be treated.

Another consideration regarding this recommendation, is the City's potential decision to institute stormwater fees based upon the amount of impervious surface area on developed sites. Whether or not the City requires stormwater management on a particular site during redevelopment, property owners may soon be subject to a stormwater fee that will help the City pay for its mandated water quality protection and improvement programs. The program will likely include a fee reduction component for stormwater treatment/management systems. Therefore, installation of stormwater management systems at the time of development or redevelopment could provide owners/developers with the most cost-effective means of reducing long-term costs associated with water quality protection and improvement.

- **Modifications to Sewer Connection Language – chapter 24- 244:** Consider amending the language in this section in order to encourage the use of on-site retention or detention and other best management practices to reduce the potential for direct connection of drainage infrastructure to municipal stormwater drainage system. Details and programmatic guidance should be developed with other revisions to the Technical Manual. Modify language indicating that stormwater “shall be” discharged to combined sewers to reflect the intent that stormwater should only be discharged to a combined sewer when all other management options (i.e.: on-site storage, discharge to a storm drain, etc.) have been eliminated and any discharge to the combined sewer system should be minimized. Waiver provisions should be developed if on-site retention or detention is not possible.



3.7.4 General Policy Recommendations (pages 3-29 through 3.30)

There are six general policy recommendations listed in the report. The recommendation to create incentives in the B-4 zone, which is a land use policy.

- **Incent Redevelopment within Zone B-4:** The recommendation includes working with property owners to identify appropriate incentives and consider zoning amendments to the B-4 zone to allow greater flexibility (e.g. building height, floor area ratios) or incentives to attract redevelopment and thus improve stormwater management through redevelopment. Develop modified zoning requirements in connection with Commercial Pollution Prevention recommendations that would enhance environmental and aesthetic quality of this zone through tree planting, streetscape improvements or other program recommendations.

Planning Comment: The new environmental standards of the site plan ordinance begin to address this recommendation with requirements for street trees and landscaping within parking areas for commercial and industrial projects. Redevelopment incentives for more generous building heights and FAR regulations can reduce the overall impervious area on a site. However, significant changes in the B-4 development pattern along Warren Avenue and Riverside Street are not expected in the short term due to the nature of the current commercial development. Thus, it will be essential to integrate incentives that reduce the overall impervious surface area during redevelopment with the proposed provisions to meet stormwater management during redevelopment (recommendation 3.7.3 above).

- **Develop a Compensation Fee for Capisic Brook Development and Redevelopment Activity:**

Staff Comment: Portland prepared a Compensation Fee Utilization Plan for the three urban impaired stream watersheds (Capisic Brook, Fall Brook and Nasons Brook), which was approved by DEP on July 12, 2012 ([Attachment 2](#)). The approved CFUP meets this recommendation and enables developers to contribute to the compensation fee plan for municipal projects, rather than installing on-site measures to meet urban impaired stream mitigation requirements. This is an option that developers have wanted to employ on several Portland projects, so this can now be implemented during development review.

- **Identify Solutions to Winter Deicer Related Chloride Issues:** Continue to participate in the Maine Salt Managers Task Force meetings, in order to discuss with all the stakeholders concerning long-term solutions to winter deicer issues (chloride can compromise freshwater environments, pollute groundwater supplies, and damage vehicles).
- **Maine DOT and Maine Turnpike Authority (MTA) projects:** Maine DEP, Portland and Westbrook should advocate for stormwater enhancements for state and MTA projects through the PACTS process or during transportation planning efforts. The specific short-term recommendation is to focus on the turnpike widening and Exit 48 upgrades (MTA initiated a stormwater quality improvement project for existing impervious surface areas at Exit 48).
- **Critical Lands Acquisition and Conservation:** “Cooperate with the Portland Land Bank Commission, large private landowners, Central Maine Power and other state and regional conservation organizations to advocate for the preservation and conservation of critical lands within the Capisic Brook Watershed.” Several areas have been identified in the City’s Wetland Compensation Opportunities Assessment and by the Land Bank Commission.
- **Utilize Long Creek Watershed Management District Implementation for benefits to Capisic Brook:** The City of Westbrook should continue to implement modifications in

planning and policy consistent with requirements of the Long Creek General Permit in order to improve policy and standards in their portions of Capisic Brook. Planning considerations outlined in the Long Creek Watershed Management plan related to Westbrook's design standards and zoning requirements that are considered for Long Creek may also be instituted on a city-wide basis."

V. FINANCING

The projected costs for implementing the Capisic Brook Watershed Management Plan are estimated to be a total of \$18,516,000. The costs are presented in the Section 4 Financing of the report and are aggregated under annual operations and maintenance, structural capital improvement costs, and short-term restoration program costs. The estimated costs and potential funding sources are outlined in the report. The project team and Michael Bobinsky, Director of the Department of Public Services, will address the project costs at the workshop.

One of the recommendations and financing options of the Plan is to develop a Compensation Plan associated with the Urban Impaired Stream standard in the stormwater regulations. On July 12, 2012, the MaineDEP approved Portland's *Compensation Fee Utilization Plan for Capisic Brook, Fall Brook, and Nasons Brook (Attachment 2)*. The plan identifies compensation projects within each of these watersheds and allows the City to collect fees as permitted under Chapter 500 stormwater regulations (Chapter V, Technical Manual) to use toward municipal stormwater projects within the applicable watershed. As noted by DPS, this mechanism will not generate enough revenue to cover the full cost of stormwater projects in the impaired watershed, because the funds are limited in scope to meeting the mitigation standard for Urban Impaired Streams and the fee schedule set by DEP is modest. It is an option that developers have sought as a means of meeting mitigation requirements, so this can now be utilized during development review for projects of all sizes.

The Plan also acknowledged that a stormwater user fee or utility might be the most effective and sustainable approach to funding stormwater management and water quality improvement programs. While there is a great deal of variability in how stormwater user fee or utilities are structured, many charge property owners a fee based on the amount of impervious area (i.e.: Buildings, roads, parking areas, etc.) on their land. This approach directly ties the fee to primary causes of stormwater pollution and water quality impairment in Urban Impaired Streams such as Capisic Brook.

In July of 2010 the City Council, in response to the growing costs of stormwater management and the combined sewer overflow abatement program, passed a resolution calling for staff to explore the possibility of establishing a stormwater utility that would provide a dedicated source of funding for Portland's water quality improvement and infrastructure management programs. As a result, the Sustainable Stormwater Funding Taskforce was established in March of 2011 and charged with the task of reviewing developing a set of recommendations for funding these programs in a fair and equitable way. The City Council reviewed the taskforce's recommendations and in July of 2012, approved the establishment of a stormwater fee.

VI. PLANNING PROCESS

The participants in the Capisic Brook Watershed Study are listed on page v of the report. The task force included local citizens and representatives from DEP, MEDOT, Maine Turnpike, Westbrook, Friends of Casco Bay, University of Maine, USM, Cumberland County Soil and Water Conservation District, and multiple City departments. The work on this study was initiated in 2009 and was concluded in 2011. There were 9 meetings to develop the plan along with two focus group meetings:

- 1 core project team - kickoff meeting;
- 1 public stakeholder meeting held at Riverton Elementary School;
- 3 Planning/policy team meetings;

- 1 Marketing team meeting + 2 public focus group meetings;
- 2 Finance team meetings; and
- 1 core project team to review draft Watershed Management Plan.

The Transportation, Sustainability, and Energy Committee held a workshop on the draft plan on April 18, 2012, at which time the Committee unanimously referred the plan to the Planning Board for a recommendation. The MaineDEP has reviewed and approved the watershed management as drafted on October 24, 2011 ([Attachment 1](#)). The Planning Board held a workshop and then a public hearing on August 14, 2012.

VII. CONSISTENCY WITH COMPREHENSIVE PLAN

The Department of Public Services is requesting that the Capisic Brook Watershed Management plan be adopted as a component of the Comprehensive Plan as the policy document to guide local policy and a financial decision-making. The proposed plan is consistent with existing policies contained in Portland's Comprehensive Plan as follows:

Green spaces, Blue Edges: An Open Space and Recreation Plan – 1995 and 2001.

Goal:

Develop an open space system that considers the natural forces of air, water, vegetation and landform to minimize foul odors, eyesores, and noise, and to maximize clean soil, clean air, and clean water in Portland.

Policies:

- Locate or undertake environmental studies identifying the most critical climate and air pollution, flooding, erosion, surface and ground water pollution problems, and threats to City water supplies, plant communities and wildlife, and their sources.
- Using scientific models and studies, determine the optimal organization of open space and vegetation to minimize the identified environmental problems.

Combined Sewer Overflow Abatement Study - 1993

Goals:

- Improve the quality of Portland's surface waters.
- Improve habitats for critical uses and sensitive areas.
- Expand the recreational potential of Portland's waters.

Policies:

- Implement watershed management programs for the Fall Brook and Capisic Brook watersheds. These programs will be comprehensive efforts that include land use planning, stormwater management, selective sewer separation, expanded use of BMP's for source control, rehabilitation of natural waterways, and development of recreation and environmental resources in conjunction with CSO and stormwater control. The goal is to eliminate CSO's in these watersheds by managing the volume and quality of stormwater runoff, while maximizing use of existing conduits.

The Capisic Brook Greenbelt/Stormwater Abatement Study - 1996 and revised 1999

Goal:

Implement an integrated watershed plan to maximize beneficial uses in the Capisic Brook watershed and reduce pollution loads to Casco Bay by maximizing natural treatment of stormwater flow.

Policies:

- Remediate flooding, storm drainage, and sewer backup problems.
- Remediate water quality problems.
- Eliminate erosion and control debris accumulation.
- Create an urban recreational, educational, and aesthetic resource.
- Institute a revenue generating mechanism.

Sustainable Portland - 2009

Goal:

- Pollution prevention and source reduction

Policies:

- Develop a comprehensive storm water management and pollution prevention program to eliminate toxics and excess nutrient run-off from entering Portland's surface waters and sediments.
- Continue the work of the Casco Bay Estuary partnerships to identify and reduce toxic pollution.
- Coordinate City efforts within a regional framework and develop stronger relationships with other communities to achieve common environmental sustainability goals.

Implementation

- Continue to upgrade and separate our combined sewer/storm water system to minimize release of untreated sewage.
- Encourage households and business properties to reduce storm water runoff volume and increase storm water quality through use of improved site design, decreased impervious surfaces, use of rain barrels and other best management practices.

Goal:

- Environmental stewardship through effective transportation and land use decision-making.

Policies:

- Promote public bus transportation and other transit opportunities through infrastructure improvements, sidewalk clearance, expanded funding and operations for METRO, expanded use of METRO for public school transportation, and facilitating regional bus transit efforts.

Implementation:

- Draft and implement site plan/land use standards for environmental goals, including transit and bicycle use, energy efficiency, decreased impervious surface, improved stormwater quality, and increased wetland protection.

VIII. PLANNING BOARD RECOMMENDATION

The Planning Board report to City Council is included as Attachment 1. On August 14, 2012, the Planning Board voted 4-0 (O'Brien, Lewis and Venne absent) to recommend amending the recommendations for the Urban Impaired Stream and the connection of private infrastructure at the time of combined sewer separation projects to include the word "consider" incorporating these requirements within the City Code. The Planning Board voted (3-1, Dean opposed, O'Brien, Lewis and Venne absent) that the Capisic Brook Watershed Management Plan is consistent with Portland's Comprehensive Plan and recommends that the City Council adopt the Capisic Brook Watershed Management Plan, as an element of the City of Portland's Comprehensive Plan. Mr. Dean indicated that there were many positive recommendations in the plan, but his concerns centered on the associated local costs of improving the watershed to meet Federal and state requirements and the potential restrictions and costs to development.

Attachments:

1. DEP Approval Letter 10/24/11 (Capisic Brook Watershed Plan)
2. DEP Approval Letter 7/12/12 (Compensation Fee Utilization Plan)
3. Minutes, 4/18/12 (Standing Committee on Transportation, Sustainability and Energy)



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

October 24, 2011

Douglas Roncarati, Jr., Stormwater Program Coordinator
City of Portland
55 Portland Street
Portland, Maine 04101

RE: NPS Project # 2009SP04 – Capisic Brook Watershed Plan (ARRA 604b)

Dear Doug:

Congratulations on the successful completion of the *Capisic Brook Watershed Based Management Plan*. Review of the project file shows that the project has been completed and that all deliverables have been received and accepted. The Department finds that the City of Portland has implemented the tasks in the project workplan and met budget and match requirements. The Department accepts this project as complete and authorized final payment.

We commend you for a job well-done and your commitment to improving the water quality and aquatic habitats of Capisic Brook. Several reviewers have commented that they thought the plan is well written and serves as excellent guidance for the continuing public education of the populace in the watershed, the "Sustainable Portland" committee and the members of the City Council of the effects of urban stormwater on the streams and tidal waters flowing into Casco Bay. Further public education is necessary as the City staff explores approaches to sustainable funding for its water quality management programs. The plan will also play an important role in the effort to promote the goals necessary to bring the stream back into compliance with water quality standards in Maine law as it continues through the municipal public review process that will ultimately result in City Council approval.

The goals of the plan to improve the overall health of the stream so that it once again meets Maine's water quality standards include:

- Improve in-stream habitat quality;
- Restore the natural hydrology,
- Reduce the discharge of toxic chemicals, fertilizers and pesticides, elevated water temperature in runoff and bacteria: and

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679-2094
(207) 764-0477 FAX: (207) 760-3143

Letter to Doug Roncarati
(10/24/2011
Page 2 of 2

- o Improve dissolved oxygen levels.

Now that the plan has been completed, we encourage the City to keep the momentum going and start implementing the plan as soon as the public education and municipal review process have been completed. We look forward to working with you as the public process towards acceptance of the plan and implementation actions finally begin.

Again, congratulations and thank you for your commitment to improving water resources in and around Portland.

Sincerely,



Donald T. Witherill, Director
Division of Watershed Management

Cc: Norm Marcotte
Jeff Dennis
Wendy Garland



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Att 2

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

July 12, 2012

Douglas A. Roncarati, Jr.
Stormwater Program Coordinator
Department of Public services
City of Portland
55 Portland Street
Portland, ME 04101-2921

RE: Compensation Fee Utilization Plan for Capisic Brook, Fall Brook and Nasons Brook

Dear Doug,

I am pleased to inform you that the Maine Department of Environmental Protection (DEP) has approved the proposed Compensation Fee Utilization Plan (CFUP) for the Capisic Brook, Fall Brook and Nasons Brook watersheds in the City of Portland, as provided for in the Maine Stormwater Management Rules, 06-096 CMR 500(6). This approval is based on a plan dated June 2012 prepared by Woodard & Curran on behalf of the City of Portland. The plan describes compensation projects that would be funded by collected fees in each of the above listed watersheds. It also includes projects for Dole Brook, which is not currently listed as an urban impaired stream, but may become listed in the future. Approval is not being requested for Dole Brook at this time.

DEP's approval of the City of Portland's CFUP is subject to the following conditions:

1. The City of Portland must establish separate accounts for projects located in the Capisic Brook, Fall Brook and Nasons Brook watersheds. These accounts must be dedicated to receiving funds submitted in conjunction with Site Location of Development Act applications using this CFUP.
2. Funds received in each dedicated account may only be used for project work in the watershed to which it is dedicated.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679-2094
(207) 764-0477 FAX: (207) 760-3143

3. Proposed modifications to the CFUP must be made in writing and submitted to DEP for approval prior to their implementation if they are to be used to satisfy the requirements of Chapter 500, Section 6 of DEP's Stormwater Management Rules.

I appreciate your efforts to address stormwater issues in the City of Portland's urban stream watersheds and wish you and the City of Portland success with your restoration projects.

Sincerely,



Donald T. Witherill, Director
Division of Watershed Management
Bureau of Land & Water Quality

Copy Provided:

Mark Bergeron, Director, Division of Land Resource Regulation

CITY OF PORTLAND, MAINE

Standing Committee on Transportation, Sustainability and Energy

Councilor David Marshall (D2), Chair

Councilor Kevin Donoghue (D1), Vice Chair

Councilor John Anton (A/L)

Councilor Cheryl Leeman (D4)

**April 18, 2012
Meeting Minutes**

Attendees: Councilor Kevin Donoghue, Councilor Cheryl Leeman, Chair David Marshall (late) Councilor John Anton (absent), Ian Houseal, Bruce Hyman, Kathi Earley, John Peverada, Mike Bobinsky, David Margolis-Pineo, Gretel Varney, Melissa Graffam, Doug Roncarati, Bill Needleman

Councilor Kevin Donoghue called the meeting at 5:30 pm

1. Approval of Minutes from the March 21, 2012 Meeting

Due to lack of a quorum, this item will be placed on May's agenda.

2. Staff Communications – Discussion Items

Mike Bobinsky addressed the Committee with some updates and information. One item for update was the request from the Victoria Manson to change the current one-hour parking in the vicinity of their site to be modified to a two-hour time limit. This would be to help serve their customers.

Mike Bobinsky also let the Committee know that Public Services staff was working on applications and letters of intent for the Quality Community Program and New Freedom Programs, these are due to MaineDOT by May 11, 2012. Completed applications are due on June 29, 2012.

3. Continued Review of 2012 Committee Work Plan

This item will be discussed at May's Committee Meeting.

4. Endorse Pavement Management Program Recommendations

Tom Gorrill and Ralph Norwood from Gorrill-Palmer Consulting Engineers presented to the Committee the study that they have done in regards to the pavement conditions of Portland's streets. Tom showed the Committee the different types of road conditions within the city, ranging from good to fail. On average roads deteriorate at a rate of 8-10 years. It is advised in order to keep up the conditions of the streets we would want to treat them every few years.

With this study they ranked every street with the Pavement Condition Index (PCI). The rankings go from 0 to 100 (fail to good). On average the local roads in Portland ranked a 69.4. State roads ranked a 63. In the study it showed what the consequences to the condition to the roads would be based on budgetary constraints. In order to maintain the roads at the current level, the City would need to budget \$3.5 to 4 million dollars annually.

Councilor Marshall mentioned he would like to see something like this to rank conditions of sidewalks.

Councilor Donoghue said that he is supportive the PCI and looking into other options.

Councilor Leeman said that this topic has three items. The first is that paving of city streets can be really political. Second, residents like to see the “bang for their buck”. And thirdly, is customer satisfaction. There is instant gratification when your street has been shimmed or has had an overlay, whereas; it takes 18-24 months for reconstruction.

5. Spring Street Assessment Communication Update Work Plan

The Committee decided that after the Council Workshop on the Civic Center that is when this could be addressed.

6. Proposed Thompson Point TIF Planning Process Recommendations

The Committee discussed the draft of the types of transit services that might be funded.

Councilor Donoghue felt that this is missing the point. It was meant to bring the train to come downtown (which it can't) and this TIF was meant to help with that.

The Committee then talked about the “Portland Explorer” buses. They were known to break down and the fees were flexed (went from free to a fee).

Councilor Marshall noted that this would be hard to do with the current agreement that we have with Metro. They would need to put out a RFP for these services. He also said that he would like to see the dollar amount per mile. It is two (2) miles from Thompson Point to downtown.

Councilor Marshall suggested to Bill Needleman to create a vision first and then work on setting priorities. The Transportation, Sustainability and Energy Committee needs to be updated or on a working committee when the RFP is created.

This item will also be discussed again at the May meeting.

7. Recommendation from the Green Building Incentive Task Force

The Committee discussed the four (4) items that the Green Building Incentive Task Force is recommending to develop a green building incentive program. The items are:

- (1) Seeing to aid residences and businesses in switching fuel sources from fuel oil to natural gas.
- (2) Creating a voluntary database for reporting commercial and residential energy usage.
- (3) Creating a revolving loan fund funded from TIF revenue for commercial energy improvements.
- (4) Amending the CDBG Consolidated Plan to include energy efficiency as a scoring criterion.

In regards to item one, within the next fifteen years Unitil will be converting their cast iron pipes. This is an ideal time for us to work with the utility to get this message out to residents so they have the opportunity to change if is desired.

Councilor Marshall has asked for more information on as to how all the items are to be implemented. This item will be brought back to another Committee Meeting.

8. Capisic Brook Watershed Management Plan; Adopt/Implement

The Committee heard a presentation from Zach Henderson from Woodard and Curran along with Doug Roncarati, the City's Storm Water Program Coordinator.

It was asked as to what types of treatments can happen to help eliminate the runoffs. Some items could be as to looking into the need to put in curbing on all streets, parking lot widths, making small parking spaces, shading on streets, and planting trees and shrubs.

Councilor Leeman asked for the full report and what the timeline for this plan is. She also has asked for a map to see all the other watersheds and what is the potential cost for other watersheds within the City.

The next step for the Plan would be to go in front of the Planning Board.

A motion was made by Councilor Donoghue to refer the Capisic Brook Watershed Management Plan to the Planning Board. Seconded by Councilor Leeman. Passed 3-0.

9. Adjourn

Meeting adjourned at 8:25 pm

*Order 122 - 12/13
Tab 21 12-17-12*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER APPROVING RECOMMENDATIONS OF THE
NATHAN CLIFFORD RE-USE ADVISORY TASK FORCE**

ORDERED, that the recommendations of the Nathan Clifford Re-Use Advisory Task Force, attached hereto, are hereby approved.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant

FROM: Alex Jaegerman, Planning Director

DATE: November 19, 2012 Draft

Re: Nathan Clifford Re-Use Task Force Recommendations

1) Council meeting at which action is requested:

Final action: December 3, 2012

2) Can action be taken at a later date: X YES

3) This item is sponsored by: Housing and Community Development Committee, Nicholas Mavodones, Chair. At the November 14, 2012 meeting of the Housing and Community Development Committee, the Committee voted 3-0 (Donoghue absent) to accept and endorse the recommendations of the Nathan Clifford Re-Use Advisory Task Force to the City Council.

cc: Mark Rees, City Manager
Mayor Brennan
Danielle West-Chuhta, Acting Corporation Counsel
Terry Bourgoin, Administrative Assistant

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

On June 18, 2012, the Portland City Council authorized the creation of the Nathan Clifford Re-Use Advisory Task Force to report back to the City's Housing and Community Development Committee (HCDC) with recommendations on the future of the Nathan Clifford School property. Following the Council's charge, the Task Force provided a consensus document with recommendations of preferred uses for the property as well as a process for soliciting and ranking potential re-use proposals.

The Task Force was chaired by Caroline Paras and consisted of over a dozen members, including District 3 Councilor Ed Suslovic, residents of the immediate neighborhood, and representatives from the University of Southern Maine, Greater Portland Landmarks, and Portland Society of Architects. The Task Force met four times from September 13 to November 8, 2012. On October 2, the Task Force

hosted a public forum that attracted 38 participants, including residents and developers.

Working from text developed by a drafting subcommittee, on November 8, 2012 the Task Force voted unanimously to forward their findings to the HCDC. After reviewing the Task Force findings at their November 14 meeting, the HCDC voted unanimously to endorse and forward the recommendations to the full City Council.

A summary and a full report of the Task Force recommendations are attached.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The Nathan Clifford School is a vacant surplus building in need of significant repair. As a former center for the Oakdale neighborhood, the building's vacancy is a serious concern for neighbors and financial liability for the City. The Task Force was created and charged by the City Council to provide the attached recommendations.

III. INTENDED RESULT (How does it resolve the issue/problem?)

The attached recommendations provide the framework and parameters for soliciting and selecting a new steward for the Nathan Clifford School. Preservation of the building is paramount and the recommended uses prioritize compatibility with the neighborhood. The selection criteria furthermore stress contributions to the character and vitality of the area as critical as well as the financial and technical capability of the selected development team.

The recommendations include a two-step solicitation process with a Request for Qualifications to be followed by a Request for Proposals from no more than 3 top-tier development teams.

The Task Force additionally recommends that the City appoint community members to assist city staff with the selection of a development team. Community participants recommended include representatives from the neighborhood, a design professional, Greater Portland Landmarks, and a real estate professional. If the Council adopts the Task Force recommendations, staff will work with the Mayor to appoint the review committee and will communicate the membership to the Council at a later meeting.

IV. FINANCIAL IMPACT

The vacant school is a financial drain on the city as it needs to be heated to ensure fire safety and to avoid further damage from frozen pipes.

A new use for the building could be either a taxable for profit use or a non-taxable not-for-profit, so it is premature to assess the tax impact to the city.

V. STAFF ANALYSIS & RECOMMENDATION

The Planning Division provided staff support for the process and fully endorses the findings and recommendations of the Nathan Clifford Re-Use Advisory Task Force. The recommendations additionally have the endorsement of the Housing and Community Development Committee.

The Council is asked to adopt the recommendations of the Nathan Clifford Re-Use Advisory Task Force, and to direct the City Manager to implement the recommendations.

Attachments:

- 1. Task Force Recommendations Summary**
- 2. Final Recommendations and Report of the Nathan Clifford R-Use Task Force**

Re-Use and Redevelopment of the Nathan Clifford School

Final Recommendations and Report of the

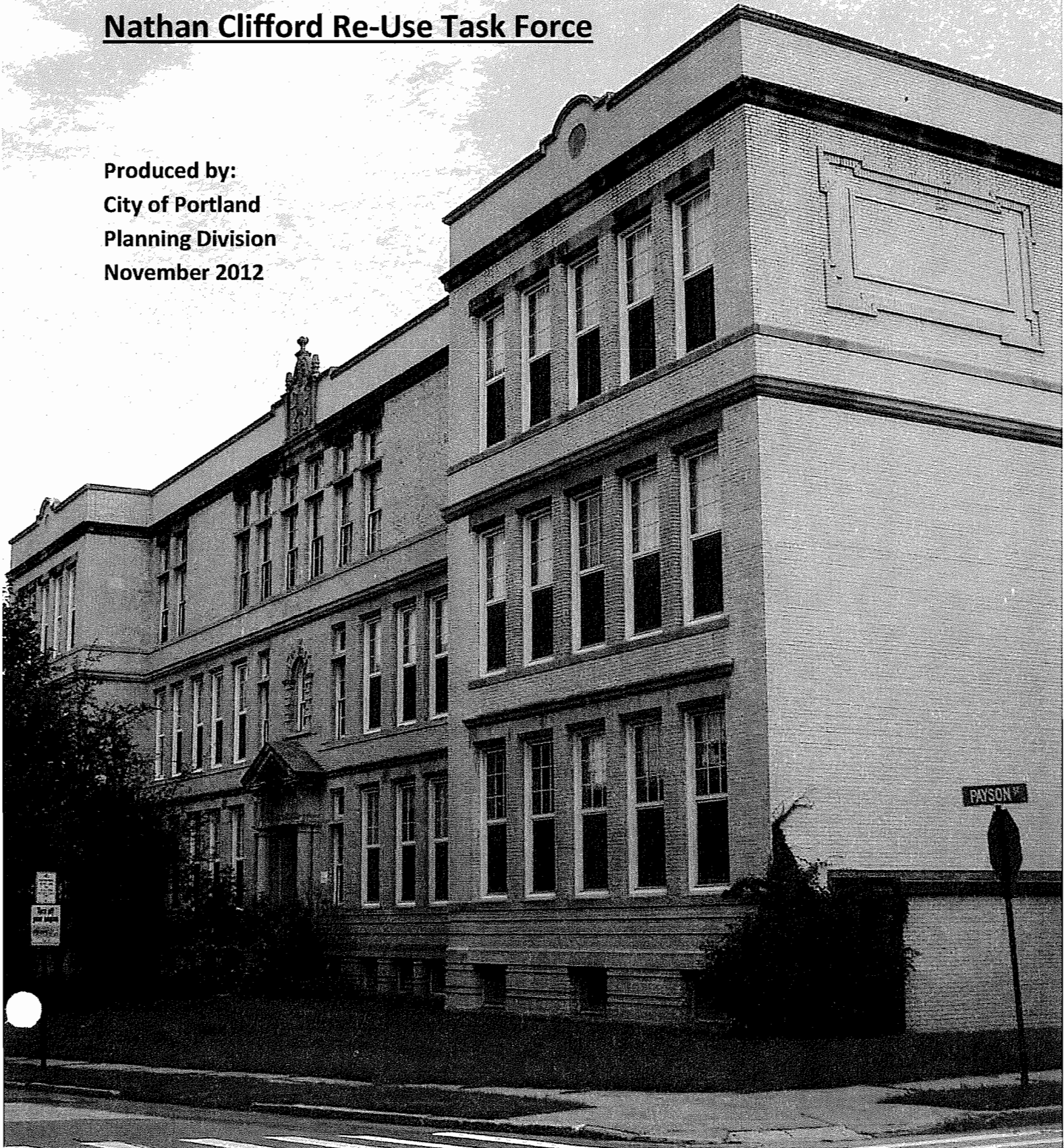
Nathan Clifford Re-Use Task Force

Produced by:

City of Portland

Planning Division

November 2012



Re-Use and Redevelopment of the Nathan Clifford School
Final Recommendations and Report of the Nathan Clifford Re-Use Task Force
November 2012

Acknowledgements

Taskforce Members

Caroline Paras, Chair *
Ed Suslovic, City Council District 3 *
Phil Collin, Neighborhood Representative *
Clair Cooney, Neighborhood Representative
Ben Grant, Neighborhood Representative
Barry Hosmer, Neighborhood Representative
Chuck Lerch, Neighborhood Representative *
Mike Monaghan, Neighborhood Representative *
Dan Murphy, Neighborhood Representative
Martha Shiels, Neighborhood Representative
Jennifer Wande, Neighborhood Representative
F R Vance, Neighborhood Representative
Paul Stevens, SMRT *
Carol DeTine, Greater Portland Landmarks Representative *
Leslie Buhrman, Portland Society of Architects Representative
Bob Caswell, University of Southern Maine

*Indicates participation on the Drafting Subcommittee

City Council's Housing and Community Development Committee

Nicholas Mavodones, Chair
Cheryl Leeman, Vice Chair
Kevin Donoghue, District 1
Edward Suslovic, District 3

City Staff

Jeff Levine, Director of Planning and Urban Development
Alex Jaegerman, Planning Division Director
Bill Needelman, Senior Planner (primary staff)
Jennifer Yeaton, Planning Office Manager

Report from Nathan Clifford Re-Use Advisory Task Force

I.	Executive Summary	page 2
II.	Recommendations on Use, Criteria, and Process	page 4
III.	Timeline for Implementation of Recommendations	page 11
IV.	Appendices	

A. Planning process

1. Council order authorizing Task Force
2. Task Force Work Plan
3. Agendas from Task Force meetings
4. PowerPoint, Polling Results, and Sign-in sheet from public forum on October 2nd
5. Public Forum flyer, press release

B. Background materials

1. Neighborhood profile
2. Nathan Clifford School – About the School and Floor Plans (School Department document, November 2011)
3. Barba-Wheelock: Preliminary Review of New Construction vs. Renovation Portland Public Schools Draft Report, September 28, 2007
4. National Register of Historic Places: Letter of Eligibility, February, 24, 2010
5. City Landmark designation application and criteria
6. Current Zoning: R-5 Zone Text, Portland Land Use Code
7. Zoning Memo to Task Force, September 10, 2012
8. Building and Site Photos, August 2012
 - a) Map 1, Site Features
 - b) Map 2, Aerial Photo and Immediate Context
 - c) Map 3, Zoning and Broad Neighborhood Context
 - d) Building and context photos

I. Executive Summary

On September 26, 2007, the Portland School Department voted to close Nathan Clifford in favor of constructing a new elementary school at 150 Ocean Avenue. This decision set in motion a series of events that resulted in the designation of Nathan Clifford as surplus property. But the school, which had served Portland's children for over 100 years, was more than just a building: it was the heart and soul of Oakdale. To honor its revered place in the neighborhood, we are called upon to craft a process that results in a new steward and a new life for the school.

On June 18, 2012, the Portland City Council authorized the creation of the Nathan Clifford Re-Use Advisory Task Force to report back to the City's Housing and Community Development Committee with a list of preferred uses for the property as well as a process for soliciting and ranking potential re-use proposals. The Task Force consisted of over a dozen members, including District 3 Councilor Ed Suslovic, residents of the immediate neighborhood, and representatives from the University of Southern Maine, Greater Portland Landmarks, and Portland Society of Architects. The Task Force met four times from September 13 to November 8, 2012. On October 2, the Task Force hosted a public forum that attracted 38 participants, including residents and developers. During this public outreach, the Task Force learned that neither the City of Portland nor the University of Southern Maine had an interest in retaining ownership of the property for future use.

We urge the City Council to give due consideration to these recommendations and to execute the suggested timeline for their implementation. Below is a summary of the Task Force's key recommendations:

- Provide preference for uses generally consistent with current R-5 Zoning, including residential and educational.
- Allow consideration of uses compatible with the R-5 zone not currently permitted, such as low impact commercial uses that provide amenities and/or products that serve the neighborhood.
- Require that all proposals preserve the existing open space as a neighborhood amenity.
- Designate the school as a Portland City Landmark.
- Authorize a Conditions Assessment of the building to inform the development of all re-use proposals.
- Conduct a two-tier solicitation process consisting of a Request for Qualifications followed by a detailed Request for Proposals from no more than 3 bidders.

These recommendations of the Task Force are grounded in three sets of interrelated values:

The building's historic features must be preserved. Although Nathan Clifford is a distinguished public building, there is currently no mechanism in place to protect the school's historic exterior and interior features. The Task Force recommends that the Portland City Council designate the building a City Landmark. This designation will require review of all exterior changes by the Historic Preservation Board. The Task Force encourages developers wishing to take advantage of Federal tax credits to list the building on the National Register of Historic Places. This level of designation will govern changes to the interior of the building.

The condition of the building must be stabilized. Renovating Nathan Clifford demands a substantial financial investment. Areas of attention include roofing and masonry repair to protect the building from water damage as well as the elimination of environmental hazards posed by asbestos in the plaster wall systems and floor tiles. The Task Force recommends that the Portland City Council authorize an assessment of the building's conditions. This report would be included in the Request for Qualifications to ensure bidders respond on a level playing field. All bidders will be required to address the building's conditions and demonstrate that they have the financial, technical, and management capacity to carry out their plans.

Future uses must contribute to the character and vitality of the Oakdale neighborhood. The central challenge is to develop a process that encourages creativity in the marketplace so that future owners can generate sufficient income to stabilize the building and preserve its historic features. At the same time, the new uses must be compatible with the surrounding neighborhood. This balance can be achieved primarily by encouraging uses generally consistent and compatible with the R-5 zone while discouraging uses of a transient nature. This compatibility, in terms of use, design, character, and impact, must be valued above price.

II. Recommendations

November 15, 2012

The following recommendations were accepted by unanimous vote of the Task Force at their November 8, 2014 meeting. The Housing and Community Development Committee subsequently accepted and endorsed the Task Force's recommendations by unanimous vote (Donoghue absent) on November 14, 2012.

The document is structured according to the charge to the Task Force established by the City Council and is organized by:

- A. Use;*
- B. Criteria; and,*
- C. Process.*

The language is largely framed as might be found in a request for proposals document to ensure that the Task Force's recommendations may be specifically utilized in the request and evaluation of proposals. In drafting an RFP document, the organization would likely be amended.

I. Introduction

The Nathan Clifford Re-Use Advisory Task Force was created by the City Council to provide recommendations on the future of the Nathan Clifford School property at 180 Falmouth Street. Earlier this year, the school was declared surplus by the Portland Public Schools and is currently vacant. The Portland City Council created the Task Force to recommend preferred uses for the property in anticipation of prioritizing future proposals for the re-use and/or redevelopment of the school and grounds. As part of their work, the Task Force held 4 advertised public meetings including a site walk and a well-attended public forum. Additionally, a "Drafting Subcommittee" worked with City Planning staff to develop language for review and editing by the full Task Force. The Nathan Clifford Re-Use Advisory Task Force presents these recommendations to the Housing and Community Development Committee for their consideration and fulfillment of their charge as assigned by the City Council.

II. Recommendations

A. Uses:

I. Generally

Re-use of the Nathan Clifford School building and property is intended to support and enhance the integrity of the surrounding neighborhood. Proposals for re-use of the property will show consistency with this intent by sensitively preserving the building and

introducing new uses, occupants, and improvements that contribute to and not detract from the character and vitality of the area.

II. Existing Zoning

When applied to the Nathan Clifford property, the existing R-5 Residential zoning promotes uses, residential density, and development forms consistent with the existing neighborhood character. The City will, however, entertain use proposals that are not consistent with the R-5 zone, understanding that sale of property would be contingent on the proposer applying for and receiving a zone change consistent with the proposed use(s).

Proposals that include residential unit counts that significantly exceed the current maximum R-5 allowances are discouraged.

III. Uses Encouraged

The following uses are specifically encouraged to compatibly add value, vitality and interest to the Nathan Clifford building and neighborhood.

- a. Educational and research institutions;
- b. Community uses;
- c. Publicly accessible and maintained open space and play features;
- d. Residential dwelling units at a density generally consistent with the R-5 Zone (based on total area of the Nathan Clifford property);
- e. Low impact, low traffic commercial uses providing amenities and/or products focused on serving neighborhood clientele; and,
- f. Creative mix of uses that protect and enhance the character and vitality of the neighborhood.

IV. Uses Discouraged

The following uses are strongly discouraged.

- a. Higher intensity commercial, industrial, and/or institutional uses that include large amount of traffic, parking, and, external impacts;
- b. Transient residential uses such as hotels and hostels; and,
- c. Residential uses that are significantly higher density than allowed under current zoning (based on total area of the Nathan Clifford property.)

Note on Process: The Task Force recommends bifurcating proposals into a two-step process with a request for qualifications preceding a request for full proposals from selected top-tier development teams.

B. Criteria:

The City will accept and rate Developer Team qualifications and proposals for re-use of the Nathan Clifford School property using the following criteria:

I. Thresholds for Evaluating Developer Qualifications

Prior to requesting full proposals for re-use and development of the Nathan Clifford property, Development Teams shall submit qualifications to the City. The *Qualifications Document* shall include the following information in order to be considered:

a. *Development Team*

Identify the principal members of the development team and their respective roles in the project.

b. *Program and Redevelopment Description*

Provide a *conceptual development and re-use narrative* including goals, program, business plan and timeline for the development.

c. *Development team experience and financial capabilities.*

The Qualifications shall include documentation demonstrating that the development team can complete and operate the concept development by supplying:

1. Letters of financial capability from credible financial institutions with experience working with principles of the development team; and,
2. Descriptions and examples of comparable projects or endeavors demonstrating adequate experience and expertise of the development team to successfully complete and operate the proposal

II. Criteria for Evaluating Qualifications

The city will apply the following criteria to rate competing Developer Team qualifications for selection to submit full proposals.

a. Use

The uses described in the conceptual development and re-use narrative are consistent with Section A (Uses) above; and,

b. Financial Strength and Experience of the Development Team

The Development Team has the experience, financial capacity and a proven track record to confidently achieve the goals and program(s) described in the *conceptual development and re-use narrative*.

III. Thresholds for Considering Full Proposals:

All proposals shall include information and documentation of the following in order to be considered:

a. Development Team

The proposal shall identify the principal members of the development team and their respective roles in the project.

b. Restoration of Building

The proposal shall describe commitments and measures to protect the short-term and long-term integrity of the building that at a minimum:

1. Address the stability and safety of the building by immediately protecting the structure from further deterioration.
2. Commit secured funds needed to address critical repair issues as identified in the City's Conditions Report. (*See Process Recommendations, below.*)
3. Preserve the structural and architectural integrity of the building consistent with established historic preservation standards.

c. Publicly Accessible Open Space

Publicly accessible open space shall be incorporated into all proposals.

Proposals that require the land area included in the open spaces and or play areas for residential density requirements under the R-5 zoning may propose public access easements to preserve the maximum residential density allowed. Residential projects proposing that the City retain fee ownership of open areas would either lose residential density potential, or

would need to propose a zone change to allow higher residential density on the residual project site.

d. *Program and Redevelopment Description*

The proposal shall include a detailed description of the uses and development of the property including sufficient detail for the City to understand the intent of the proposal and to conduct a zoning determination for consistency with the R-5 zone. At a minimum the proposal shall include:

1. A re-use narrative describing the development program for interior and exterior uses of the property; ,
2. Sketch level or conceptual drawings showing proposed improvements such as site plans, floor plans, elevations, additions, new structures, publicly accessible areas, and other site features; and,
3. A project business plan, market analysis, time line, and development pro forma demonstrating the long-term success and viability of the project.

e. *Purchase Offer, Estimated Project Value, and Property Tax Impact to the City*

The proposal shall include:

1. The purchase offer to the City;
2. Estimated cost of the proposed improvements;
3. Estimated post-development property value;
4. Estimated property tax impact to the City from the development.

f. *Financial and Technical Capability*

The proposal shall include documentation demonstrating that the development team can complete and operate the proposal as described in (b),(c)and (d) above by supplying:

1. Letters of financial capability from credible financial institutions with experience working with principles of the development team; and,

2. Descriptions and examples of comparable projects or endeavors demonstrating adequate experience and expertise of the development team to successfully complete and operate the proposal.

IV. Criteria for Prioritizing Full Proposals:

The city will apply the following criteria to rate competing proposals. Primary criteria are given greater weight than secondary, but all criteria represent important considerations when evaluating and selecting a preferred proposal.

a Primary Criteria

The Proposal:

1. Promotes a positive impact on the neighborhood as demonstrated by specific commitments within the proposal. The character, vitality and property value of the neighborhood will be protected and enhanced by the proposal.
2. Provides a neighborhood amenity. Proposals including a greater extent and higher quality of publically accessible open space and/or a gathering space within the building will be given higher preference. Preference is given to publically maintained open space.
3. Demonstrates sufficient strength of financial and technical capability and the project business plan to successfully complete the project in a timely manner.
4. Contains one or more of the encouraged uses listed in A.III, above; and ,
 - a. Preference is for to educational and residential uses.
 - b. Highest preference is for a creative mix of uses that adhere to the criteria above.

(Note: Mixed use proposals that are not consistent with existing zoning will be considered, but must demonstrate compatibility with the building, the neighborhood and the City's Comprehensive Plan.)

b. Secondary Criteria:

Note: Secondary criteria shall weigh substantially less than primary criteria when evaluating competing proposals.

1. Purchase price.
2. Benefits to the City tax base.
3. Provision of public snow ban parking (as is provided at the property in the current condition.)

C. Recommended Process for Requests for and Review of Proposals

The Nathan Clifford Re-Use Advisory Task Force recommends the following process steps to ensure the appropriate re-use and long-term stewardship of the property:

I. Conditions Assessment

The City should immediately authorize, fund, and conduct a detailed conditions assessment of the building identifying critical and long-term repair issues necessary for the ongoing maintenance and preservation of the structure.

II. Historic Landmark Designation

The Task Force strongly recommends that the City Council immediately begins the process of designating the building as an individually listed historic landmark. Landmark designation will manage change to the building and potential impacts to the surrounding neighborhood and provide clear assurances that the character defining features of the structure will be preserved and that qualifying proposals will be eligible for state and federal historic preservation tax credits.

III. Request for Qualifications

As soon as possible, the City should widely advertise and aggressively promote a request for qualifications (RFQ) from developers and institutions with interest in re-use of the Nathan Clifford School property. The intent is to generate as much interest as possible from a wide and diverse cross-section of developer and institutional interests by providing a low threshold for entry to the process.

Interested parties would be asked to submit a concept development and re-use narrative, a conceptual business plan, development timeline, and development team qualifications and financial capabilities. The RFQ would not require detailed architectural drawings or development pro formas as the generation of such documents are expensive and may provide a barrier or disincentive for otherwise interested teams to submit. Based on the relative strength of the development

teams and the proposal narratives, the City will select a no more than three (3) of the top-tier, financially viable development teams to present full proposal packets through an invitation only Request for Proposals (RFP.)

In publicizing the RFQ, the City should utilize conventional and new media, as well as press releases and direct outreach to the development community. Sufficient time should be allowed between the issuance of the RFQ and the deadline for submittal to encourage diverse teams to collaborate and craft creative development concepts that meet the intent and specifics outlined in A and B above.

IV. Request for Proposals

From three (3) or fewer top ranked development teams identified through the Request for Qualifications, the City should request full proposals for re-use of the Nathan Clifford School property to be evaluated according to the specifics outlined in A and B above.

V. Review of Proposals

The Task Force recommends that the Mayor appoint a *Proposal Review Committee* to evaluate proposals against the criteria established herein. In addition to City staff members from Purchasing, Finance, and Planning, the Review Committee shall be comprised of community representatives including a neighborhood representative, a design professional, Greater Portland Landmarks, and a real estate professional. The Review Committee shall report their findings and recommendations to the Housing and Community Development Committee (HCDC) of the City Council at an advertised public hearing.

The HCDC's recommendation should be reported to the City Council for adoption and direction to the City Manager's Office to negotiate the final terms of sale of the property.

Public participation and testimony will be encouraged at both the HCDC's and City Council's public hearings through use of the City's website and use of the interested parties email addresses generated through the Nathan Clifford Re-Use Task Force process.

III. Nathan Clifford Re-Use Recommendations: Implementation Timeline

November 8, 2012	Re-Use Taskforce Final Meeting – Finalize Recommendations
November 14, 2012	HCDC Review of Task Force Recommendations
November 2012	Initiate Building Conditions Study and Report
December 2012	Draft Request for Qualifications (RFQ) and Request for Proposals and (RFP) Documents
	City Council approves process and appoints Proposal Review Committee
January 2013	Initiate Historic Landmark Designation with HP Board
	Complete Building Conditions Report
	Review RFQ and RFP Documents with the HCDC Committee
	Issue RFQ
February 2013	Finalize Historic Landmark Designation with City Council
April 2013	RFQ Due
April/May 2013	Select Limited # of Development Teams to submit full proposals guided by RFP document
July 2013	Full Proposals due
July/August 2013	Review Committee evaluates proposals and interviews Development Teams
August /September 2013	Review Committee recommends lead proposal to HCDC
	HCDC votes to recommend lead proposal to City Council
September 2013	City Council reviews HCDC Recommendation and votes to direct the City Manager to negotiate sale of the Nathan Clifford property based on the conditions and specifications outlined in the selected proposal.
October/ November 2013	Nathan Clifford property ownership transfers to the development team

Order 224-11/12
 Passage: 8-0 (Anton out) 6-18-12
 MICHAEL F. BRENNAN (MAYOR)
 KEVIN J. DONOGHUE (1)
 DAVID A. MARSHALL (2)
 EDWARD J. SUSLOVIC (3)
 CHERYL A. LEEMAN (4)

CITY OF PORTLAND
 IN THE CITY COUNCIL

JOHN R. COYNE (5)
 JOHN M. ANTON (A/L)
 JILL C. DUSON (A/L)
 NICHOLAS M. MAVODONES (A/L)

**ORDER ESTABLISHING THE NATHAN CLIFFORD
 RE-USE ADVISORY TASK FORCE**

ORDERED, that the Nathan Clifford Re-Use Advisory Task Force is hereby established with the following responsibilities and appointments:

- The Task Force shall report back to the City Council's Housing and Community Development Committee at its November 14, 2012 meeting with preferred uses for the Nathan Clifford property, as well as a list of criteria for ranking potential uses. The Task Force shall also develop recommendations for a process to review proposals; and

BE IT FURTHER ORDERED, that the following members are appointed to the Nathan Clifford Re-Use Advisory Task Force:

Caroline Paras, Chair
 Phil Collin
 Clair Cooney
 Ben Grant
 Barry Hosmer
 Chuck Lerch
 Mike Monaghan
 Dan Murphy
 Martha Shiels
 Paul Stevens
 Jennifer Wande
 F R Vance
 Greater Portland Landmarks Representative
 Portland Society of Architects Representative
 USM Representative
 HCDC Committee Liaison: Councilor Ed Suslovic; and

BE IT FURTHER ORDERED, that the Nathan Clifford Re-Use Advisory Task Force will terminate on November 14, 2012 unless its term is extended by order of the City Council.

Nathan Clifford Re-use Advisory Task Force: Charge and Work Plan

DRAFT 8-21-12 DRAFT

The Nathan Clifford Re-use Advisory Task Force (from here on referred to as the Task Force) was established on June 18, 2012 by the Portland City Council to:

- Report preferred uses for the historic school property;
- Develop criteria for ranking potential uses; and,
- Recommend a process to review proposals.

The Task Force was additionally charged with reporting their findings to the City Council's Housing and Community Development Committee at its November 14, 2012 meeting.

The membership of the Task Force includes:

Caroline Paras, Chair
 Councilor Ed Suslovic, HCDC Committee Liaison
 Phil Collin
 Clair Cooney
 Ben Grant
 Barry Hosmer
 Chuck Lerch
 Mike Monaghan
 Dan Murphy
 Martha Shiels
 Paul Stevens
 Jennifer Wande
 F.R. Vance
 Carol DeTine, Greater Portland Landmarks
 Robert Caswell, University of Southern Maine
 Leslie Buhrman, Portland Society of Architects

The process is to be staffed by the Portland Planning Division.

Planning Staff and the Task Force chair recommend the following work plan to complete the assignment within the City Council's prescribed time period.

Nathan Clifford Re-use Advisory Task Force: Work Plan and Tentative Schedule

Process Step - Meeting Date:	Tasks/Agenda:	Outcomes:
<i>Task Force Meeting</i> September 13, 2012 5:00 to 7:00. Convene in-front of the school on Falmouth Street for site walk. Reconvene in Room 627 in the Law School at 5:45 to complete items 3-6 on the meeting agenda.	<ol style="list-style-type: none"> 1. Intros – Charge to Task Force 2. Site walk 3. Presentation of site and building assessment 4. 1st thoughts on opportunities, issues and uses. 5. Work Plan and Upcoming Public Meeting 6. Assign Drafting Subcommittee 	Task Force provided with common reference points for the purpose Task Force, available information, and process moving forward.
<i>Task Force and Public Meeting</i> <i>TENTATIVE DATE</i> October 2, 2012 5:30-7:00	Public Meeting <ol style="list-style-type: none"> 1. Summarize Site and Building Assessment 2. Taskforce comments 3. Public comments on opportunities, issues and uses 	Task Force and public input on re-use of the facility informed by an understanding of its assets and liabilities.
<i>Drafting Subcommittee:</i> Oct 3-Oct 15	Draft a prioritized list of uses for discussion by the Task Force.	Discussion document for distribution to Task Force
<i>Task Force Meeting</i> <i>TENTATIVE DATE</i> October 16, 2012 5:30-7:00	<ol style="list-style-type: none"> 1. Presentation of first draft document produced by the Drafting Subcommittee. 2. Discussion and edit suggestions 	Direction on completing a final draft document for reporting at the next meeting.
<i>Drafting Subcommittee</i> Oct. 17- Nov. 7	Planning staff will circulate drafts as developed, for review and comment by the Drafting Subcommittee	Final Draft Document
<i>Task Force Meeting</i> <i>TENTATIVE DATE</i> November 8, 2012 5:30 to 7:00	<ol style="list-style-type: none"> 1. Presentation of final draft document 2. Final revisions, if needed 3. Task Force votes on recommendation of the final draft document to the City Council 4. Task Force disbands 	Final Documents for presentation to the HCDC
<i>HCDC Committee</i> November 14, 2012	Presentation of the Final Document to the HCDC by Planning Staff or Task Force Chair	Recommendation to the City Council on Task Force's findings and Final Document

Nathan Clifford Re-Use Task Force Meeting

AGENDA

September 13, 2012, 5:00 to 7:00pm.

Site walk

5:00pm Convene in front of the school at 180 Falmouth Street for site walk and building tour - requires stair climbing. (30 min)

Walk to USM Law School Building at 246 Deering Avenue

5:45pm Reconvene in Room 627 in the Law School

Agenda

1. Introductions, review the charge to Task Force (5 min)
2. Ground Rules and Process (10 min)
3. Presentation of site and building assessment (20 min)
4. 1st thoughts on opportunities, issues and uses. (20 min)
5. Work Plan and Upcoming Public Meeting (15 min)
6. Assign Drafting Subcommittee (5 min)
7. Adjourn

Background material for the process and meeting is found at:
<http://www.portlandmaine.gov/nathanclifford.htm>

**Nathan Clifford Re-Use
Public Meeting**

October 2, 2012: 5:30 pm to 7:00 pm, Room 209, City Hall

Agenda:

- | | | |
|----|--|------------------|
| 1. | Welcome and Introduction of the Task Force
Caroline Paras, Chair | 5:30 pm
5 min |
| 2. | Process Goals and Charge to the Task Force
Bill Needelman, Senior Planner | 5 min |
| 3. | Review agenda and introduce process methods – “clicker voting”
Caroline Paras, Chair | 5 min |
| 3. | Building Conditions and Context
Bill Needelman, Senior Planner | 10 min |
| 4. | Potential Re-Use Options: Housing? Education? Commercial? Community?
Mixed Use? <i>Public is asked to confirm and/or contribute to this list.</i> | 10 min |
| 5. | Break: <i>Voting “Clickers” distributed</i> | 10 min |
| 6. | Potential Re-Use Survey with Voting and Instant Results.
Caroline Paras, Chair | 20 min |
| 7. | Public Comment on process and re-use voting results. | 20 min |
| 8. | Next Steps | 5 min |
| 9. | Adjourn | 7:00 pm |

Nathan Clifford Re-Use Advisory Task Force

October 16, 2012

5:30 to 7:00, City Council Chambers, City Hall

Meeting Agenda

1. Welcome and Introductions 5 min
2. Public Meeting Results and Recap:
 - Polling results; 10 min
 - Public comment summary; 5 min
 - Discussion point – Has the process to date generated sufficient information for the Task Force to complete the charge? 10 min
3. Recommendations – Working document from the Drafting Subcommittee:
 - Overview 10 min
 - Discussion and feedback to Drafting Subcommittee 45 min
4. Next Steps 5 min
5. Adjourn 7:00pm

Nathan Clifford Re-Use Task Force Meeting

AGENDA

November 8, 2012, 5:30 to 7:00pm.

Agenda

1. Report of the Recommendations of the Drafting Subcommittee (10 min)
2. Discussion on final edits to the Recommendations Document (40 min)
3. Presentation and discussion on the Executive Summary (15 min)
4. Motion to endorse the Recommendations: Discussion and vote (15 min)
Completes the Task Force Charge
5. Next steps: HCDC, Timeline (5 min)
6. Feedback on process (5 min)
7. Adjourn

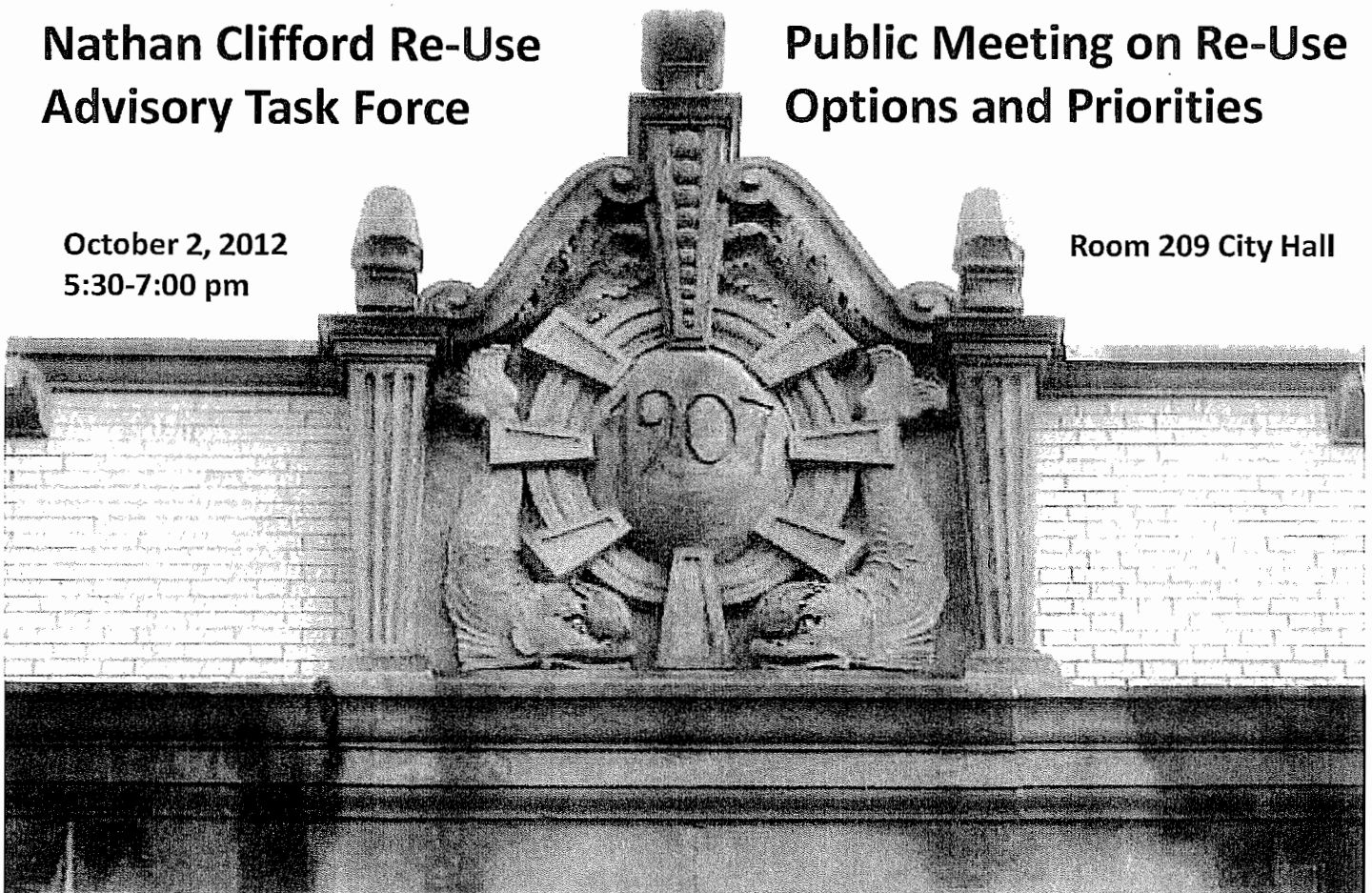
Background material for the process and meeting is found at:
<http://www.portlandmaine.gov/nathanclifford.htm>

Nathan Clifford Re-Use Advisory Task Force

Public Meeting on Re-Use Options and Priorities

**October 2, 2012
5:30-7:00 pm**

Room 209 City Hall



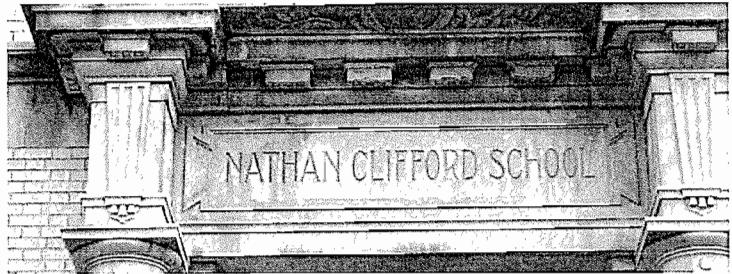
Agenda

1. Welcome and Introductions
2. Review agenda
3. Charge to the Task Force
4. Neighborhood Profile with voting demonstration
5. Building Conditions and Context
6. Potential Re-Use Options: Housing? Education? Commercial? Community? Mixed Use?
7. Break
8. Potential Re-Use Survey with Voting and Instant Results.
9. Public Comment on process and re-use voting results.
10. Next Steps
11. Adjourn



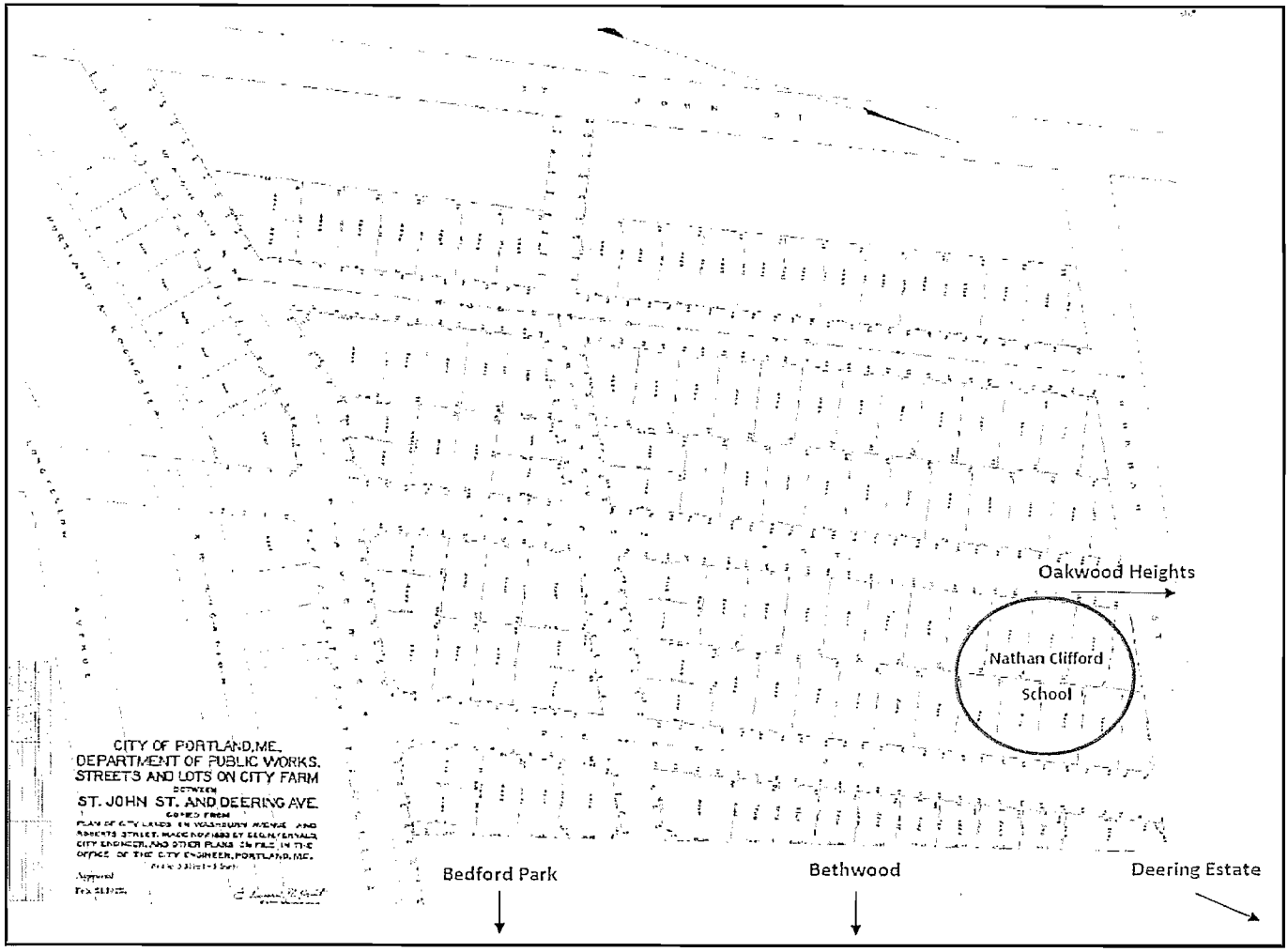
Charge to Task Force:

Adopted by the
City Council on June 18, 2012



**The Task Force shall report back to the City Council's
Housing and Community Development Committee at its
November 14, 2012 meeting with:**

- **Preferred uses for the Nathan Clifford property,**
- **List of criteria for ranking potential uses**
- **Recommendations for a process to review proposals**



Profile of Oakdale

3,415 residents

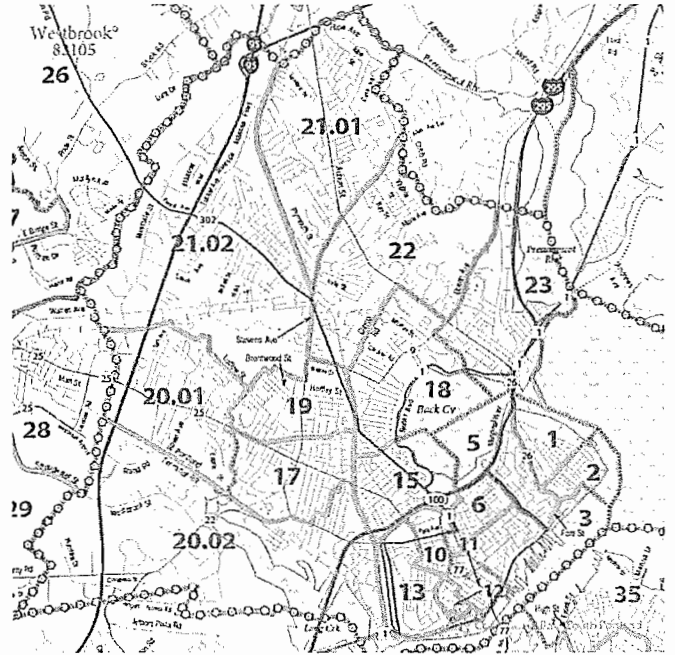
- -30% Children under 18
- -30% Seniors 65 and over

1,715 households

- 70% renters
- 42% single people living alone

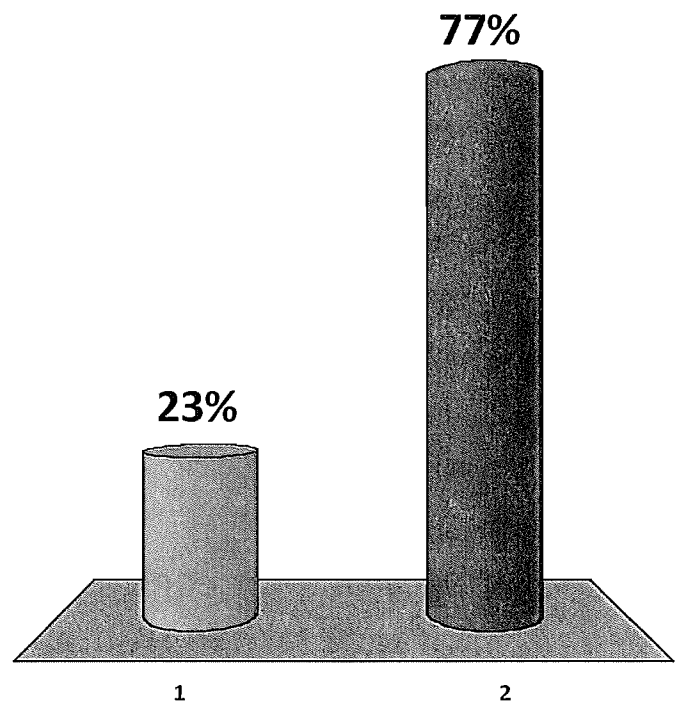
1,826 housing units

- 69% multi-family
- 0% vacancy rate for condos and single family homes
- 11.4% vacancy rate for rental units



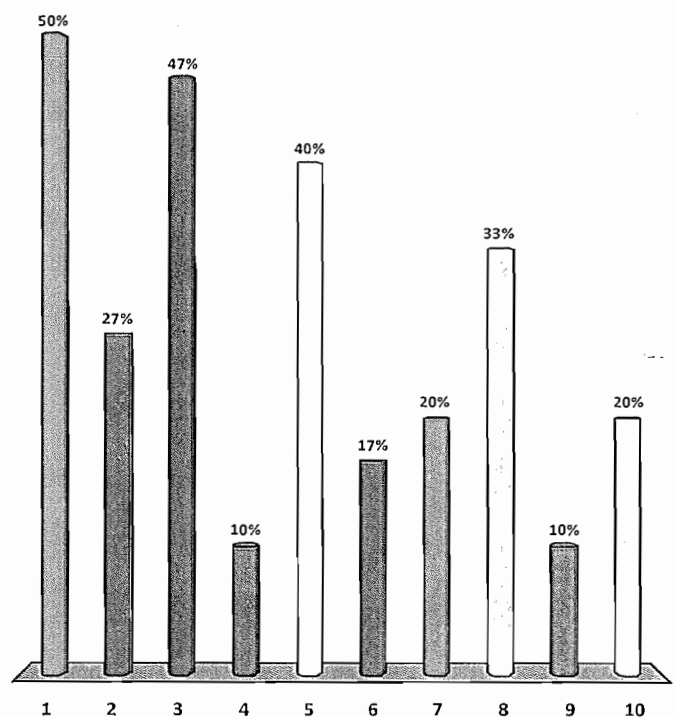
Did you or your children attend the Nathan Clifford School?

1. Yes
2. No



What do you like most about the Oakdale neighborhood? Choose up to three.

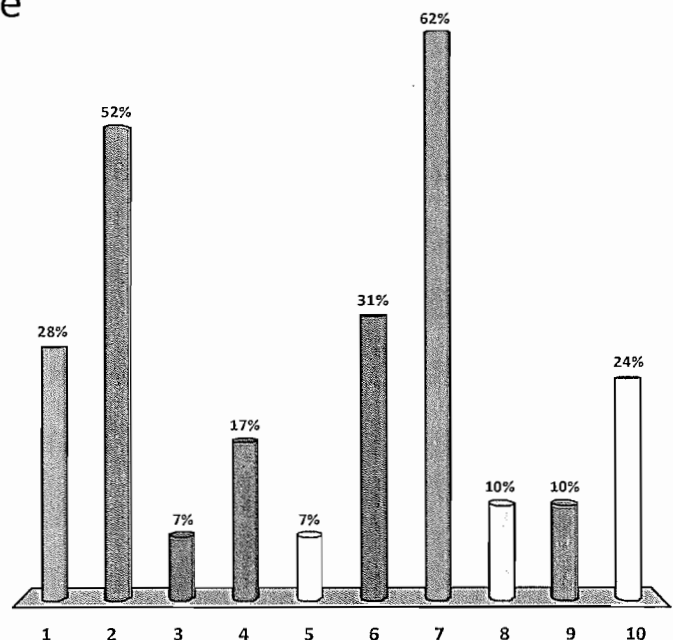
1. Charming streetscape
2. Quality housing stock
3. Close to downtown
4. Close to stores and services
5. Safe and clean streets
6. I know all my neighbors
7. Proximity to recreation options
8. University of Southern Maine
9. Farmer's Market
10. Access to I-295 & rail/bus options



What do you like least about Oakdale?

Choose up to three.

1. Heavy traffic
2. No neighborhood gathering place
3. Too far from downtown
4. Housing is too expensive
5. Not easy to walk/bike
6. Not enough open space
7. The BIG 6-leg intersection
8. Distance to Ocean Ave school
9. Too much noise and crime
10. Lack of culture & nightlife



Map produced by the City of Portland Planning Division from year 2006 aerial photo and year 2012 GIS Program data. For use by the Nathan Clifford Re-Use Task Force for orientation and discussion purposes only. July 2012.



Nathan Clifford School Re-Use

School Site and Immediate Neighborhood Context

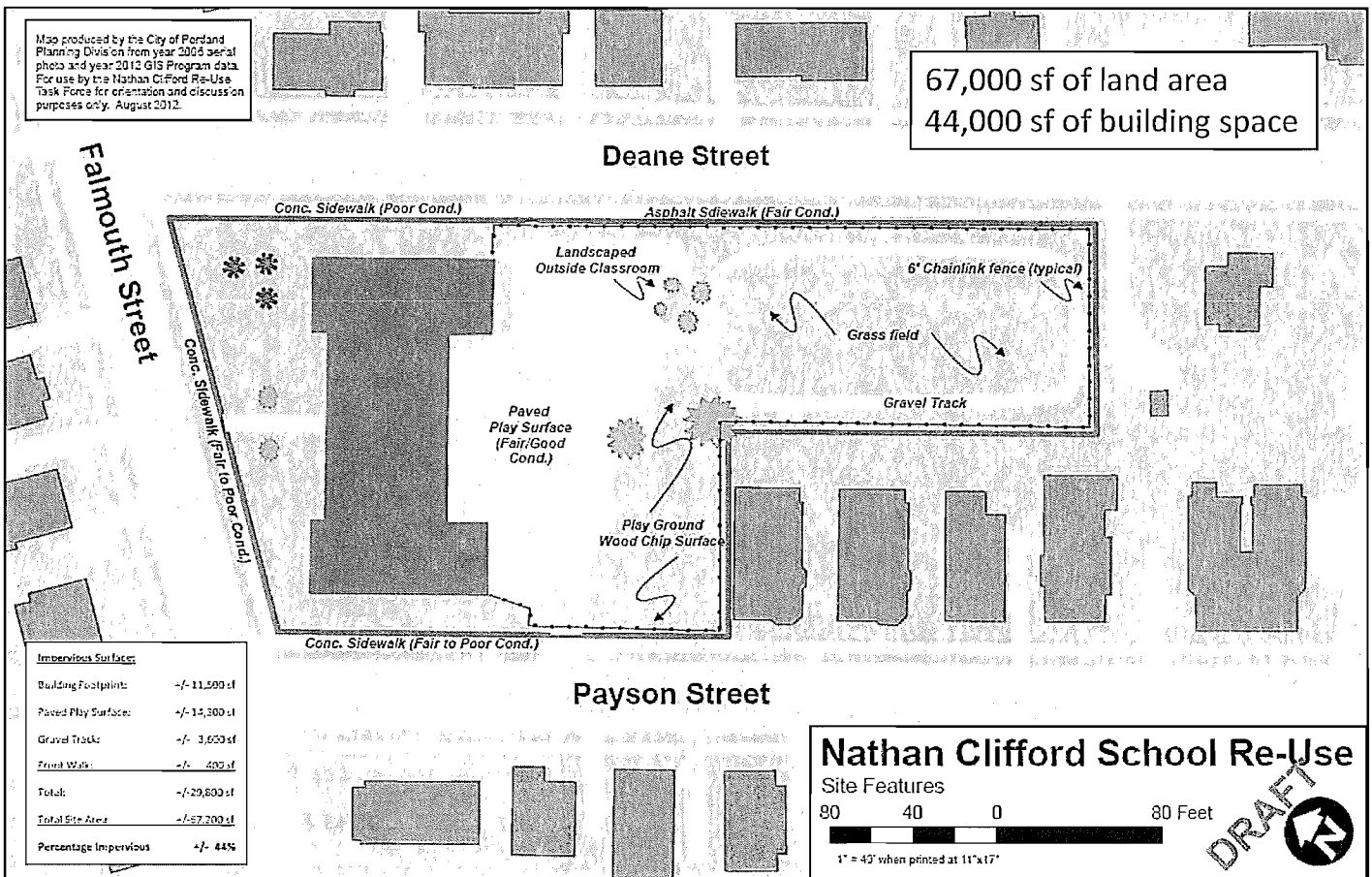
100 50 0 100 Feet

1" = 50' when printed at 11"x17"



Map produced by the City of Portland Planning Division from year 2006 aerial photo and year 2012 GIS Program data. For use by the Nathan Clifford Re-Use Task Force for orientation and discussion purposes only. August 2012.

67,000 sf of land area
44,000 sf of building space



Impervious Surface:	
Building Footprint:	+/- 11,500 sf
Paved Play Surface:	+/- 14,300 sf
Gravel Track:	+/- 3,650 sf
Grass Field:	+/- 400 sf
Total:	+/- 29,850 sf
Total Site Area:	+/- 67,200 sf
Percentage Impervious:	+/- 44%

Nathan Clifford School Re-Use

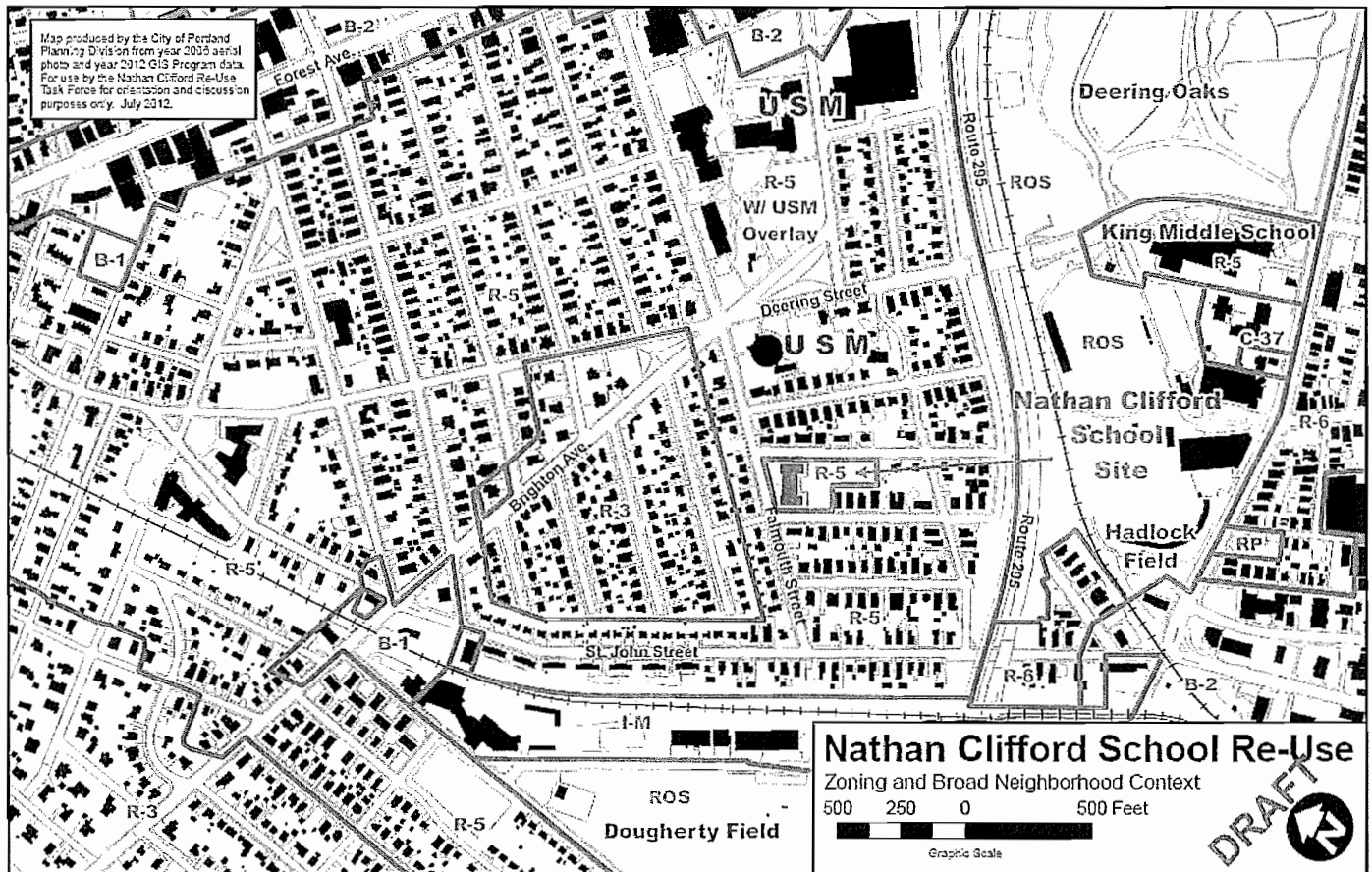
Site Features

80 40 0 80 Feet

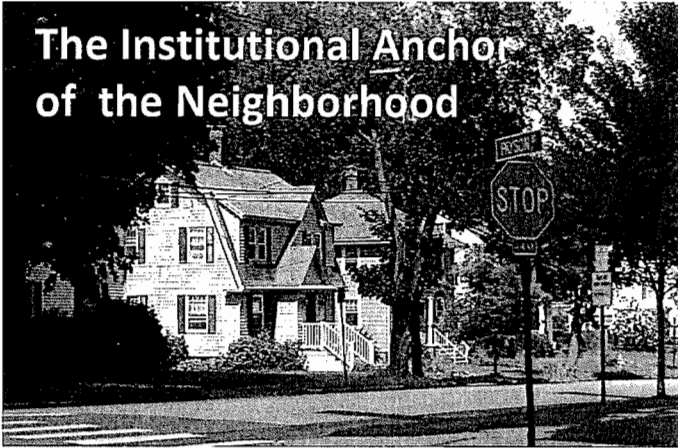
1" = 40' when printed at 11"x17"



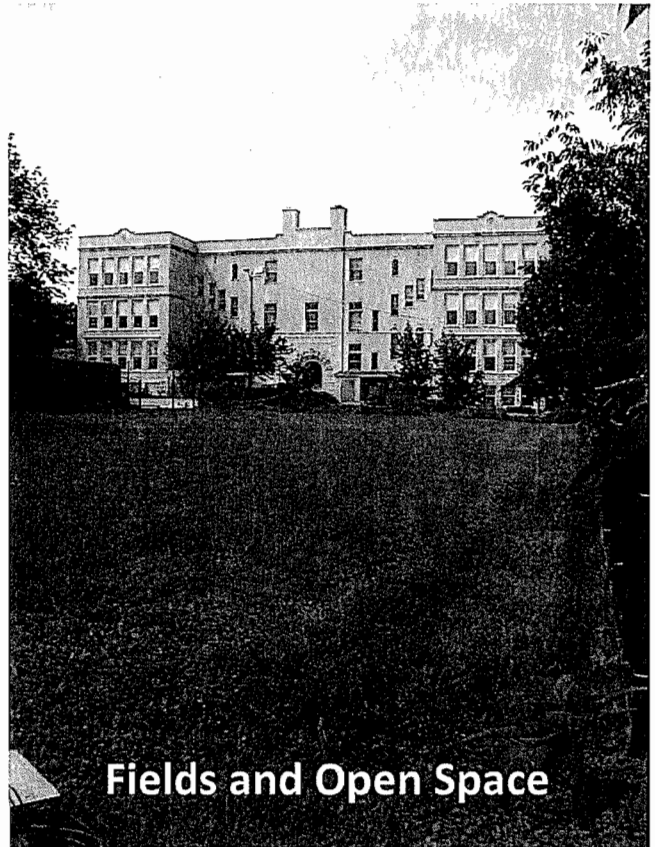
Map produced by the City of Portland Planning Division from year 2000 aerial photo and year 2012 GIS Program data. For use by the Nathan Clifford Re-Use Task Force for orientation and discussion purposes only. July 2012.



**The Institutional Anchor
of the Neighborhood**



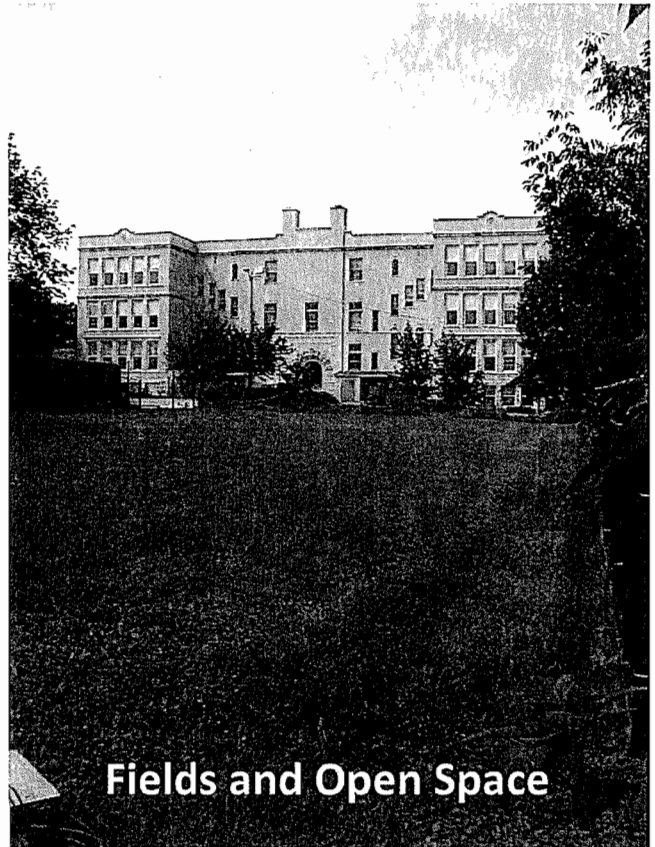
Neighborhood Asset



Play Ground, Snow Ban Parking

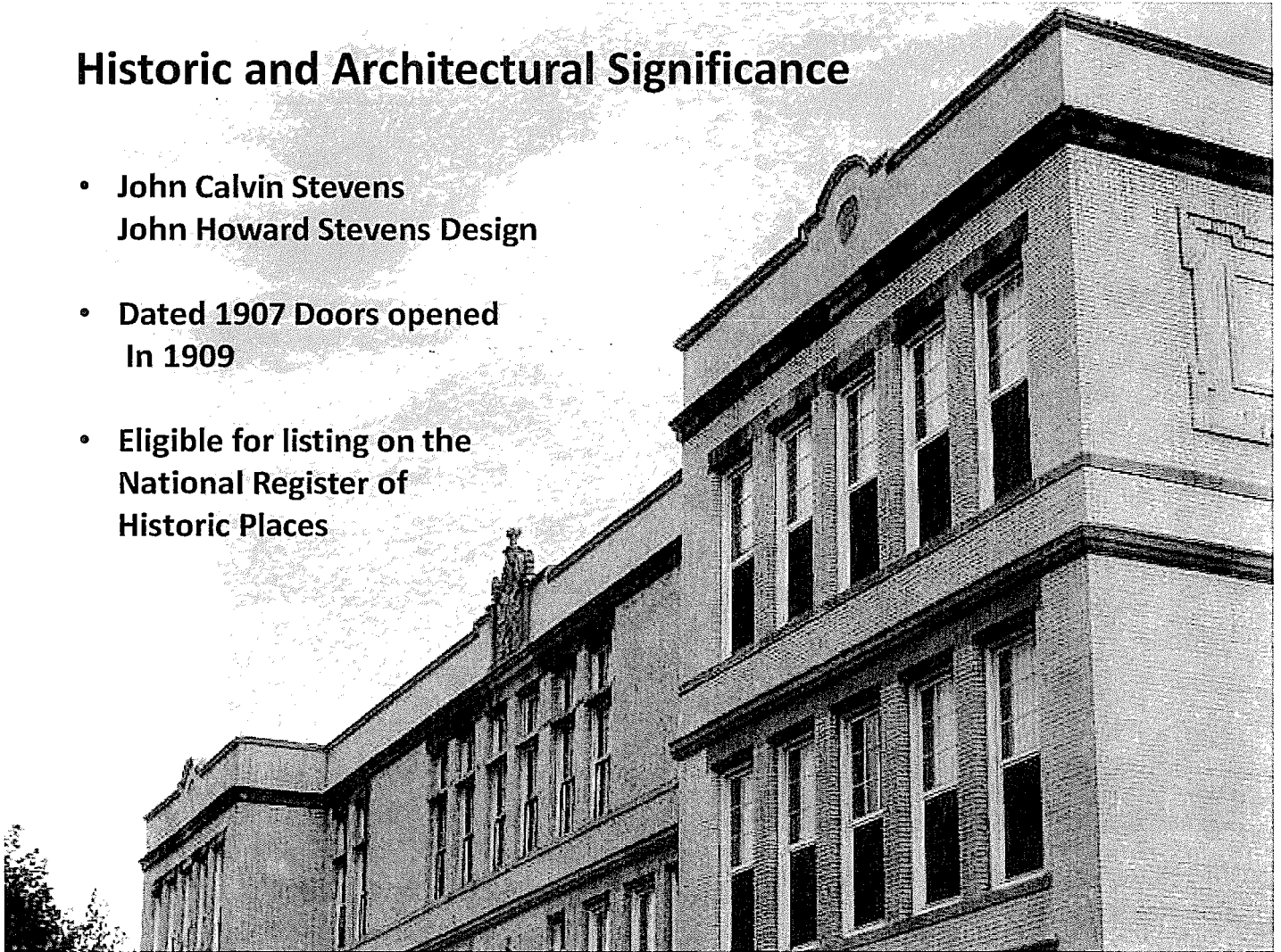


Fields and Open Space

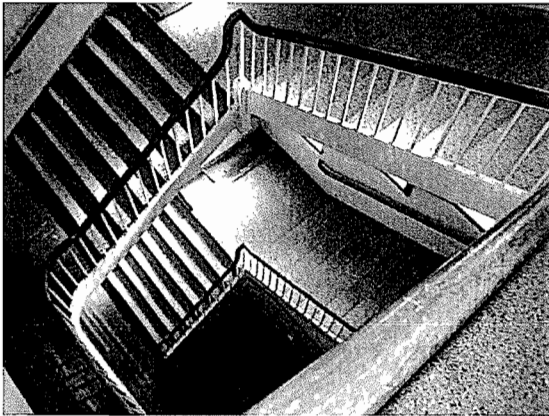


Historic and Architectural Significance

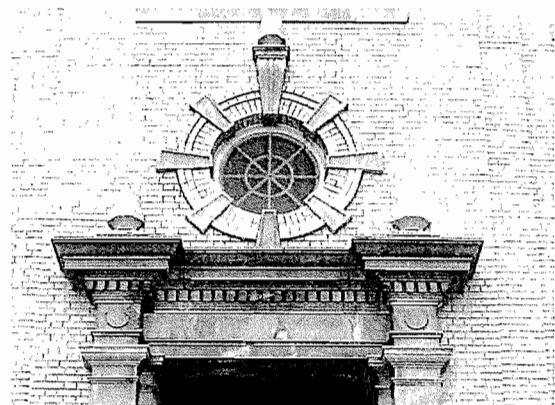
- John Calvin Stevens
John Howard Stevens Design
- Dated 1907 Doors opened
In 1909
- Eligible for listing on the
National Register of
Historic Places



Building Features



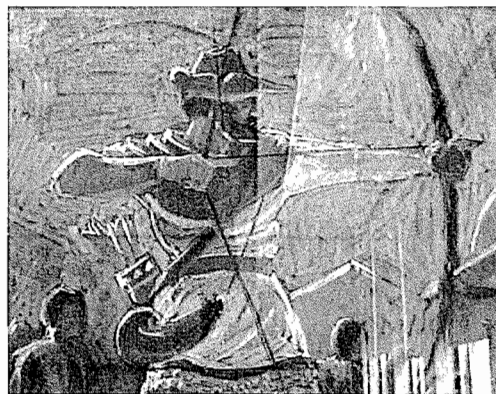
2 Open steel and terrazzo stairwells



Dean Street entrance detail

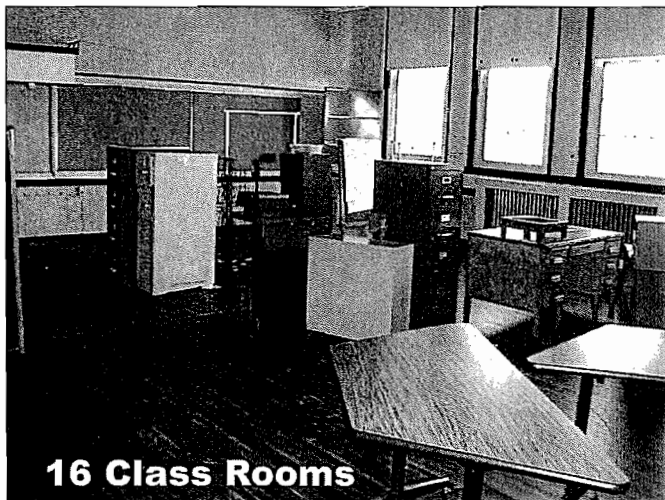
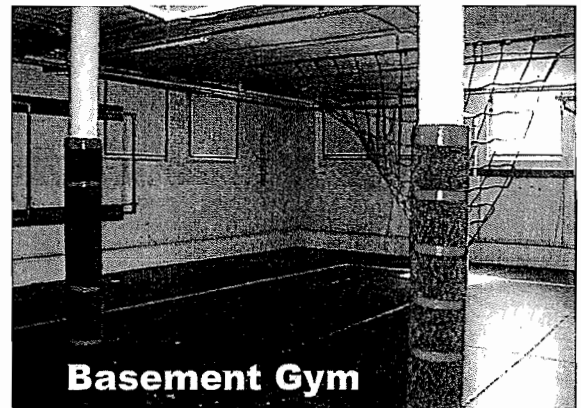
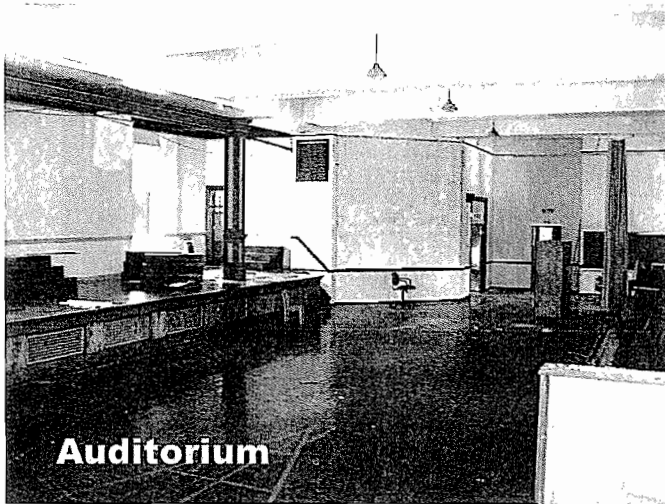


**Fire Places in Principal's Office and
Teacher's Room**

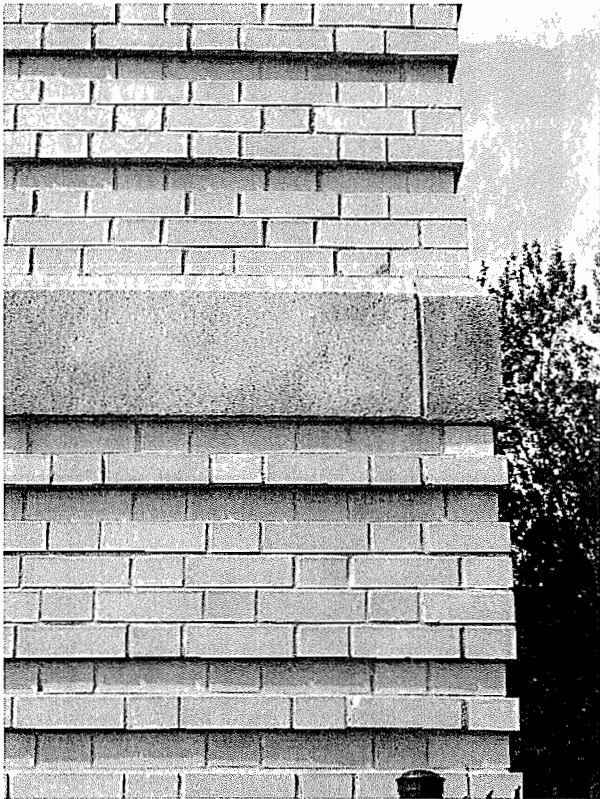


2nd Floor Chalk Mural

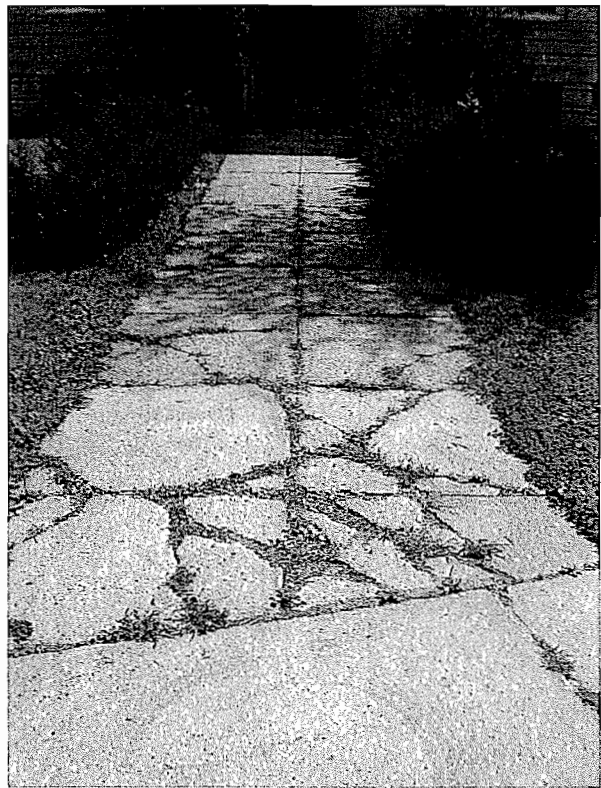
Interior Spaces



Conditions and Environmental Challenges

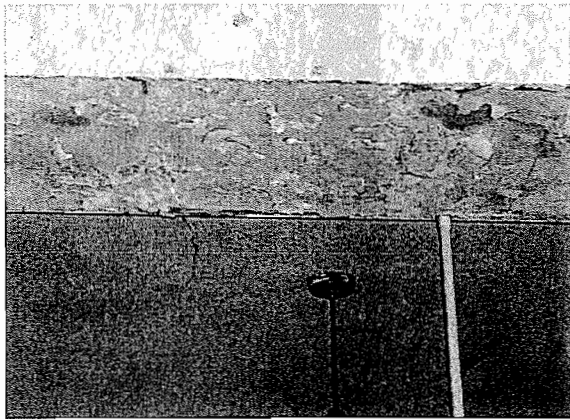


Porous Masonry

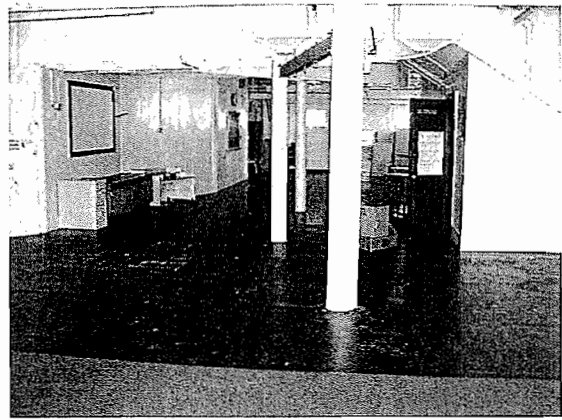


Degraded sidewalks

Conditions and Environmental Challenges



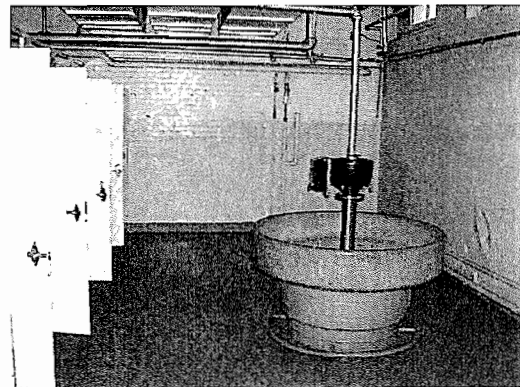
Water Damage and Failed Roof



Asbestos: flooring, pipes, plaster



Lead Paint



Outdated Systems and Accessibility

Zoning: Current Regulation on Use

R-5, Residential Zoning

Permitted Uses

- Single and lower density Multi-family Dwellings are the dominant uses allowed
- Parks and Open Space

Conditional Uses

- Multi-family Dwellings in existing buildings

(22 units would be allowed in the existing Nathan Clifford School using all the available land)

- “Places of assembly” (places of worship, community halls...)
- Schools and colleges
- Smaller daycare facilities



Current Zoning is potentially Subject to Change with Council Action

Potential Re-Uses

- **Residential**
- **Educational**
- **Community**
- **Commercial**
- **Mixed Use**

Residential



Residential

1. Affordable condominiums
2. Market rate condominiums
3. Affordable apartments
4. Market rate apartments
5. Student dormitories
6. Senior housing
7. Special Needs

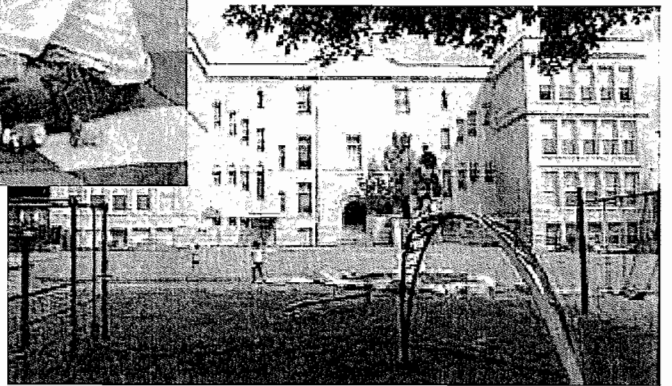
Educational



Educational

1. Pre-Kindergarten
2. Private or charter school
3. Teachers' Academy
4. Adult Education
5. Senior College

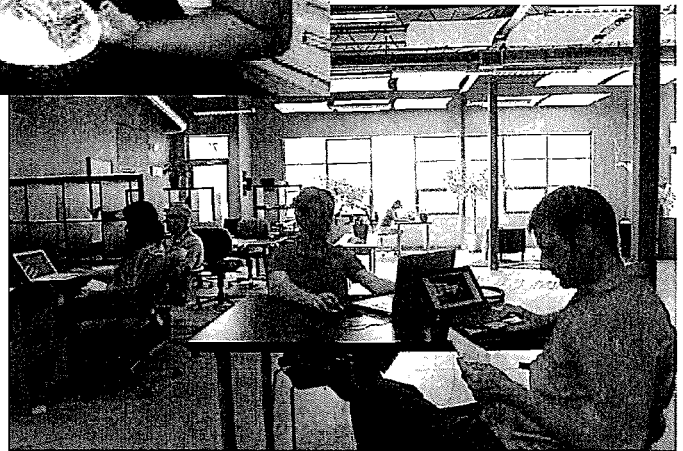
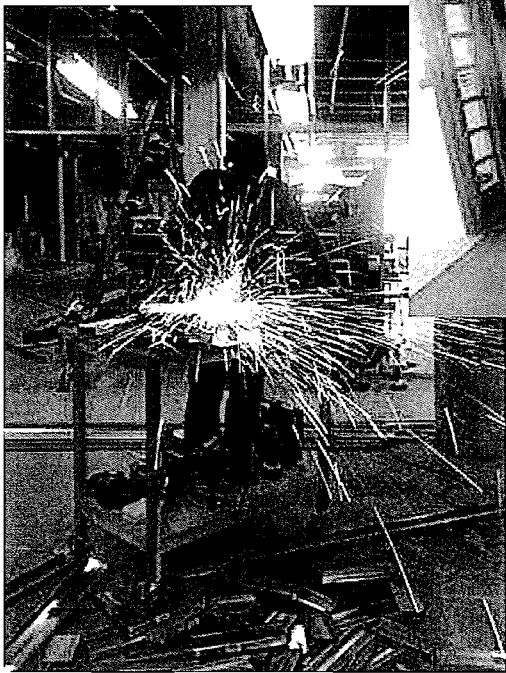
Community



Community

1. Open space
2. Snow ban parking
3. Child care
4. Meeting space
5. Winter farmer's market

Commercial



Commercial

1. Retail
2. Restaurant
3. Corporate office – single user
4. Professional Offices
5. Artist Studios
6. Medical
7. Hotel

Mixed Use

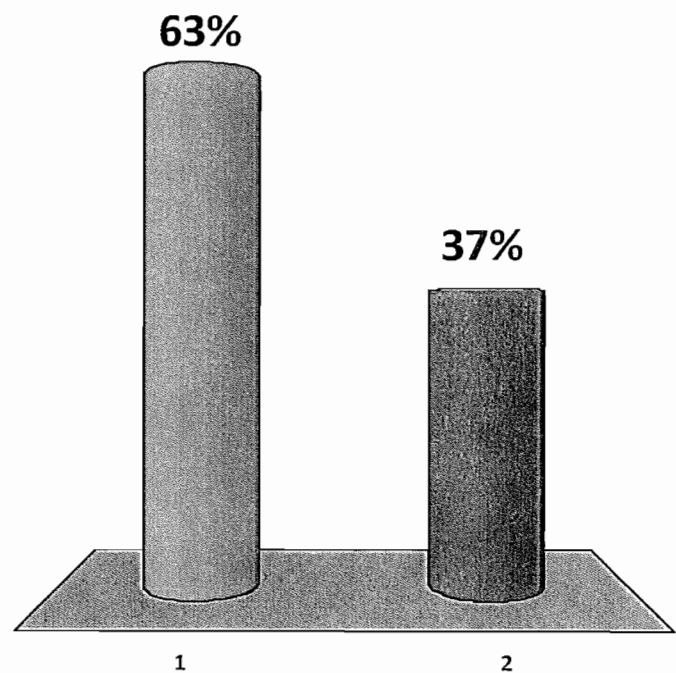


Mixed Use

1. Residential
2. Educational
3. Community
4. Commercial

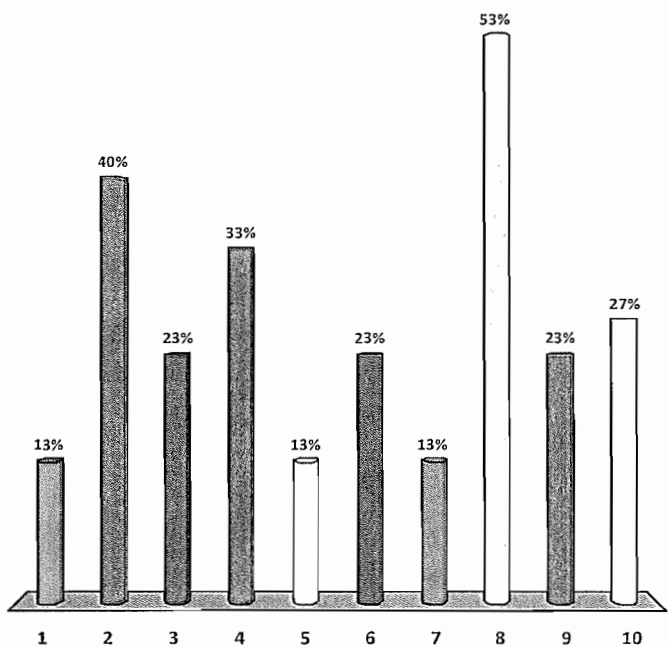
Do you favor residential reuse of the Nathan Clifford School?

1. Yes
2. No



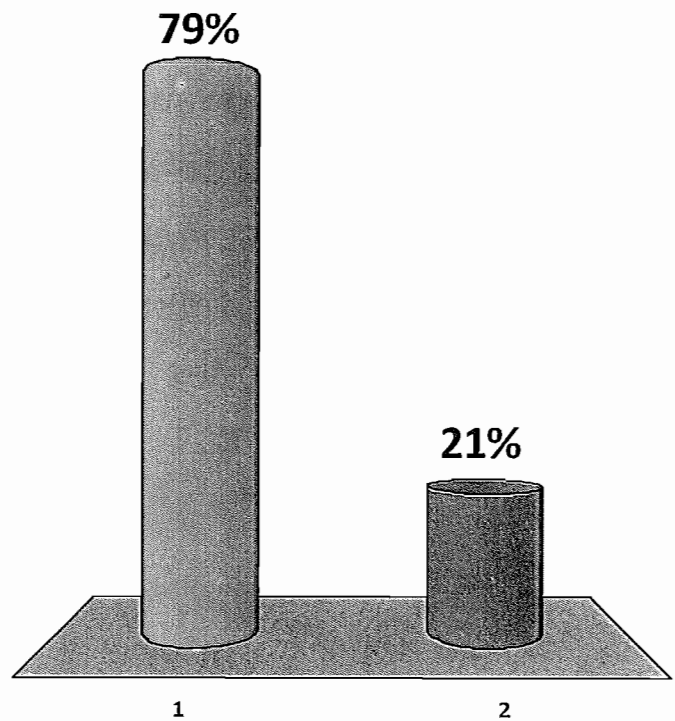
What types of housing do you support? Choose up to three.

1. Affordable condominiums
2. Market rate condominiums
3. Affordable apartments
4. Market rate apartments
5. Student dormitories
6. Senior housing
7. Special Needs
8. Artists Live/Work
9. Mixed housing
10. Cooperative housing



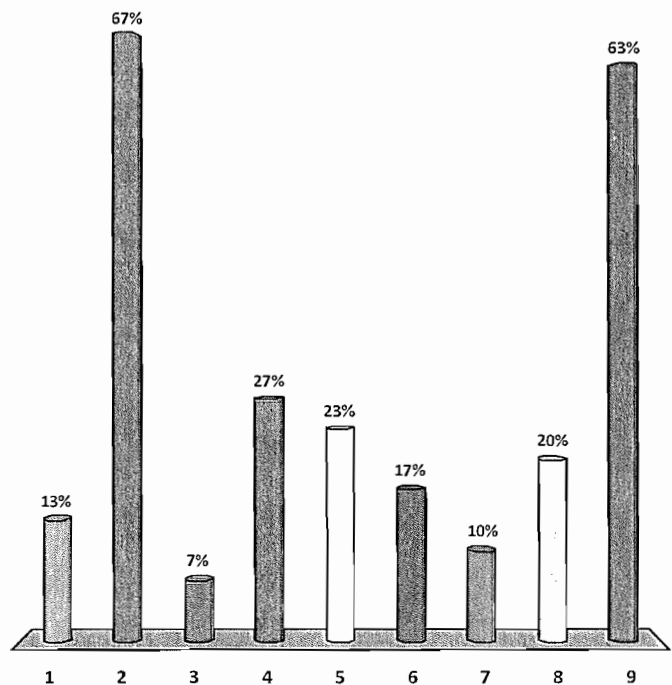
Do you favor educational reuse of the Nathan Clifford School?

1. Yes
2. No



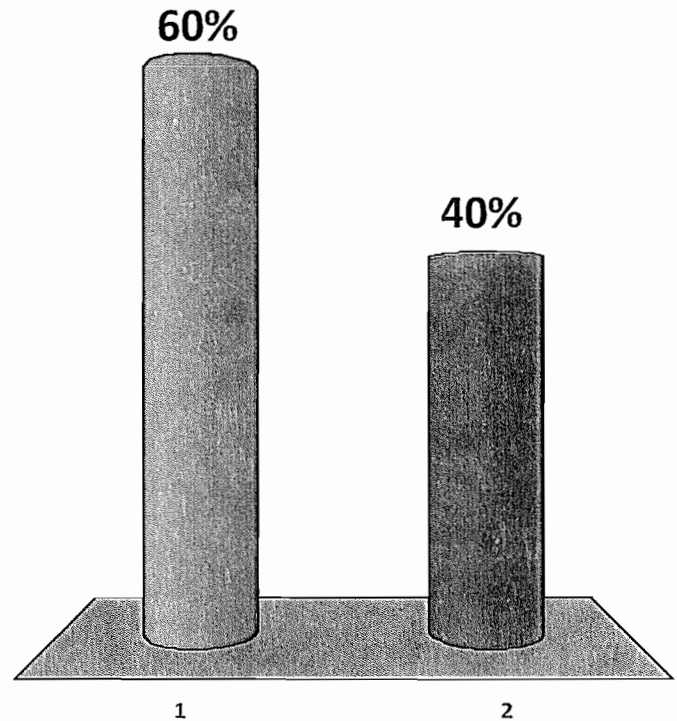
What types of educational uses do you support? Choose up to three.

1. Pre-Kindergarten
2. Private or charter school
3. Teachers' Academy
4. Adult Education
5. Trade School
6. University
7. Senior College
8. Community "Free" School
9. Research institute



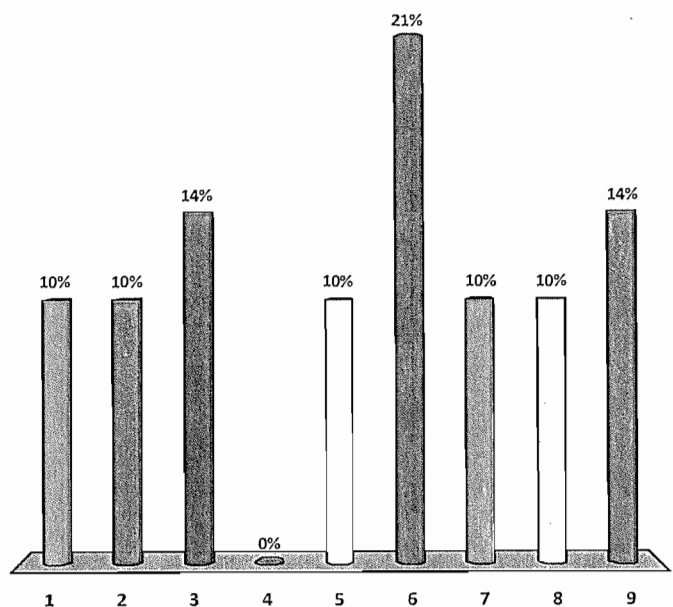
Do you favor community reuse of the Nathan Clifford School?

1. Yes
2. No



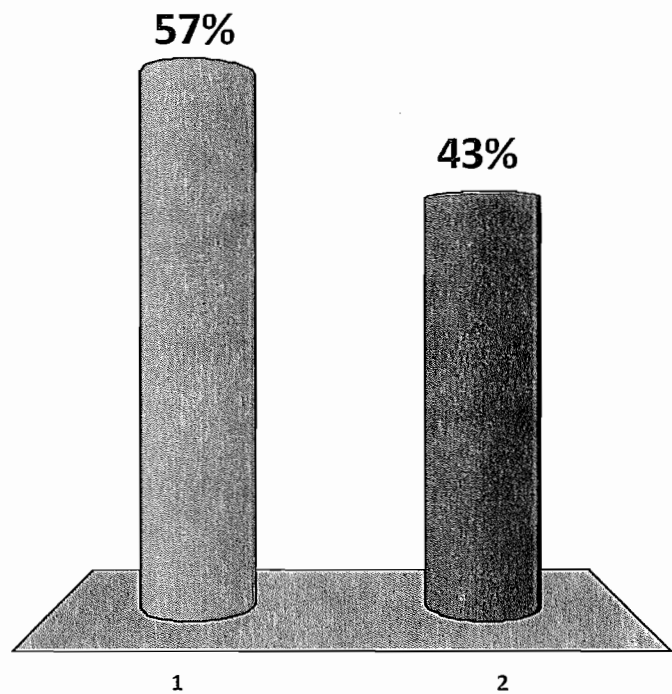
What types of community use do you support? Choose up to three.

1. Open space
2. Snow ban parking
3. Child care
4. Meeting space
5. Winter farmer's market
6. Community garden
7. Community Hall/Performance Space
8. Youth Center
9. Library



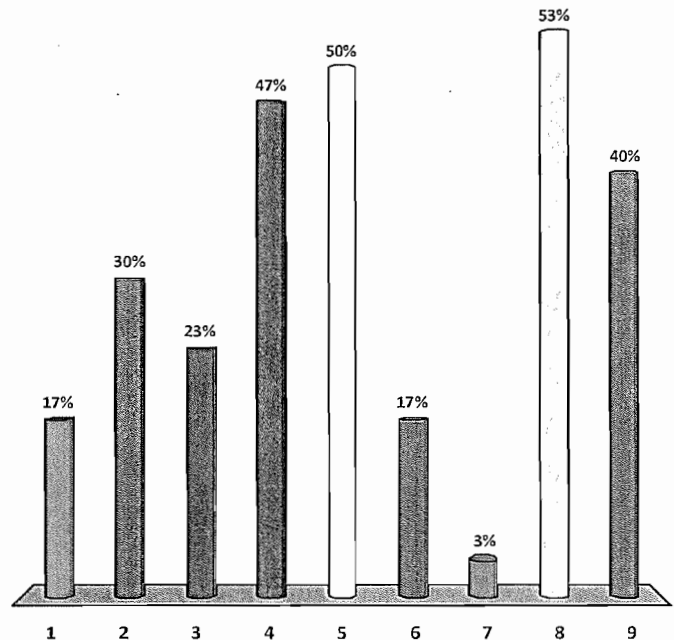
Do you favor commercial reuse of the Nathan Clifford School?

1. Yes
2. No



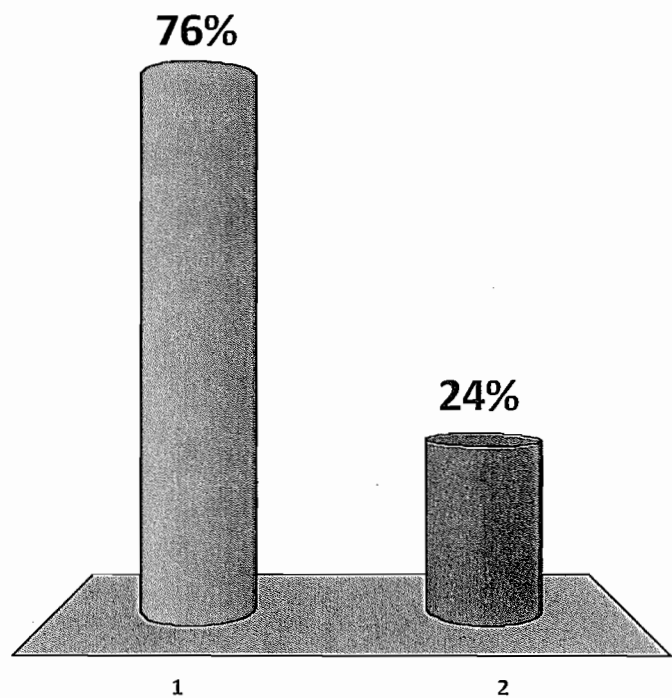
What types of commercial uses do you support? Choose up to three.

1. Retail
2. Restaurant/Cafe
3. Corporate office – single user
4. Professional Offices
5. Artist Studios
6. Medical
7. Hotel
8. Research institute
9. High tech incubator



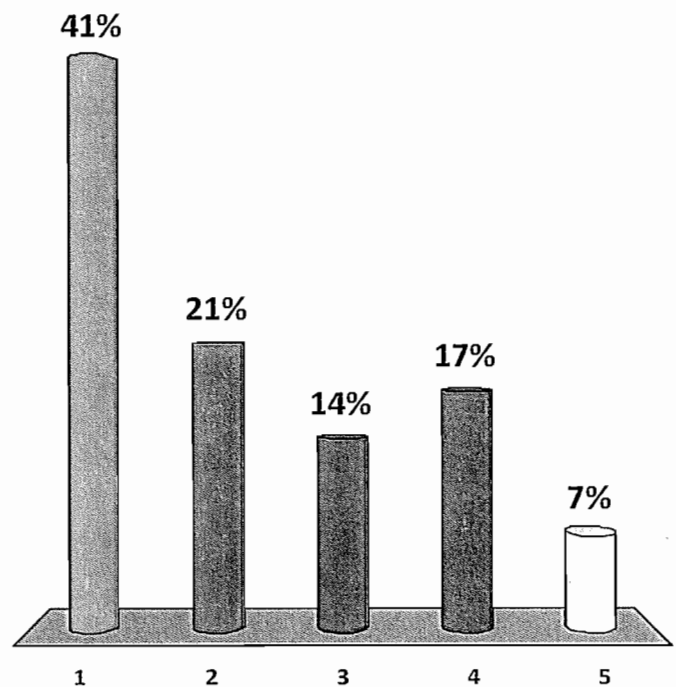
Do you favor mixed uses at the Nathan Clifford School?

1. Yes
2. No



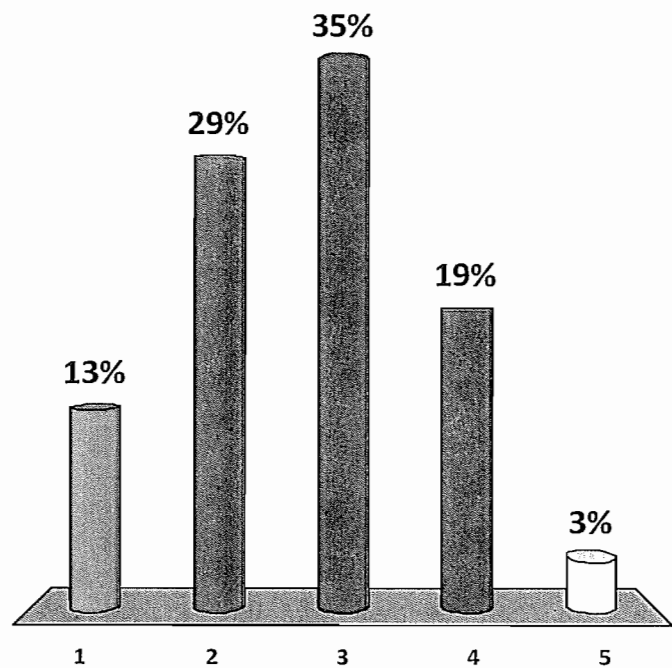
In a mixed use building, what would you prefer to see as the dominant use?

1. Residential
2. Educational
3. Community
4. Commercial
5. No preference



In a mixed use building, what would you prefer to see as the secondary use?

1. Residential
2. Educational
3. Community
4. Commercial
5. No preference



Public Meeting

On the future of the

Nathan Clifford School

What's Next?

Housing?

Education?

Commercial?

Community?

Mixed Use?

The Nathan Clifford Re-Use Advisory Task Force invites the public to hear concepts, provide input, and help prioritize ideas for the future use of the historic school

What: **Public Meeting:**
 Re-Use of Nathan Clifford School and Grounds

When: **October 2, 2012, 5:30 pm to 7:00 pm**

Where: **City Hall, Room 209, 2nd floor**

Questions and comments regarding the re-use of the Nathan Clifford School can be forwarded to Bill Needelman, Senior Planner at (207)874-8722 or emailed to wbm@portlandmaine.gov. Information is available at:
<http://www.portlandmaine.gov/nathanclifford.htm>

***** NOTICE *****

of
Public Meeting

**Nathan Clifford School Re-Use Forum:
A Public Meeting on the Future Use of the Building and Grounds**

The City of Portland and the Nathan Clifford Re-Use Advisory Task Force invite the public to provide input on the future of the Nathan Clifford School at 180 Falmouth Street.

The school has been declared surplus by the Portland Public Schools and is currently vacant. The Task Force was created by the City Council to recommend preferred uses for the Nathan Clifford property in anticipation of prioritizing future proposals for the re-use and/or redevelopment of the school and grounds. As part of their work, the Task Force seeks the opinions and insights from neighbors, former students and teachers, preservationists, real estate professionals, and anyone interested in the future of the historic property.

At the Public Meeting, City of Portland staff and Task Force members will present information on the current condition of the building as well as ideas for re-use that have been discussed.

The Public will be invited to provide additional ideas and will be asked to prioritize uses for the City Council's consideration.

Results from the Public Forum and the Task Force's recommendation will be reported to the City Council's Housing and Community Development Committee at a future meeting.

Questions and comments regarding the re-use of the Nathan Clifford School can be forwarded to Bill Needelman, Senior Planner at (207)874-8722 or emailed to wbn@portlandmaine.gov.

Background material for the process and meeting is found at:
<http://www.portlandmaine.gov/nathanclifford.htm>

What: Nathan Clifford School Re-Use Public Meeting

When: October 2, 2012, 5:30pm to 7:00pm

Where: City Hall, Room 209, 2nd floor

GPCOG THE GREATER PORTLAND COUNCIL OF GOVERNMENTS68 Marginal Way, 4th Floor ♦ Portland, Maine 04101 ♦ Telephone (207) 774-9891 ♦ Fax (207) 774-7149**MEMO**

Date: September 10, 2012
To: Bill Needelman, Senior Planner, City of Portland
From: Caroline Paras, Economic and Community Planner,
Greater Portland Council of Governments
Re: Nathan Clifford School: Neighborhood Profile

The purpose of this memo is to provide a historic and demographic snapshot of the Oakdale neighborhood for the Nathan Clifford Re-Use Task Force. Further detail and analysis can be generated on specific topics depending on the interests of the committee.

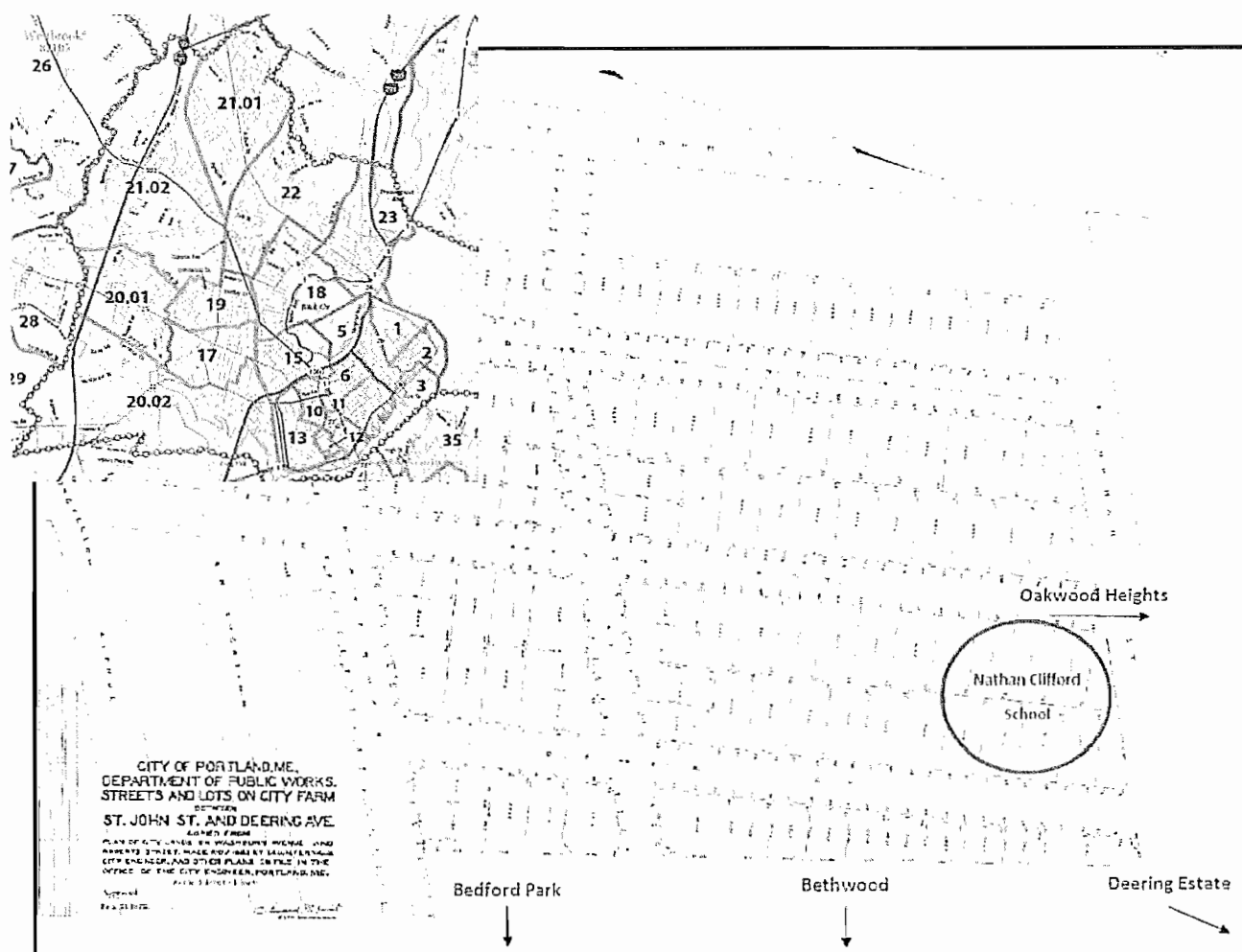
Evolution of the Neighborhood

At the turn of the 20th century, Portland was flush with the élan of a modern metropolis. Following the annexation of the Town of Deering in 1899, the city's population soared past the 50,000 mark. As Canada's winter port, the city looked forward to the construction of two grain elevators on the waterfront to store wheat bound for Europe. As the gateway to Maine, Portland boasted 65 trains daily plus international steamship service. An extensive network of trolleys enabled upper and middle families to move off the crowded peninsula.

No single project expresses the vitality of a city quite like the construction of a new school. From 1900 to 1910, Portland's school age population increased 14%, from 8,307 students to 9,482. Despite the presence of 37 schools, overcrowding was common, especially at the West, Winslow, Oakdale, and Butler schools. To accommodate the overflow, the district rented out tenement houses to serve as places of instruction.

The City was also faced with redundant assets. With two almshouses, one in both Deering and Portland, the City began to scout for a new location as well as to dispose of land adjacent to the City Farm. In 1893, the City carved out 121 lots on the City Farm, which encompassed 17 acres between Deane, Durham, Washburn, and St. John streets. These sold quickly, returning municipal property back to the tax rolls. Other subdivisions followed, including 176 lots on the Deering Estate, 27 lots in Bethwood, 45 lots in Bedford Park, and 121 lots in Oakwood Heights. These developments fielded a sizable neighborhood of families, now called Oakdale. Oakdale is part of Census Tract 15 in Portland.

In 1906, a cornerstone was laid for a new school on Durham Street, now present day Falmouth Street. The school would take three years to complete. On April 1, 1909, the Nathan Clifford School opened with 201 students in grades 1-9. Enrollment increased to 378 the following year. Students were transferred from Oakdale and Winslow, which lead to the immediate closure of those schools.



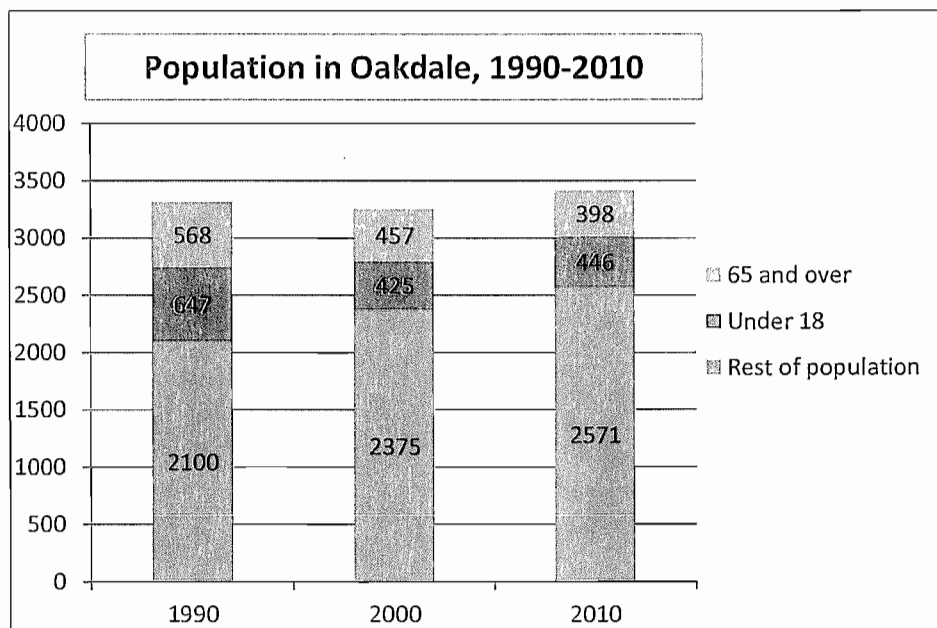
The school was named after Portland's own Nathan Clifford (1803-1881), who served as U.S. Supreme Court Justice from 1858 to 1880 as well as Maine House Speaker, Maine Attorney General, U.S. Congressman, and U.S. Attorney General. The Justice's grandson, also named Nathan Clifford, presided as mayor of Portland in 1906 when the school's construction began.

Designed by renowned architect John Calvin Stevens and his son, John Howard Stevens, the Nathan Clifford School is a three-story building constructed of buff brick at a cost of \$135,057. The building, which totals 44,288 square feet, contains 16 classrooms laid out in an H-shape, with one classroom anchoring each corner of the structure. On February 24, 2010, the school was deemed eligible for nomination on the National Register of Historic Places by the Maine Historic Preservation Commission. Due to funding constraints, a full application to the National Register has not been submitted.

Demographic Snapshot

Population. Oakdale is contained within Census Tract 15 in Portland. The neighborhood is home to 3,415 residents, or 5% of the City's population, an increase of 158 people since 2000. Over the last 20 years, the population of children under 18 has dropped by over 30%. The number of seniors age 65 and over has seen a similar decline, plummeting 30% from 568 in 1990 to 398 in 2010. Since 2000, several age cohort groups have shown significant gains:

- 5-9 Age Group: +26%
- 20-24 Age Group: +38%
- 55-59 Age Group: +85%
- 60-64 Age Group: +38%



Source: 1990, 2000 and 2010 U.S. Census

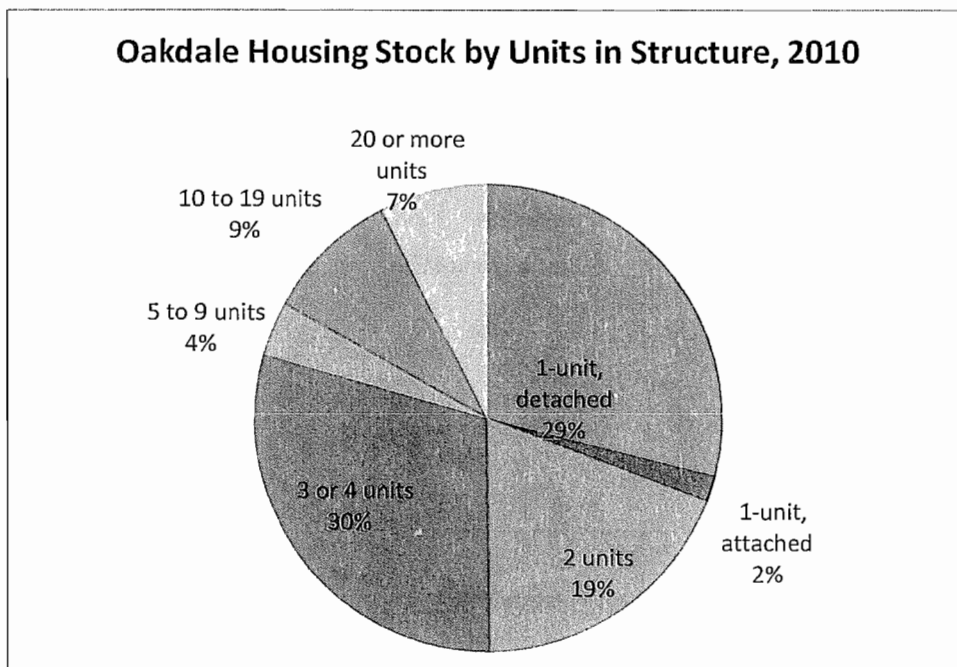
Households. Oakdale is home to 1,715 households. Individuals living alone comprise the largest segment of the population – 42% of all households. Married couples without children comprise the second largest, 14%, a decline of 13% since 2000. There are 284 households with children under 18 years of age: 59% are headed by married couples, and 25%, by single mothers. There are 337 households comprised of individuals age 65 and over, an increase of 23% since 2000. The vast majority of seniors, 69%, live alone.

Oakdale Households by Type – 2000-2010

Households by Type	2000	2010	Change	Percent
Households	1,620	1,715	95	6%
Families	634	593	-41	-6%
With own children under 18 years	266	269	3	1%
Married-couple family	466	405	-61	-13%
With own children under 18 years	168	168	0	0%
Female householder, no husband present	134	127	-7	-5%
With own children under 18 years	78	70	-8	-10%
Nonfamily households	986	1,122	136	14%
Householder living alone	672	715	43	6%
Householder 65 years and over	153	234	81	53%
Households with individuals under 18 years	282	284	2	1%
Households with individuals 65 years & over	275	337	62	23%
Average household size	1.93	1.99	0.1	3%
Average family size	2.67	2.72	0.1	2%

Source: 2000 and 2010 U.S. Census

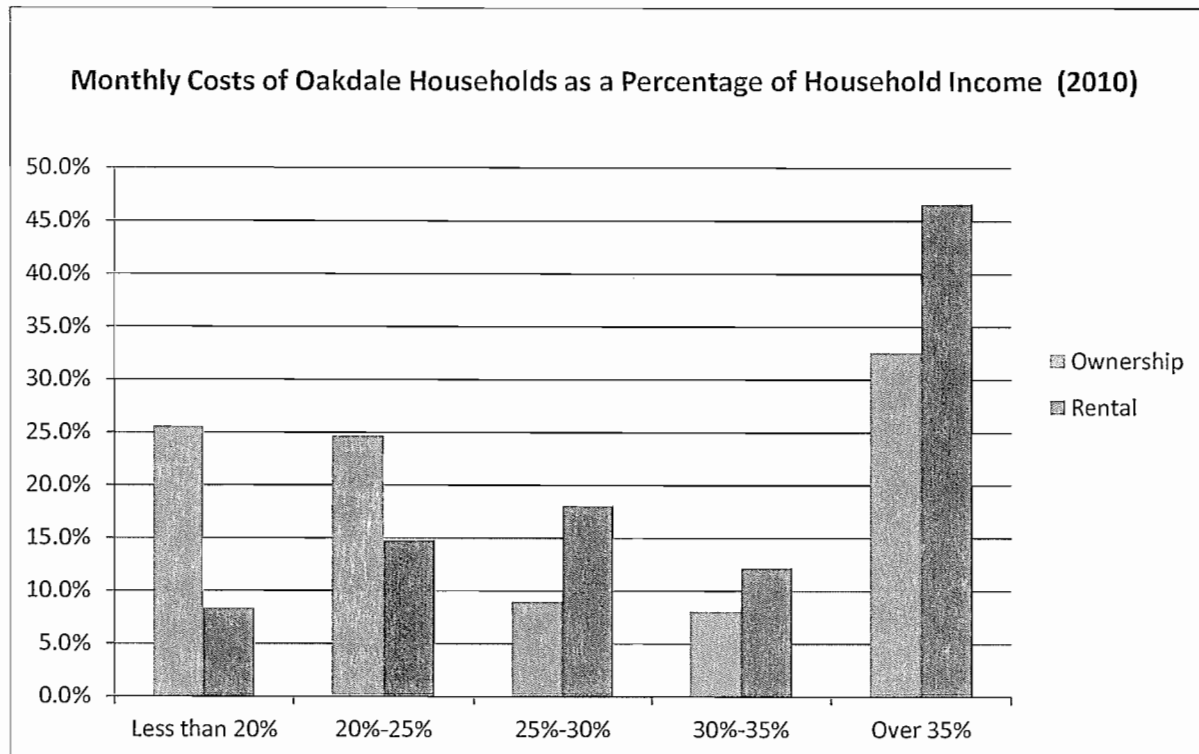
Housing Units. There are 1,826 housing units in Oakdale, an increase of 304, or 17%, since 2000. Rental units comprise 69% of the housing stock, compared to 57% for the city as a whole. According to the 2010 American Community Survey, the rental vacancy rate was 11.4%, and for homeownership, 0%. The housing stock is comprised primarily of multi-family structures with attached units. Single family homes comprise 29% of the housing stock, and multi-family units, 71%. Of the multi-family segment, the largest category is multiplexes of 3-4 units, 30%, followed by duplexes, 19%. Structures with 5 or more units comprise 20% of the housing stock.



Source: 2006-2010 American Community Survey

Housing Affordability. Housing is considered to be affordable when monthly ownership costs or monthly rents do not exceed more than 30% of household income. About 40% of homeowners in the Oakdale neighborhood are considered to be cost burdened, because their mortgage costs exceed 30% of their household income. This percentage is the same in the rest of the city. In 2010, the median home value in Oakdale was \$284,200, compared to \$248,100 citywide, and the median mortgage cost, \$1,992. Home values are not based on actual sales but estimates of what owners think their home is worth.

About 60% of Oakdale renters, compared to 52% citywide, are considered to be cost burdened because their gross rent exceeds 30% of their household income. In 2010, the median rent in the neighborhood was \$927, compared to \$840 citywide. These values are estimates of what households actually pay and not what units would rent for if advertised on the open market.



Source: 2006-2010 American Community Survey

Commuting. Ninety percent of Oakdale's households own at least one vehicle. Almost half own two or more. Despite the neighborhood's proximity to the peninsula, almost 70% of workers drive to work alone, compared to 79% in the rest of the county. The balance of the workforce walks, 9.6%, carpools, 8.3%, rides the bus, 3.9%, and bicycles, 3%. The mean travel time to work is 19.3 minutes, an increase of 21% since 2000.

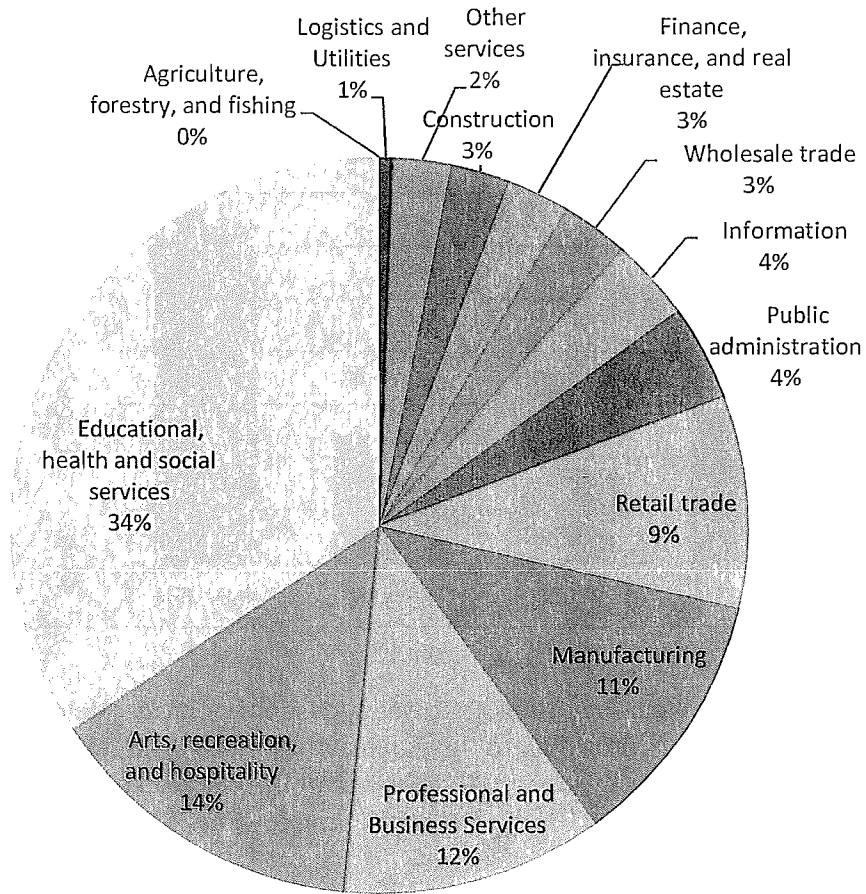
Commute to Work by Oakdale Residents, 2000-2010

	2000	2010	Net Change	% Percent (2010)
Drove alone	1,515	1,278	-237	69.5%
Carpool	209	152	-57	8.3%
Public transportation	84	72	-12	3.9%
Walked	99	177	78	9.6%
Other means	23	56	33	3.0%
Worked at home	62	103	41	5.6%

Source: 2006-2010 American Community Survey

Employment. Approximately 70% of adults age 16 and over are in the labor force. Anchored by the campus of the University of Southern Maine and two large hospitals, over a third of Oakdale's residents are employed in Education, Health Care, and Social Services. Thanks to a large population of young adults, the second largest segment, 14%, is employed in Arts, Recreation and Hospitality.

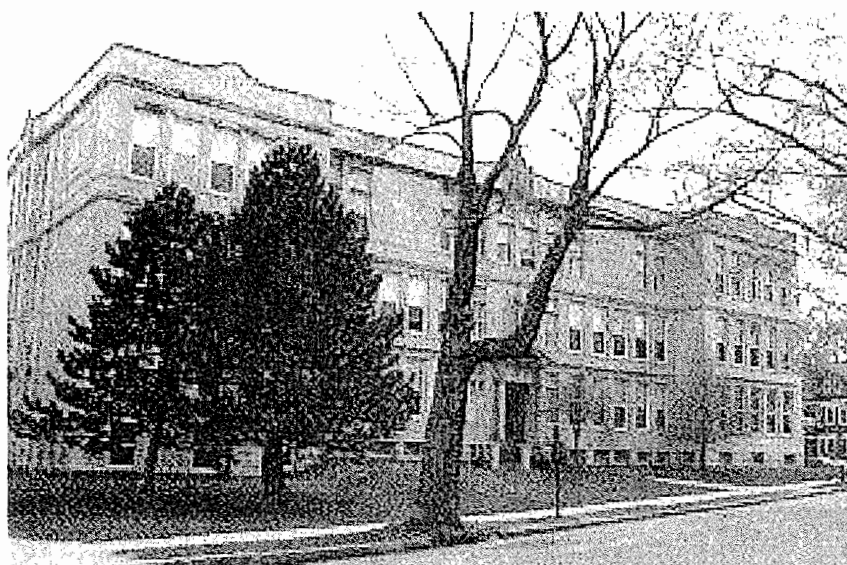
Occupation of Oakdale Residents by Industry Sector (2010)



Source: 2006-2010 American Community Survey

NATHAN CLIFFORD SCHOOL

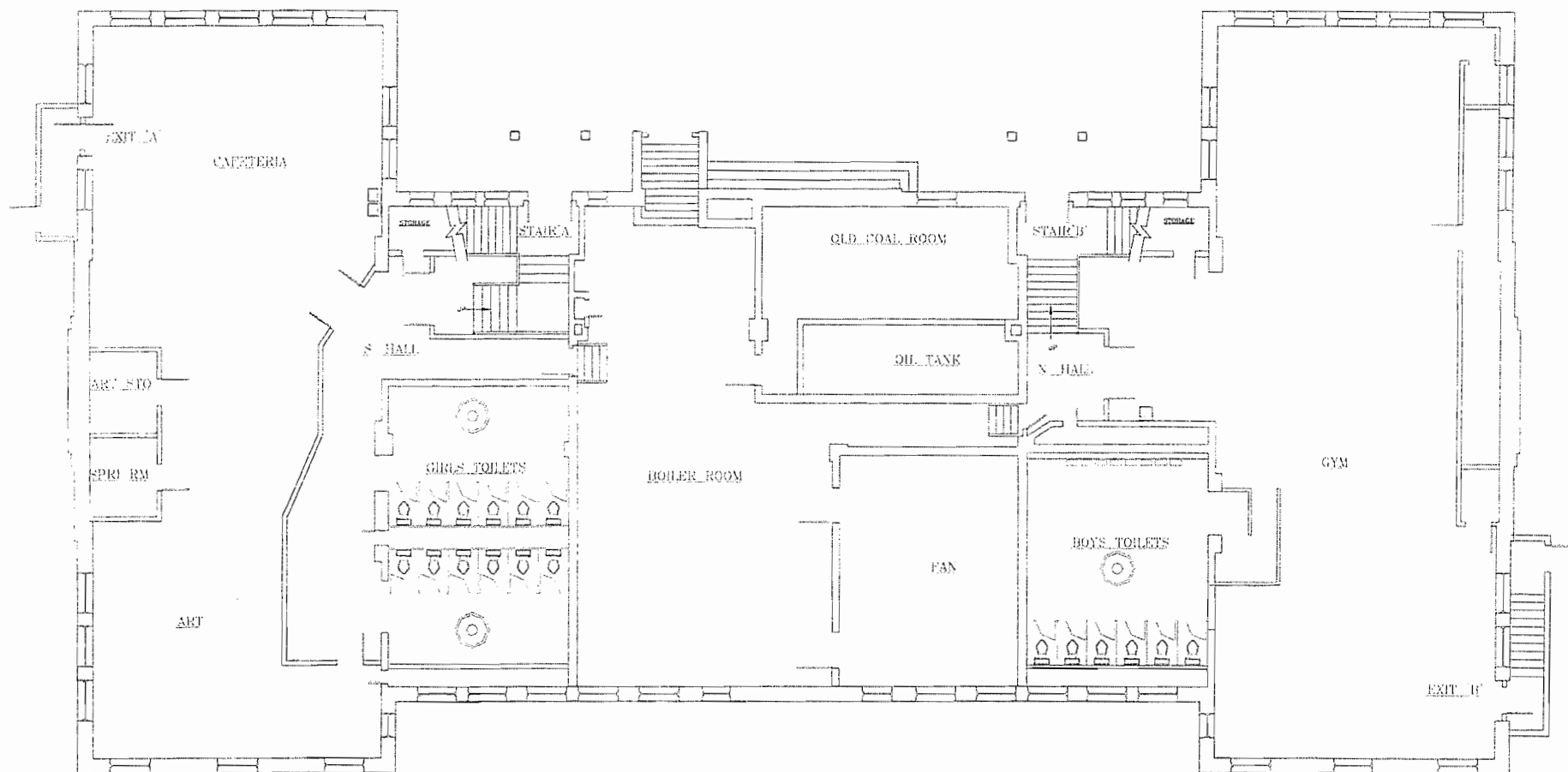
About the School and Floor Plans



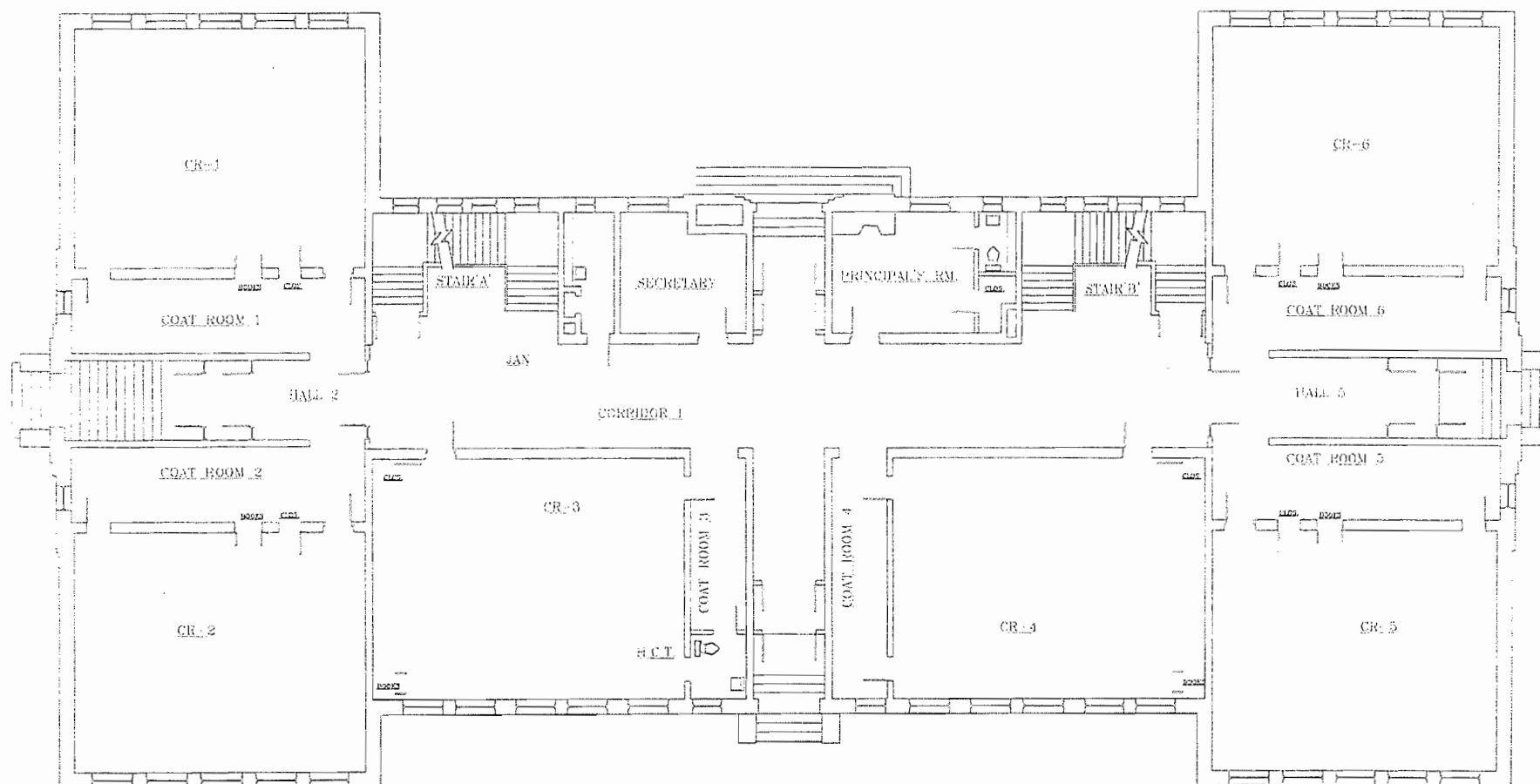
NATHAN CLIFFORD SCHOOL NOTES

- Existing: 45,664 SF 4 story (17 rooms) 1905/07 Brick masonry bearing walls with the inner and outer wythes separated by $\frac{3}{4}$ inch air space in some locations and the total thickness about 12 inches in the attic and 24 inches in the basement
- Concerns: ACM plaster walls/ceilings/pipe covers, non-compliant handrails, VAT, open staircases, loose coat hooks, deteriorated window conditions and no elevator or at grade entries.
- 2006/2007: Minor plaster repairs and stage improvements
- Late 2003: New Burnham model #L-100 Scotch design low pressure steam boiler with Webster burner and Autoflame Mark 6 burner control system installed, but the building has only one heat zone supplied through cast iron radiation network. The old Sturdivant ventilation system has been capped
- Reroofing tentatively scheduled for execution in 2002 was deferred.
- August 1994: New classroom (TRACO) windows installed by New Hampshire Glass
- 1990's: Extensive rebuilding or repointing of the exterior wythe occurred, but a small section on the west side was never completed.
- 1989: Chimney rebuilt (and subsequently repaired in 2008)
- 1985: Electrical upgrade
- WPA murals and "Robin Hood" chalk drawings to be removed, restored and placed elsewhere

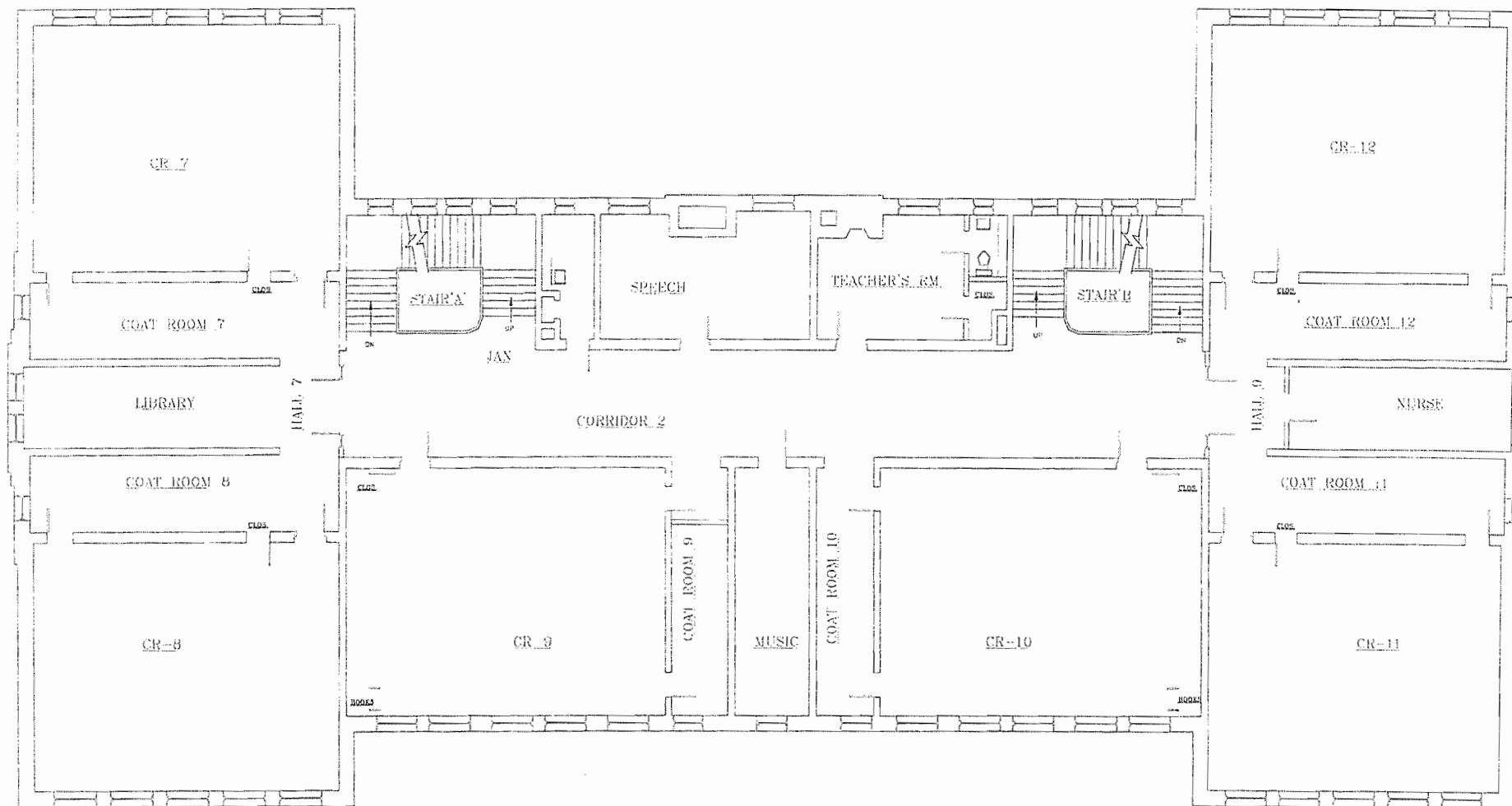
Received from School Department 11/8/11.



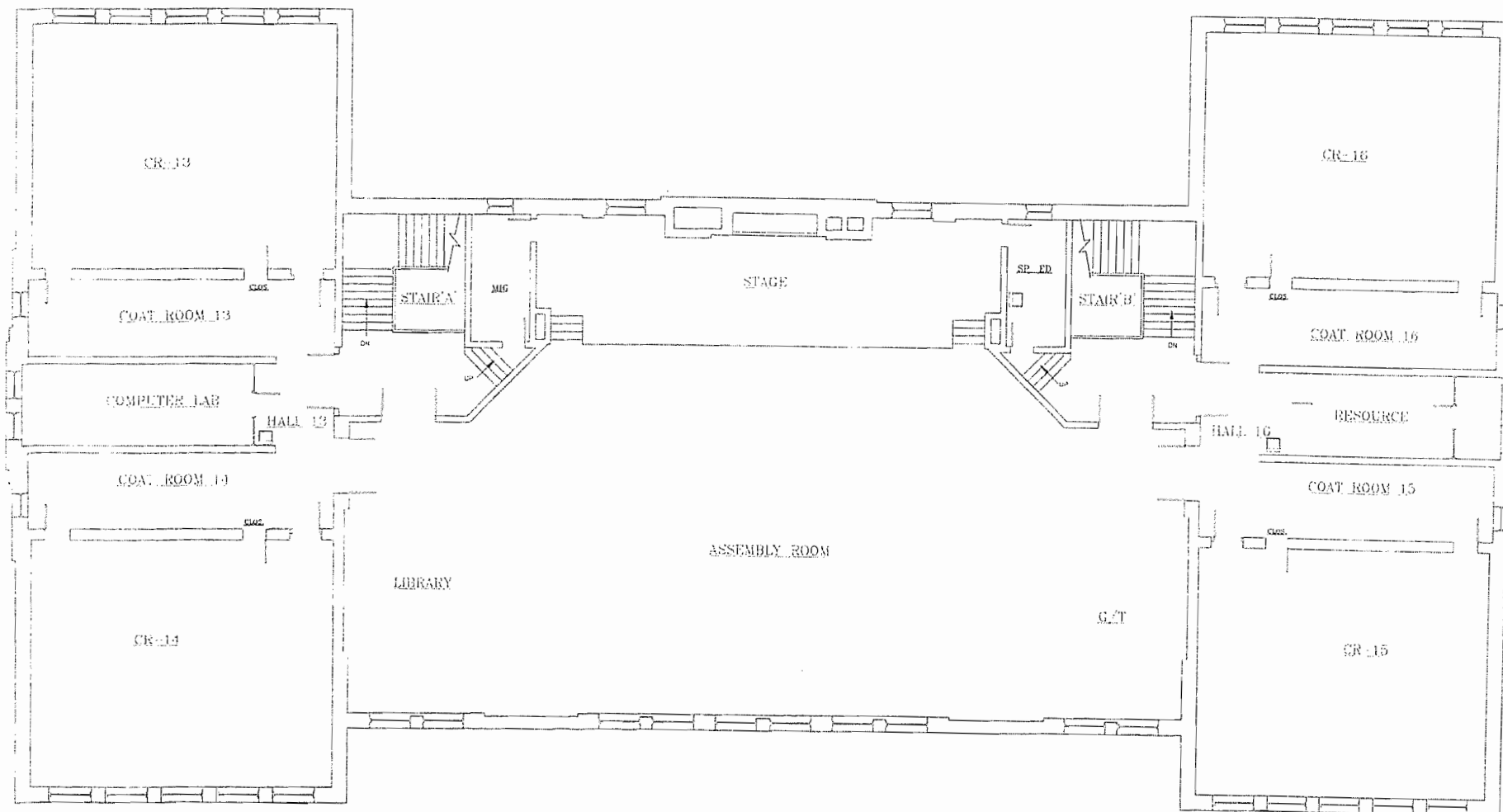
BASEMENT PLAN
SCALE: 1/8"=1'-0"



FIRST FLOOR PLAN

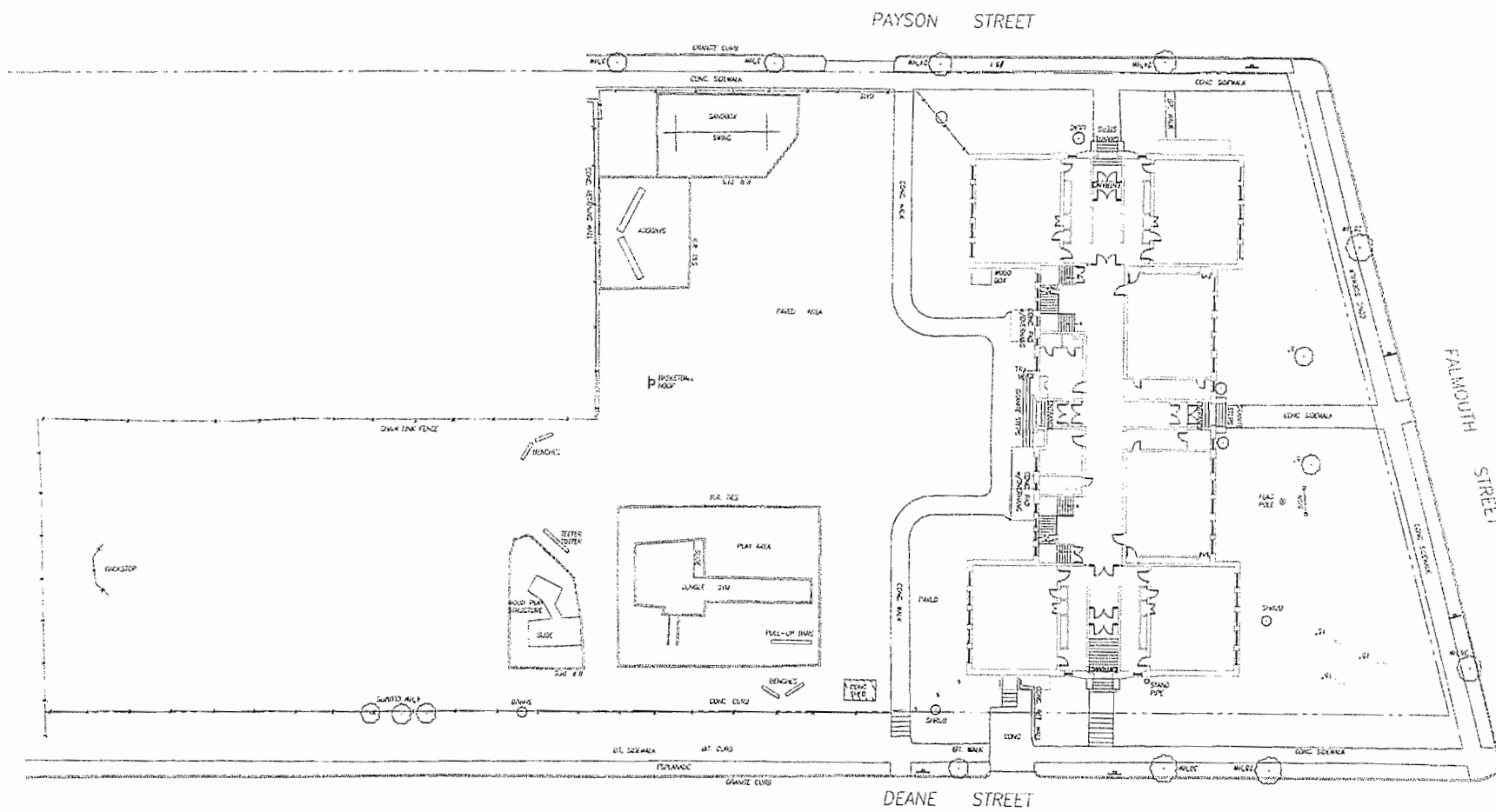


SECOND FLOOR PLAN
SCALE 1/8"=1'-0"



THIRD FLOOR PLAN

SCALE: 1/8"=1'-0"



NATHAN CLIFFORD

28 September 2007

Portland City Council
City Hall
389 Congress Street
Portland, Maine 04101

BARBÁ+WHEELLOCK

Re: Nathan Clifford School Second Opinion

Dear Mayor Mavodones and Councilors:

I have been commissioned by The National Trust for Historic Preservation, Maine Preservation, and Greater Portland Landmarks to prepare a preliminary review of the New Construction vs. Renovation Portland Public Schools Draft Report, dated May 11, 2007, prepared by WBRC Architects and Engineers and offer a second opinion. Specifically I have been asked to address the cost differential between new and renovation scenarios to see whether there are alternatives that will continue to meet programmatic needs but retain the historic Nathan Clifford school for K-5 school use.

After reviewing the Draft Report and delving into some of the detail I am convinced that **the cost differential can be significantly reduced to the degree that retaining the Nathan Clifford School may become a viable option.** To what extent will depend on a more detailed review of the embedded logic through conversations with WBRC, the Portland School Board and/or Committee, and the Department of Education. Some of the differential has to do with State mandates, which are in conflict with best preservation practices for historic buildings.

ARCHITECTURE
PRESERVATION
DESIGN

WBRC has done an admirable job at comparing the five options to produce what appears to be an impartial assessment of the comparative values. However, the nature of comparative cost estimates is that they are broad brush. Creatively approaching the renovation of an historic school requires a different level of scrutiny to allow seemingly minor details to be questioned.

Note: 'Construction Costs' (Report, Cost Comparisons, Sections A) is a net cost. The Total Project Cost (Section E) is arrived at through applying percentage mark-ups of the construction cost to many of the line items in Administrative Costs & Reserve, Section B, and Fees and Services, Section C. These percentage mark-ups have an exponential affect once burdened by the soft costs to arrive at the Total Project Costs (Section E) which in Nathan Clifford's cost estimate is approximately 1.45 times higher. Therefore, identifying construction cost savings can have a great ripple effect.

500 CONGRESS STREET
PORTLAND, MAINE 04101
FAX 207.772-3667
TEL 207.772-2722

With more time to delve into the details supporting this report, we would pursue the following questions/assumptions to arrive at a fully fleshed-out opinion.

1. Efficient use of existing space

The Nathan Clifford school concept design encompasses 62,760 sf as compared to a proposed new school of 52,000 sf. This amounts to 10,760 sf, or 20.6% more space in Nathan Clifford than a New K-5. The two proposals may achieve similar programmatic goals, however, the difference in area tips its hat to the problem that we are not dealing with an "apples to apples" comparison. In fact, the Nathan Clifford provides more space and thus, an attending greater cost. The cost differential between the Clifford School proposal of \$20.76 million and the New K-5 proposal of \$17.66 million is \$3.1 million or 17.5 percent more expensive. (see Report, pps. 41 and 44).

Therefore, reducing the size of the addition at Nathan Clifford without reducing the program is an important factor. One way is to reduce the programmed space for the addition (new construction) by seeking alternatives within the renovated (existing) part of Nathan Clifford. Additions cost more than renovations; by redistributing the programmed spaces and reducing the size of the addition there is a net possible area loss of 4,410 sf at \$165/sf this amounts to a cost savings of \$725,000 plus soft costs (x 45%) bringing the gross savings to as much as **\$1.05 million**. Some of these alternatives might include:

- a. Lower Level. Space that is being renovated could be better utilized as program space rather than mechanical to reduce the amount of needed new construction (and reduce the footprint, reducing the impact on the site). For instance, the seemingly redundant Mechanical Room at the Payson Street end of the school could be made into fully habitable space by creating windows with secure window wells. The central Boiler Room is larger than most school boiler rooms; is this Mechanical Room needed? The cafeteria could readily fit in the windowed and higher ceiling at the Deane Street end.
- b. The historic stairs could be retained and brought to code by adding fire-rated enclosures at each level. The wide corridors should allow sufficient space for egress. Currently the plan calls for removing the stairs, converting them to program space and constructing entirely new egress stairs to all floors, an expensive alteration.
- c. On the upper floors there are two coat closets and a room between them at each end of the school. While charming, these could be combined into additional program space, eliminating the need for the costly destruction and reconstruction of the character defining stairs. Lockers (wood or steel) could be added to the corridors as the corridor width and a new fire suppression system would permit these.
- d. By rearranging some of these program spaces efficiencies may also be obtained in the size of the lobby outside the new gymnasium.

2. Asbestos Summary

"Complete abatement of plaster systems. \$285,000." (See Report, pps. 29-30.) In historic buildings of all uses it is rarely necessary, nor recommended practice to remove all of the interior plaster. Has the option of encapsulation been explored? Does the asbestos constitute a real threat to health and safety or is it only the areas touched during construction that need abatement.

This cost is a significant budget item. Not only does the report recommend removing all the plaster in the school, but new materials must be installed (lesser quality gypsum wallboard, wood trim) and paint. In addition, by removing the plaster walls it is more likely that concealed (and encapsulated) conditions could be revealed that now require abatement and additional unwarranted cost. The construction cost is likely to be over \$325,000. (Though it is not clear in the report, I believe this cost is buried in the renovation cost category.) When burdened with the soft costs it could result in **savings of \$470,000** or more.

3. **Renovation costs**

Typically renovation costs are about the same as new construction on a project of this scale. Why does the renovation cost come out to \$174/sf while new construction is carried at \$165/sf? What other costs are embedded in the scope of the renovations? A more detailed analysis could reveal unnecessary expenses or alternatives. For instance, are there plans to rehabilitate or replace the windows? The DOE has a policy for replacement, even though it is typically more costly, often unnecessary, and counter to best preservation practices. We have developed cost comparisons that take into account maintenance over time, warranties, and life cycle costs to demonstrate this point. Could this policy be challenged? Cost savings not able to be determined without further information.

4. **Site Development**

(See Report, p. 41, Project Budget, Line 5)

Site Development costs for each of the comparisons carry a number based on 10% of the Construction Cost. For Nathan Clifford this amounts to \$1.09 million, which, for an in-town site that is small and previously developed seems very high. Without knowing what scope is included in this savings are hard to predict. If the site development cost was closer to half this amount. The savings, burdened with soft costs **could be as much as \$725,000.**

5. **Environmental Permitting**

(See Report, p. 41, Project Budget, Line 21)

For an in-town site, the environmental permitting for this project should be minimal. There are no wetlands or environmental issues on a site that has been in school use for 100 years. Perhaps this line item includes planning board review. If so it could probably be reduced to \$10,000 from \$50,000, resulting in a **\$40,000 savings.**

6. **Surveys/Soils/Testing**

(See Report, page 41, line 24)

This item is valued at \$100,000, which seems high for an in-town site that is already developed, and carried at the same rate as for the completely new K-5 school.

7. **Value engineering**

If the architects were given the charge to scrutinize the budget for potential savings to reduce the cost to the same budget as new construction without sacrificing program or quality, it would be likely that they could readily achieve a 5% reduction in construction (net) cost, resulting in a project cost savings of 7.25% or **\$1.03 million savings.** One question that might be worth asking is if the DOE is willing to fund an \$18 million dollar school, what would an \$18 million dollar Nathan Clifford School renovation/addition look like? In other words, if the cost is neutral what are the trade-offs? The answer may be revealed other opportunities for cost reductions.

8. **Temporary Facilities**

Regardless of which option is ultimately selected one facet that should be scrutinized is the cost of Temporary Facilities. In each of the cost estimates 4% of the Construction Cost is carried for this line item. For Nathan Clifford this cost is \$437,650. With diminishing enrollment, it is conceivable that any one of

the schools being vacated could be used for temporary facilities for the project under construction, allowing a potential cost savings.

9. Net differential

We've identified up to \$3.3 million in potential savings that will close the cost difference between the two scenarios. By reviewing more available data and being allowed to ask about specifics of embedded thinking, working with WBRC Architects/Engineers we could confirm these assumptions and prepare a more conclusive report.

One final consideration is the inherent life span of Nathan Clifford as opposed to a New K-5 school. The decision of which site to select should not be based solely on first costs. If after careful scrutiny, reusing Nathan Clifford still ends up costing more, it should be remembered that Nathan Clifford has already stood the test of time in its 100-year service life. With renovations, its life span will be indefinitely expanded, conceivably for another 100 years.

The schools that are under consideration for demolition and replacement - Baxter and West, for instance - were built in the 1950s and 60s; once demolished this amounts to a 50 to 60-year life span. What are the expectations for life span for a new school built for \$165/sf, when the cost of replacing Nathan Clifford in-kind would be 100's of dollars per square foot greater if built today?

Renovating Nathan Clifford would result in the continuation of a neighborhood school that has continuously served its constituency for a century and will continue to serve.

I plan to be present for the Council Meeting on Monday, October 1, and would be happy to answer any questions you may have at the meeting.

Sincerely,



Nancy L. Barba, AIA, LEED AP
Principal Architect

- c: Roberta Lane, National Trust for Historic Preservation
- Hilary Bassett, Greater Portland Landmarks
- Roxanne Eflin, Maine Preservation
- Earle G. Shettleworth, Jr., Maine Historic Preservation Commission

FACILITY ASBESTOS SUMMARY REPORT

Nathan Clifford Elementary School

The following asbestos summary report is a brief description of building materials that have been evaluated for asbestos content. The information provides a general overview of asbestos and non-asbestos building materials used in the construction of the facility.

More detailed information outlining the exact locations, quantities and condition of asbestos materials is summarized in the AHERA Management Plan and facility drawings.

KNOWN ASBESTOS MATERIALS

- | | |
|-----------------------------------|----------------------------------|
| * 9" x 9" floor tiles/adhesives | * Non-fiberglass Pipe / fittings |
| * Hidden pipe cover/fittings | * Old boiler components |
| * Plaster wall systems throughout | * Plaster ceiling systems |
| * Roofing perimeter flashings | |

NON - ASBESTOS MATERIALS

- | | |
|-----------------------------------|--------------------|
| * 2' x 4' ceiling tiles | * Roof deck system |
| * Fiberglass covered pipe systems | |

BUILDING MATERIALS IMPRACTICAL TO TEST

The following materials are typically suspect for asbestos content. Due to the nature of their location, condition, and composition testing is impractical until such time they can be damaged or accessed.

- | | |
|----------------------------------|-------------------------------------|
| * Chalk board systems / adhesive | * Fire doors / insulated wood doors |
| * Internal boiler components | * Underground piping |
| * Roofing under new rubber roof | * Gasketing / vibration boots |

FACILITY ASBESTOS SUMMARY REPORT
NATHAN CLIFFORD SCHOOL
PAGE TWO

ASBESTOS ABATEMENT PHASING

* Cafeteria floor tiles	* Basement pipe cover
* First floor - floor tiles	* Second floor - floor tiles
* Basement - plaster	* First floor - plaster
* Second floor plaster	* Misc. pipe cover locations

ASBESTOS ABATEMENT COSTS

Projected asbestos removal and disposal costs inclusive of design / management fees.

Complete abatement of asbestos flooring materials:	\$ 25,000.00
Complete abatement of asbestos pipe cover:	\$ 15,000.00
Complete abatement of abatement of plaster systems:	\$285,000.00
Hidden material and hazardous materials contingency:	\$30,000.00
Estimated budgetary allowance:	\$355,000.00

OTHER SUSPECT HAZARDOUS MATERIALS

* Florescent light ballast's	* Mercury thermostats
* Mercury switches	* Lead based paint



Portland School Department
 Elementary
 Grades K-5
 Enrollment 400
 Area per Student 157

Clifford

WBRC Architects-Engineers, Inc.
 Site Comparison Budget
 April 12, 2007

Area per Student		157		Major Capital Improvement Program			Other Funding	
				State/ Local	Local Only	Total	Me.High Perf. Schools	
A CONSTRUCTION								
1 New Construction	17,100 sf	\$ 165	\$/sf	\$2,821,500	\$0 *	\$2,821,500	\$0	
2 Renovations	45,660 sf		Is	\$8,119,741	\$0 *	\$8,119,741	\$0	
3 Built in Equipment			6%	\$656,474	\$0 *	\$656,474	\$0	
4 Technology & Communications Infrastructure			3%	\$328,237	\$0 *	\$328,237	\$0	
5 Site Development			10%	\$1,094,124	\$0 *	\$1,094,124	\$0	
6 Temp. Classrooms & Phasing			4%	\$437,650	\$0 *	\$437,650	\$0	
7 Sewer & Water			Is	\$80,000	\$0 **	\$80,000	\$0	
8 Off Site Improvements			Is	\$80,000	\$0 **	\$80,000	\$0	
9 Demolition/Hazardous Removal				\$710,000	\$0 **	\$710,000	\$0	
Subtotal				\$14,327,726	\$0	\$14,327,726	\$0	
B ADMINISTRATIVE COSTS & RESERVE								
10 Land				\$0	\$0 **	\$0	\$0	
11 Moveable Equipment			6% or Is	\$748,572	\$0 *	\$748,572	\$0	
12 Technology			3%	\$429,832	\$0 *	\$429,832	\$0	
13 Advertising/Insurance/legal			Is	\$100,000	\$0	\$100,000	\$0	
14 % for Art			Is	\$50,000	\$0	\$50,000	\$0	
15 Bid Contingency 5%			5%	\$716,386	\$0 *	\$716,386	\$0	
16 Construction Contingency 5%			7.5%	\$1,074,579	\$0 *	\$1,074,579	\$0	
17 Design Contingency			10%	\$1,432,773	\$0 **	\$1,432,773	\$0	
Subtotal				\$4,552,142	\$0	\$4,552,142	\$0	
C FEES AND SERVICES								
18 Architect/Engineer			8.0%	\$225,720	\$0 *	\$225,720	\$0	
19 Architect/Engineer Concept (Renovation)			9.5%	\$1,093,091	\$0 *	\$1,093,091	\$0	
20 A/E Reimbursable				\$100,000	\$0 **	\$100,000	\$0	
21 Environmental Permitting				\$50,000	\$0	\$50,000	\$0	
22 Life Cycle Cost Analysis				\$5,000	\$0	\$5,000	\$0	
23 Commissioning			1%	\$109,412	\$0 **	\$109,412	\$0	
24 Surveys/Soils/Testing				\$100,000	\$0	\$100,000	\$0	
25 Owners Representative				\$50,000	\$0 *	\$50,000	\$0	
26 Clerk of the Works				\$150,000	\$0 *	\$150,000	\$0	
Subtotal				\$1,883,224	\$0	\$1,883,224	\$0	
D PROJECT TOTALS				\$20,763,092	\$0	\$20,763,092	\$0	
E TOTAL PROJECT COST				(Including All Available Project Funds)		\$20,763,092		

* Due to the fact that "Local Only" money is in the project a portion of this line item will be at local expense.

** Due to the fact that "Local Only" money is in the project a portion of this line item may possibly be at local expense

State of Maine

Department of Education

Division of School Facilities Services



Project Budget

Major Capital Improvement Program

Concept Approval Budget

Portland School Department Elementary

Grades K-5

Enrollment 400

Area per Student 130

New K-5

WBRC Architects-Engineers, Inc.

Site Comparison Budget

March 22, 2007

Major Capital Improvement Program

Other Funding

State/
Local

Local
Only

Total

Me.High Perf.
Schools

A NEW CONSTRUCTION

1 New Construction	52,000 sf	\$ 165	\$/sf	\$8,580,000	\$0 *	\$8,580,000	\$0
2 Renovations	sf	\$ -	na	\$0	\$0 *	\$0	\$0
3 Built in Equipment			6%	\$514,800	\$0 *	\$514,800	\$0
4 Technology & Communications Infrastructure			3%	\$257,400	\$0 *	\$257,400	\$0
5 Site Development			30%	\$2,574,000	\$0 *	\$2,574,000	\$0
6 Sewer & Water			ls	\$50,000	\$0 **	\$50,000	\$0
7 Off Site Improvements			ls	\$100,000	\$0 **	\$100,000	\$0
8 Demolition/Hazardous Removal				\$400,000	\$0 **	\$400,000	\$0
Subtotal				\$12,476,200	\$0	\$12,476,200	\$0

B ADMINISTRATIVE COSTS & RESERVE

9 Land				\$0	\$0 **	\$0	\$0
10 Moveable Equipment			6%	\$748,572	\$0 *	\$748,572	\$0
11 Technology			3%	\$374,286	\$0 *	\$374,286	\$0
12 Advertising/Insurance/legal			ls	\$100,000	\$0	\$100,000	\$0
13 % for Art			ls	\$50,000	\$0	\$50,000	\$0
14 Bid Contingency 5%			5%	\$623,810	\$0 *	\$623,810	\$0
15 Construction Contingency 5%			5%	\$623,810	\$0 *	\$623,810	\$0
16 Design Contingency			10%	\$1,247,620	\$0 **	\$1,247,620	\$0
Subtotal				\$3,768,098	\$0	\$3,768,098	\$0

C FEES AND SERVICES

17 Architect/Engineer			7.0%	\$873,334	\$0 *	\$873,334	\$0
18 Architect/Engineer Concept (Renovation)				\$0	\$0 *	\$0	\$0
19 A/E Reimbursable				\$100,000	\$0 **	\$100,000	\$0
20 Environmental Permitting				\$50,000	\$0	\$50,000	\$0
21 Life Cycle Cost Analysis				\$5,000	\$0	\$5,000	\$0
22 Commissioning			1%	\$85,800	\$0 **	\$85,800	\$0
23 Surveys/Soils/Testing				\$100,000	\$0	\$100,000	\$0
24 Owners Representative				\$50,000	\$0 *	\$50,000	\$0
25 Clerk of the Works				\$150,000	\$0 *	\$150,000	\$0
Subtotal				\$1,414,134	\$0	\$1,414,134	\$0

D PROJECT TOTALS

				\$17,658,432	\$0	\$17,658,432	\$0
--	--	--	--	---------------------	------------	---------------------	------------

E TOTAL PROJECT COST

(Including All Available Project Funds)

\$17,658,432

B4



MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

JOHN ELIAS BALDACCI
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

24 February 2010

Hilary D. Bassett, Executive Director
Greater Portland Landmarks
93 High Street
Portland, Maine 04101

re: Nathan Clifford School, Portland

Dear Ms. Bassett:

Thank you for contacting the Maine Historic Preservation Commission regarding whether the Nathan Clifford School in Portland, Maine is eligible for listing in the National Register of Historic Places.

I am pleased to say that in our judgement, based upon available information generated by both Greater Portland Landmarks and this office, this property is eligible for nomination to the National Register of Historic Places. The building meets the National Register integrity criteria, and achieves significance under Criterion A, for its role in the local educational system, and under Criterion C, for the artistic merit of its WPA murals and as a property that represents the work of a master architect, John Calvin Stevens.

All nominations, before being sent to Washington for final approval, must first be presented to our Commission for preliminary clearance at one of their quarterly meetings. In the meantime, the property will be included in the Maine Historic Resources Inventory which will provide the same protection as if it were already listed in the National Register.

Sincerely,

Christi A. Mitchell
National Register Coordinator



Criteria for Designation of a Historic Landmark under the City Historic Preservation Ordinance

City Code of Ordinance, Chapter 14, Land Use, Art. IX. Historic Preservation, § 14-601—14-750

DIVISION 3. CATEGORIES AND CRITERIA FOR DESIGNATION

Sec. 14-610. Minimum criteria for designation.

(a) The historic preservation board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure or object for designation by ordinance as a landmark or district:

1. Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States;
2. Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property;
3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States;
4. Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;
5. Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States; or
6. Its representation of a significant cultural, historic, architectural, archeological or related theme expressed through distinctive areas, sites, structures or objects that may or may not be

contiguous.

(b) In the case of a nominated historic district, the historic preservation board shall also determine whether a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures or objects which, while not of such cultural, historic, architectural or archeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

(c) In the case of a nominated historic landscape district, the historic preservation board shall also consider its significance as a geologic, natural or man-made landscape feature associated with the development, heritage or culture of the City of Portland, State of Maine, New England region, or the United States.

(d) The planning board and council shall apply the criteria of subsections (a), (b) and (c) but shall also consider the effect of such designation on other aspects of the comprehensive plan of the city.
(Ord. No. 235-90, 2-26-90)

Sec. 14-611. Integrity of landmarks and historic districts.

Any area, structure or object that meets the criteria in section 14-610 must also have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration.
(Ord. No. 235-90, 2-26-90)

DIVISION 6. R-5 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 536-84, adopted May 7, 1984, repealed former Div. 6, §§ 14-116--14-119, and enacted in lieu thereof a new Div. 7, §§ 14-116--14-121. However, in order to avoid duplication of subsequent division numbers and in consultation with the city, the provisions have been retained as Div. 6. Sections 14-116--14-119 were formerly derived from Code 1968, § 602.5.A--D, and Ord. Nos. 207-72, 499-74, 193-82, 92-83, 422-83.

Sec. 14-116. Purpose.

The purpose of the R-5 residential zone is:

To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.

(Ord. No. 536-84, 5-7-84; Ord. No. 83-88, § 1, 7-19-88)

*Editor's note--Ord. No. 83-88, § 1, adopted July 19, 1988, amended § 14-116 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-117. Permitted uses.

The following uses are permitted in the R-5 residential zone:

(a) *Residential:*

1. Single- and two-family dwellings; except that development of two (2) or more two-family dwellings on contiguous lots within any two-year period shall be subject to review as specified under the provisions of 14-117(a)2e if such lots were under single ownership at any time within the two-year period immediately prior to development of the first such lot. No building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not

reviewed under article V shall be altered or enlarged to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) which is altered or enlarged to include any additional dwelling unit after this five-year period shall be reviewed as a level I site plan pursuant to article V of this chapter.

2. Multiplex development with three (3) or more horizontally or vertically attached dwelling units or a series of such attached dwelling units and the construction of at least one (1) building on a parcel of less than two (2) acres, provided that:
 - a. The land area requirement for a multiplex shall be six thousand (6,000) square feet of land area per dwelling unit; except that a multiplex with two hundred fifty (250) feet or more of street frontage needs only forty-five hundred (4,500) square feet of land area per dwelling unit;
 - b. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - c. No open outside stairways or fire escapes above the ground floor shall be constructed;
 - d. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units;
 - e. Such development shall be subject to article V (site plan) of this chapter for site plan review approval and shall conform to the R-5 Design Standards.
3. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units, or a series of such dwelling units. No dimensional requirements contained in section 14-120 shall apply with respect to such

development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of this chapter. Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.

4. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
5. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
6. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block

skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

- 1. Parks, and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and

subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;

3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
4. Municipal uses, excluding those specifically set forth in section 14-118 of this division.
5. Special needs independent living units on lots of less than two (2) acres, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.
6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 536-84, 5-7-84; Ord. No. 265-84, § 1, 12-17-84; Ord. No. 98-86, § 1, 10-6-86; Ord. No. 83-88, §§ 2, 3, 7-19-88; Ord. No. 387-89, 4-3-89; Ord. No. 86A-89, § 5, 8-21-89; Ord. No. 95-89, § 1, 9-6-89; Ord. No. 279-90, § 1, 3-10-90; Ord. No. 33-91, § 6, 1-23-91; Ord. No. 33A-91, § 4, 4-17-91; Ord. No. 220-95, 4-3-95; Ord. No. 165-97, § 3, 12-1-97; Ord. No. 56-08/09, 9-3-08; Ord. No. 278-09/10, 7-19-10; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 83-88, §§ 2, 3, adopted July 19, 1988, amended subsections 14-117(a) and (b)4 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88. Ord. No. 95-89, § 1, adopted Sept. 6, 1989, amended subsection (a)1 of § 14-117 to read as set out and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."

Sec. 14-118. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Reserved.
2. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing and supervision of residents in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

3. Alteration of a structure existing and not in residential use as of January 1, 1984, to three (3) or more dwelling units, provided that:
 - a. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;
 - c. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
 - d. Three thousand (3,000) square feet of land area per dwelling unit shall be required;
 - e. On-site parking shall be required as specified in division 20 (off-street parking) of this article, for the combined uses of the site;
 - f. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 1. Any addition or exterior alterations such as facade materials, building form, and roof pitch shall be designed to be compatible with the architectural style of the structure;
 2. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.

4. Conversions of existing two-family or multiplex structures into lodging houses, provided that a lodging house shall not be located within five hundred (500) feet of another as measured along street lines to the respective property lines.

5. Alteration of a single-family dwelling existing as of September 3, 2008 on a nonconforming lot to accommodate an accessory dwelling unit within and clearly subordinate the principal structure provided that:

- a. The accessory unit shall have a minimum floor area of four hundred (400) square feet that represents no more than thirty (30) percent of the gross floor area of the principal dwelling unit. Gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level and may include the attic if such space is habitable.
- b. The principal dwelling unit shall be located on a lot of no less than four thousand (4,000) square feet and no more than six thousand (6,000) square feet;
- c. Either the accessory or principal dwelling unit shall be occupied by the owner of the lot, except for bona fide absences of a temporary nature;
- d. Parking shall be provided as required by Division 20 of this article.
- e. There shall be no open, outside stairways or fire escapes above the ground floor; and
- f. The project shall be subject to Article V for site plan review and approval and the following additional standards:
 - i. Any additions or exterior alterations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with

the architectural style of the building and preserve the single family appearance of the building; and

- ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped properly to screen vehicles from adjacent properties and streets.

(b) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article, or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

- 1. Elementary, middle, and secondary school;
- 2.
 - a. Long-term and extended care facilities;
 - b. Intermediate care facility for thirteen (13) or more persons;
- 3. Places of assembly;
- 4. Reserved;
- 5. Hospital;
- 6. College, university, trade school.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant

displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and

- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
 - i. The structure was in existence as of January 4, 2010;
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.
- d. A college, university or trade school may build principal structures to a height of fifty-five (55) feet, not including the USM overlay zone, if the following standards can be met:

- (i) Lot size: 10 acres which may include adjacent land owned by the institution on both sides of a public street.
- (ii) Minimum setback between buildings on-site: 20 feet.
- (iii) Minimum setback from external property boundary: 30 feet, except that parking garages over 35 feet in height must be located 50 feet from external property boundaries when adjacent to an adjoining residential use.
- (iv) The area between the structure and adjoining residential uses must be adequately screened with appropriate landscaping or other features to buffer the building and effects thereof (i.e. noise, light, etc) from abutting properties.

(c) *Other:*

1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residential zones) of this article;
2. Utility substations such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is

located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.

- b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use, home babysitting use, nursery school, or kindergarten, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;

- ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting service, nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a

range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and

- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

5. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 536-84, 6-7-84; Ord. No. 265-84, § 2, 12-17-84; Ord. No. 76-85, § 6, 7-1-85; Ord. No. 83-88, § 4, 7-19-88; Ord. No. 235-91, § 10, 2-4-91; Ord. No. 118-93, § 9, 10-18-93; Ord. No. 133-96, § 5, 11-18-96; Ord. No. 154-96, § 9, 12-16-96; Ord. No. 222-99, § 5, 3-01-99; Ord. No. 94-07/08, 11-5-07; Ord. No. 56/08/09, 9-3-08; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 83-88, § 4, adopted July 19, 1988, amended § 14-118 by deleting subsection (b)5. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-119. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 536-84, 5-7-84)

Sec. 14-120. Dimensional requirements.

(a) In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5 zone shall meet the following minimum requirements:

1. *Minimum lot size:*

- a. Residential: Six thousand (6,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure

setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. section 4807, or the applicable zoning lot size, whichever is larger.

- b. Reserved.
- c. Long-term, extended, or intermediate care facility: Two (2) acres.
- d. School: Thirty thousand (30,000) square feet.
- e. Places of assembly:

Large	43,560 sq. ft.
Medium	21,780 sq. ft.
Small	10,890 sq. ft.

- f. Municipal use: Six thousand (6,000) square feet.
- g. Hospital: Five (5) acres.
- h. College, university, trade school: Two (2) acres.
- i. Multiplex: Nine thousand (9,000) square feet.
- j. Planned residential unit development (PRUD): Two (2) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.
- k. All other uses: Six thousand (6,000) square feet.
- l. Lodging houses: Nine thousand (9,000) square feet.

Provided that for uses specified in section 14-120 (1)(c) through (i) above, no minimum lot area shall be required in the following cases:

- i. Uses existing as of June 1, 1983;
- ii. Expansion of uses onto land abutting the lot on which the principal use is located;
- iii. Expansion onto land other than the lot on

which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;

- iv. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

2. *Minimum lot area per dwelling unit:*

PRUD: Three thousand (3,000) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Special needs independent living units: Four thousand eight hundred (4,800) square feet; except that special needs independent living units with two hundred fifty (250) feet or more of frontage shall require three thousand six hundred (3,600) square feet.

Other uses: Three thousand (3,000) square feet, except as provided for a multiplex.

3. *Minimum street frontage:* Fifty (50) feet.

4. *Minimum yard dimension:*

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

a. *Front yard:*

Principal or accessory structures: Twenty (20)

feet.

A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.

b. *Rear yard:*

- i. Principal or attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.
- ii. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks from swimming pools shall be as provided in section 14-432 (swimming pools) of this article.

c. *Side yard:*

- i. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

<i>Height of Structure</i>	<i>Required Side Yard</i>
1 story	8 feet
1 1/2 stories	8 feet
2 stories	12 feet
2 1/2 stories	14 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than eight (8) feet in width. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet,

but in no case shall the resulting side yards be less than eight (8) feet.

ii. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

d. *Side yard on side street:*

Principal or accessory structures: Fifteen (15) feet.

5. *Maximum lot coverage:* Forty (40) percent of lot area.

6. *Minimum lot width:*

Multiplex: Ninety (90) feet.

Other uses: Sixty (60) feet.

7. *Maximum structure height:*

Principal or attached accessory structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

Principal and accessory attached structure (PRUD):
Thirty-five (35) feet.

8. a. *Maximum number of units in a building (PRUD):* Twelve (12) units

b. *Maximum number of units in a multiplex building:*
Six (6) units.

9. *Maximum length of building (PRUD):* One hundred forty (140) feet.

10. *Maximum length of accessory garage structure (PRUD):*
Sixty (60) feet.

11. *Minimum building setback from external subdivision property lines (PRUD):*

a. *Building length of one hundred (100) feet or less:* Twenty-five (25) feet.

- b. *Building length greater than one hundred (100) feet:* Thirty-five (35) feet.
12. *Minimum recreation open space area (PRUD):* Three hundred (300) square feet per dwelling unit of common area designated for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526(d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.
13. No habitable space in a PRUD shall be below grade, except basements that are part of and below aboveground units.
14. a. *Minimum rooming unit area for lodging houses:* Two hundred (200) square feet of combined rooming unit and common area per rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.
- b. *Minimum land area per lodging house rooming unit:* One thousand (1,000) square feet.
15. *Maximum floor area for places of assembly on a collector or arterial road:*

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

16. *Maximum floor area for places of assembly not on a collector or arterial road:*

Large	4,500 sq. ft.
Medium	2,250 sq. ft.
Small	1,125 sq. ft.

(b) *Small residential lot development:* Single family homes may be built on small lots located in the R-5 and may use the dimensional requirements below if one of the following conditions is met:

The lot is:

Vacant as of (date of enactment); or used exclusively for parking; or contains structure(s) not used for residential purposes; or created from a single lot division of a developed lot and results in a lot meeting the dimensional requirements of § 14-120(b) with the remaining developed portion meeting the dimensional requirements of §14-120(a)(1)-(14) except as expressly provided in Section 14-120(b).

1. *Minimum lot size:* Five thousand (5,000) square feet.

2. *Maximum lot size:*

a. Lots that are vacant as of September 3, 2008, used exclusively for parking, or contain structure(s) not used for residential purposes: Six thousand (6,000) square feet.

b. Original developed lot prior to the single lot division that results in a lot meeting the dimensional requirements of §14-120(b) with the remaining developed portion meeting the dimensional requirements of §14-120(a)(1)-(14): Thirteen thousand (13,000) square feet.

3. *Yard dimensions:*

a. *Side yard:*

i. Principal or attached accessory structures with ground coverage greater than one hundred (100) square feet: Seven (7) feet.

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than four (4) feet in width.

ii. Side yard on side street: Ten (10) feet.

4. *Minimum lot width: Forty (40).*

5. *Minimum street frontage: Forty (40).*

6. *Maximum lot coverage: Fifty (50) percent.*

(Ord. No. 536-84, 5-7-84; Ord. No. 98-86, § 2, 10-6-86; Ord. No. 83-88, § 5, 7-19-88; Ord. No. 386-89, §§ 1, 2, 4-3-89; Ord. No. 235-91, § 11, 2-4-91; Ord. No. 33A-91, § 5, 4-17-91; Ord. No. 118-93, § 10, 10-18-93; Ord. No. 154-96, § 10, 12-16-96; Ord. No. 165-97, § 4, 12-1-97; ORd. No. 56-08/09, 9-3-08; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 275-10/11, 10-18-10)

***Editor's note**--Ord. No. 83-88, § 5, adopted July 19, 1988, amended § 14-120 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-121. Other requirements.

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.
- (d) *Small residential lot development* shall conform to the site plan standards of § 14-526.

(Ord. No. 536-84, 5-7-84; Ord. No. 15-92, § 9, 6-15-92; Ord. No. 56-08/09, 9-3-08)

Memorandum
Planning and Urban Development Department
Planning Division



To: Nathan Clifford Re-Use Task Force
From: Bill Needelman, Senior Planner
Date: September 10, 2012
Re: Current Zoning Notes:

Introduction:

The following notes are provided by the Planning Staff for use by the Nathan Clifford Re-Use Task Force in their evaluation and recommendation for the future of the school building and grounds. These notes are not a zoning “determination” as any formal zoning opinion will be based on a specific application with a defined development program. The Task Force can use these notes as an indication of existing land use rule limiting use of the property. Readers of these rules should also note that additional land use regulations pertaining to *subdivision*, should residential units or division of property be considered, and *site plan*, for development features lying outside of the existing building footprint, will also apply to specific development proposals that may come forward following the Task Force’s work.

Current Zoning:

The Nathan Clifford School Property is located within the R-5, Residential Zone. The dominant allowed uses in the R-5 are various single family and multi-family dwellings. Schools are allowed in many residential zones as *conditional uses*. Conditional use is a provision where specified categories of use are allowed subject to additional standards and additional levels of review – either by the Zoning Board of Appeals or the Planning Board.

Below find a summarized list of the permitted and conditional uses allowed in the R-5 zone. Readers will note that certain uses are additionally subject to use-specific dimensional or performance requirements.

The memo concludes with a table showing R-5 dimensional requirements (such as lot size) and parking requirements.

The full text of the R-5 zone is provided in the Briefing Book.

**Summarized R-5 Permitted and Conditional Uses:
Refer to full text for formal Zoning Interpretation**

Sec. 14-117. Permitted uses.

(a) *Residential:*

1. Single- and two-family dwellings;
2. Multiplex development (New Development on at least two acres)

The land area requirement: 6,000 square feet/per dwelling unit;
except that a multiplex with 250 feet or more of street frontage
needs only 4,500 square feet per dwelling unit;
3. Planned residential unit development (*PRUD, such as a condominium project*)
4. Handicapped family unit
5. Single-family, multiple-component manufactured housing
6. Single-family, single-component manufactured housing

(b) *Other:*

1. Parks, and other recreation spaces;
2. Accessory uses
3. Home occupation

4. Municipal uses
5. Special needs independent living units on lots of less than two (2) acres,
6. Wind energy systems *(limited)*

Sec. 14-118. Conditional uses.

(a) *Residential:*

1. Reserved...
2. Sheltered care group homes, for up to twelve (12) individuals

Residential Use of the Existing Nathan Clifford School building would use the following provision:

3. Alteration of a structure existing to three (3) or more dwelling units, provided that:
 - a. No dwelling unit shall have less than six hundred (600) square feet of floor area,
 - b. No open outside stairways or fire escapes;
 - c. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
 - d. Three thousand (3,000) square feet of land area per dwelling unit shall be required;
 - e. On-site parking required (per City ordin.);
 - f. The project shall be subject to article V (site plan) and the following additional standards:
 1. Any addition or exterior alterations such as facade materials, building form, and roof pitch shall be designed to be compatible with the architectural style of the structure;
 2. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring

properties in the area and to properly screen vehicles from adjacent properties and streets.

4. Conversions of existing two-family or multiplex structures into lodging houses,
5. Accessory dwelling units

(b) *Institutional:*

The former school use of Nathan Clifford School operated under the following provision:

1. Elementary, middle, and secondary school;
- *****
2.
 - a. Long-term and extended care facilities;
 - b. Intermediate care facility for thirteen (13) or more persons;
 3. Places of assembly (***place of worship, community hall....***);
 5. Hospital;
 6. College, university, trade school.

Subject to the following:

- a. Demonstration that the proposed use cannot reasonably be accommodated on the existing site, and will not cause significant encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses...; and
- c. In the case of a ... combination of the above-listed uses ..for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Places of assembly ...subject to site plan...; and
- e. In the case of community halls:

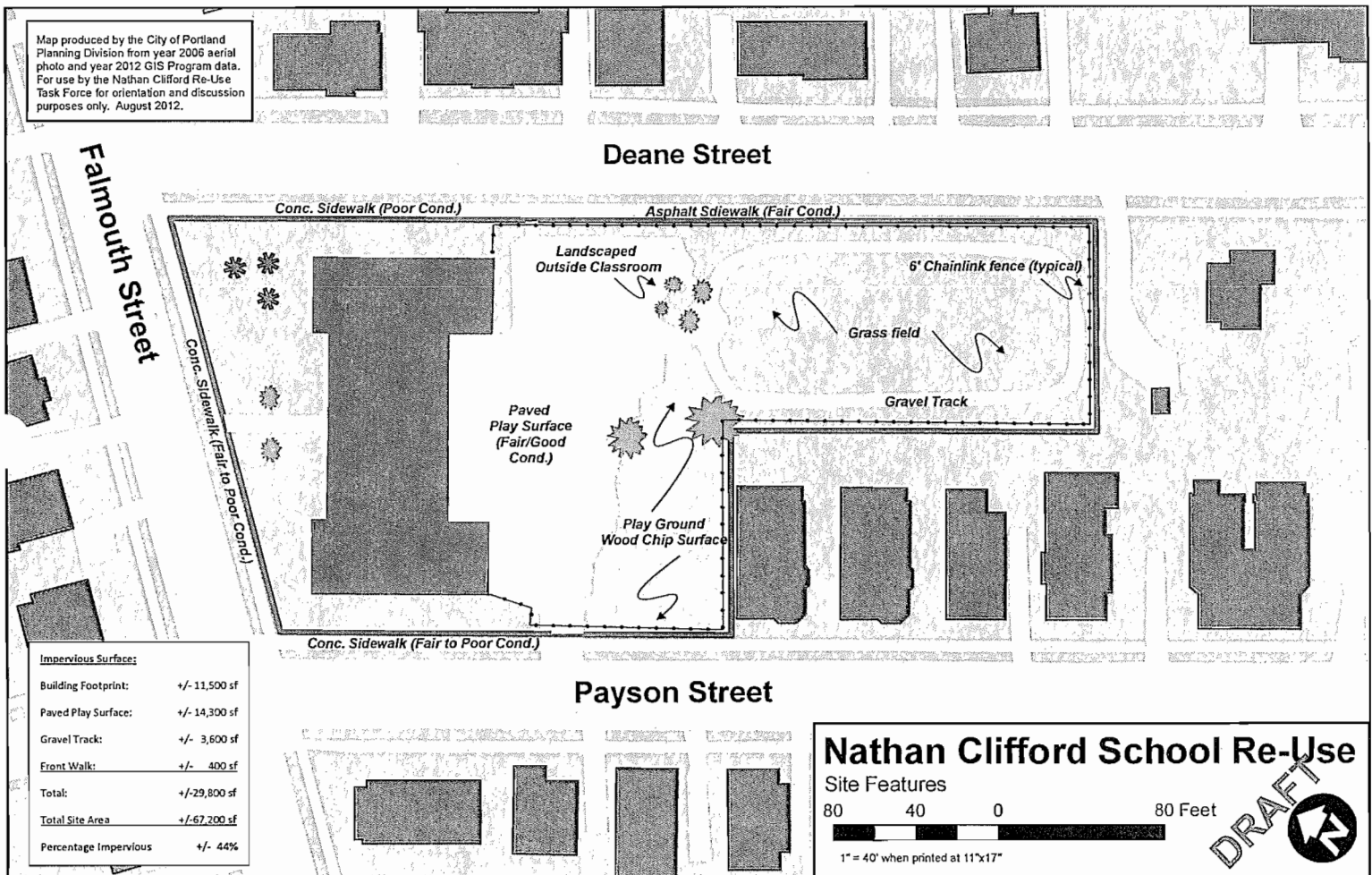
- i. The structure was in existence as of January 4, 2010;
 - ii. The structure was built for non-residential uses;
 - iii.Operated by and for not-for-profit entity..; and
 - iv. A parking management plan required; and
 - f. In the case of private club or fraternal organizations: ... serving alcoholic beverages shall be located on a large lot.
 - d. A college, university or trade school may build principal structures to a height of fifty-five (55) feet, not including the USM overlay zone, if the following standards can be met:
 - (i) Lot size: 10 acres which may include adjacent land owned by the institution on both sides of a public street.
 - (ii) Minimum setback between buildings on-site: 20 feet.
 - (iii) Minimum setback from external property boundary: 30 feet, (parking garages over 35 feet in height - 50 feet set back from residential use.)
 - (iv) ...must be adequately screened ...to buffer ...abutting properties.
- (c) *Other:*
- 1. Off-street parking - *subject to ZBA review*;
 - 2. Utility substations;
 - 3. Day care facilities up to 12 or 24 - *subject to differing standards*;
 - 4. Temporary wind anemometer towers,
 - 5. Wind energy systems,

**R-5 Residential Zone Summary
Dimensional and Parking Requirements
Applied to Nathan Clifford School**

Zoning Requirements	Current R-5 Zoning Standard	Nathan Clifford Current Condition
Lot Size	30,000 sq ft (for school)	67,200 sq ft
	Other sizes depending on use: 6000 sq ft min	
Lot Coverage(Building Footprint)	40% of lot maximum	11,500 sq ft (+/-17%)
Lot area per dwelling unit	3000 sq ft per unit for alteration of an existing structure to residential use	67,200 sq ft/3000 sq ft= 22 units maximum
	Other residential development types have different requirements	
Building Height	35 feet	Unknown: Approximated at 50+ feet
Minimum Street Frontage	50 feet	
Minimum Yard Dimensions	Front: 20 feet	19-62 feet +/-
	Rear: 20 feet	117feet + (more at track)
	Side: 8-15 feet	18 ft +/- (Deane), 19 ft +/- (Payson)
Minimum Lot Width	60 - 90 feet	100-200 feet (Falmouth as front)
Parking	1 space per unit for residential in existing building.	+/- 14,000 sq ft of paved play area suitable for parking (+/-43 cars at 320 sq ft per space)
	Use specific for other uses	

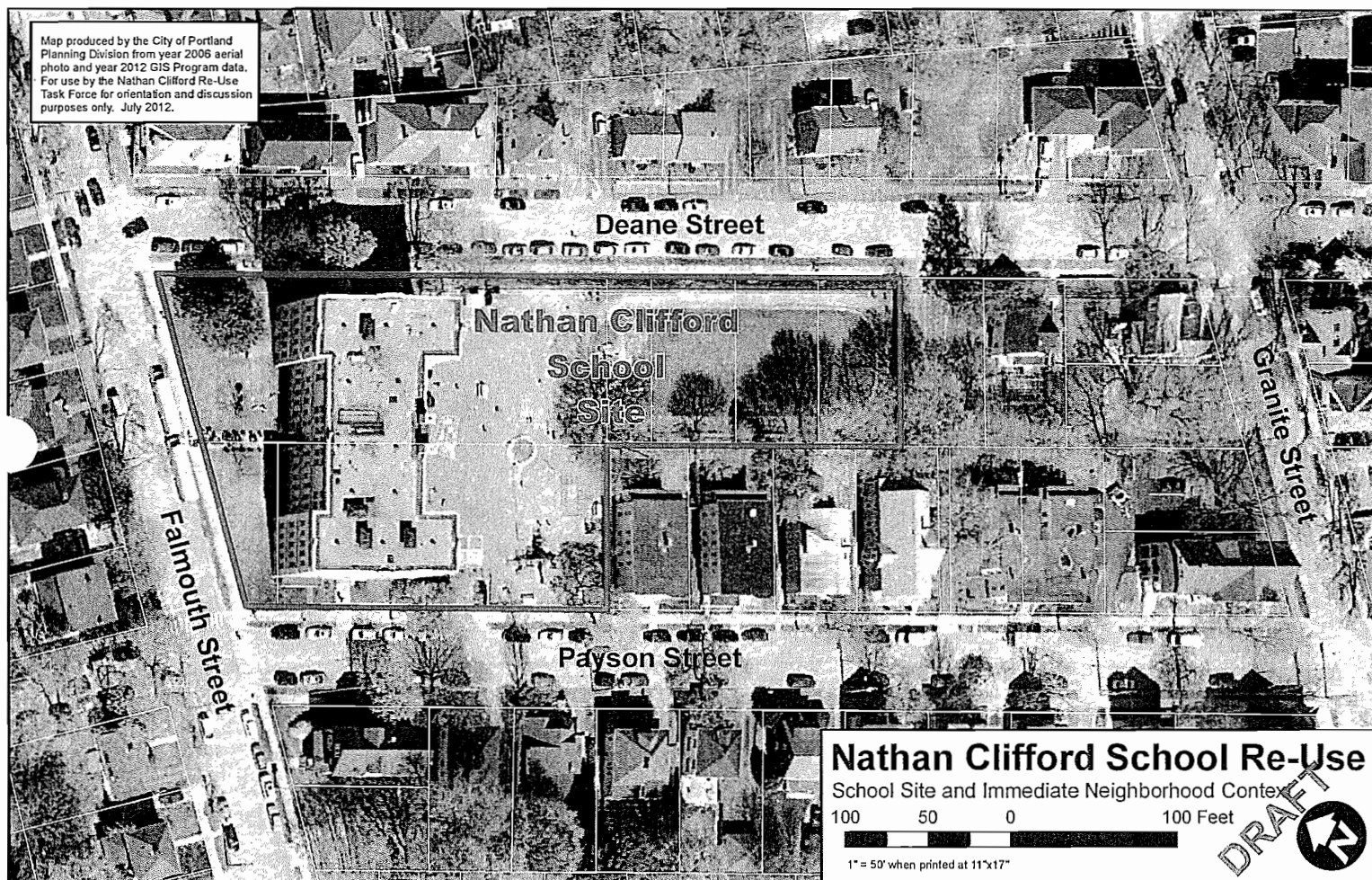
Bla

Map produced by the City of Portland Planning Division from year 2006 aerial photo and year 2012 GIS Program data. For use by the Nathan Clifford Re-Use Task Force for orientation and discussion purposes only. August 2012.



B 8. B

Map produced by the City of Portland
Planning Division from year 2008 aerial
photo and year 2012 GIS Program data.
For use by the Nathan Clifford Re-Use
Task Force for orientation and discussion
purposes only. July 2012.



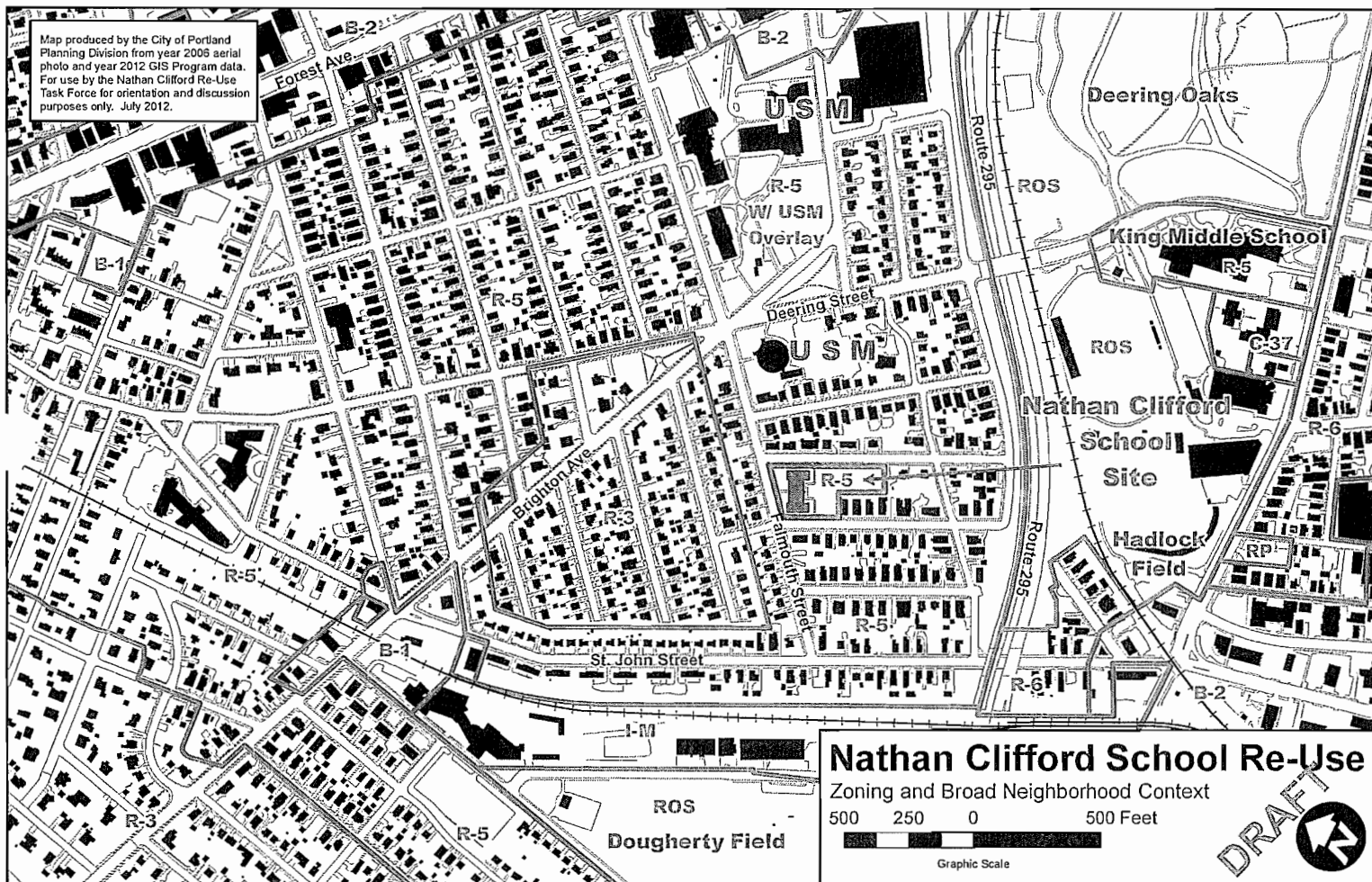
Nathan Clifford School Re-Use

School Site and Immediate Neighborhood Context

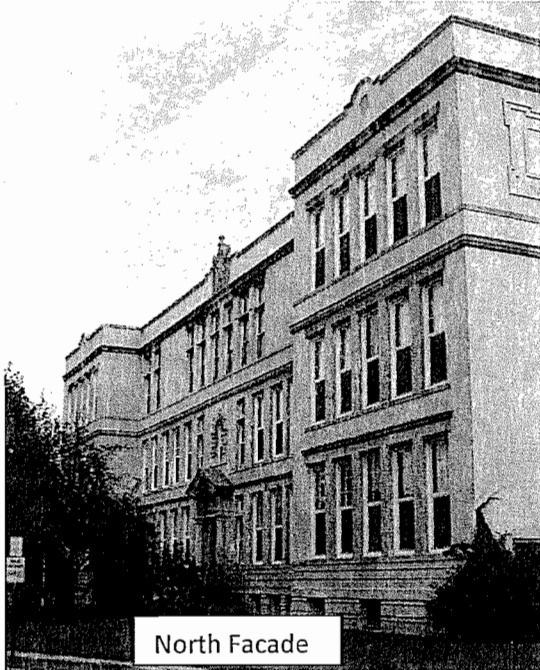
100 50 0 100 Feet

1" = 50' when printed at 11"x17"

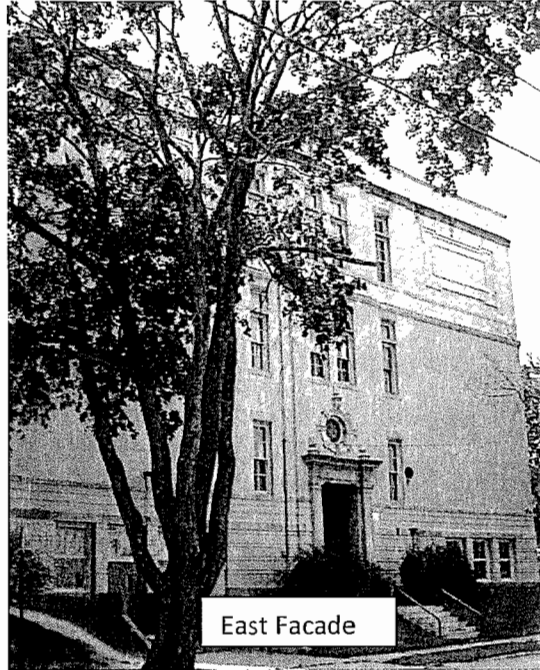




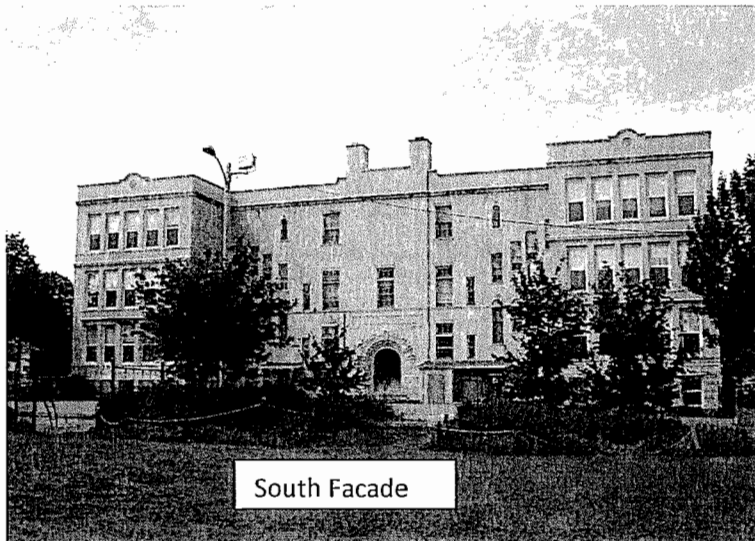
Building Facades and Details



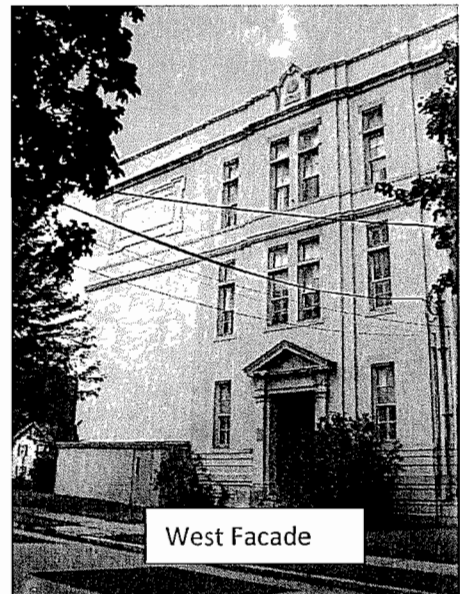
North Facade



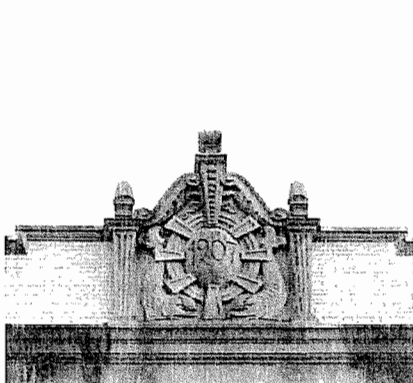
East Facade



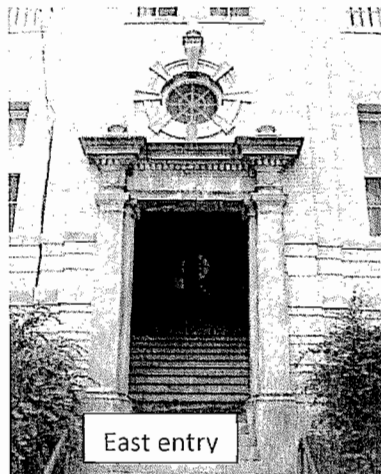
South Facade



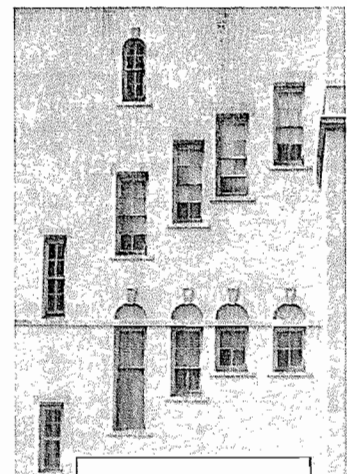
West Facade



North parapet medallion



East entry



South windows

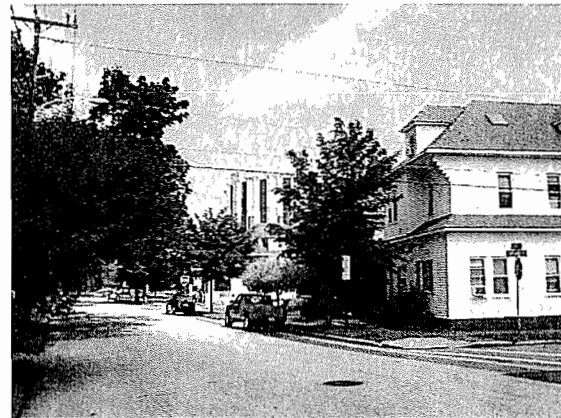
Neighborhood Context, Falmouth Street



Neighborhood Context, Payson Street



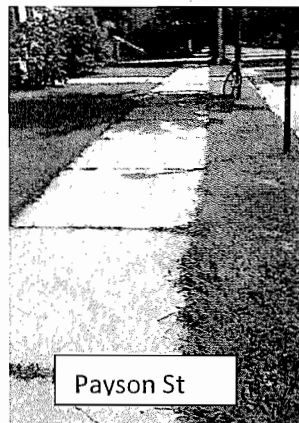
Neighborhood Context, Falmouth at Deane



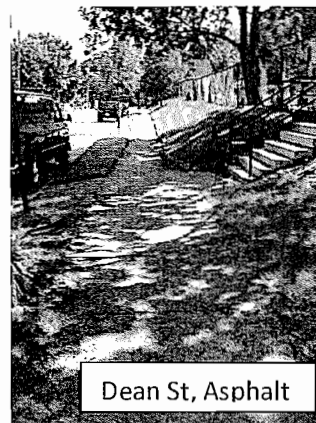
Sidewalk Condition



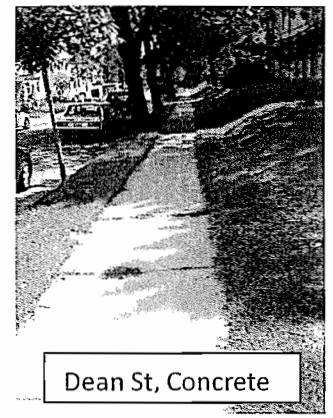
Falmouth St



Payson St



Dean St, Asphalt

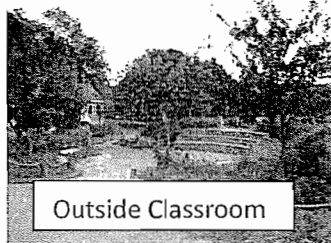


Dean St, Concrete



Front Entry Walk

Site Features



Outside Classroom



Field and Track



Play Areas

*Order 123-12/13
Tab 22 12-17-12*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER ENDORSING AND APPROVING APPLICATIONS FOR
FEDERAL AND STATE PLANNING FUNDS**

ORDERED, that the applications for Federal and State Planning funds through the Portland Area Comprehensive Transportation System (PACTS), attached hereto, are hereby endorsed and approved.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Mayor Michael Brennan
Mark Rees, City Manager
Gary Wood, Corporation Counsel
Danielle West-Chuhta, Associate Corporation Counsel
Theresa Bourgoin, Administrative Assistant
Sonia Bean, Senior Administrative Assistant

FROM: Katherine Earley, PE, Engineering Services Manager

CC: Michael Bobinsky, Director of Public Services

DATE: *November 19, 2012*

- 1) Council meeting at which action is requested:

1st reading: _____

Final action: Dec 3, 2012

- 2) Can action be taken at a later date: X YES _____ NO

If not, why not: _____

- 3) This item is sponsored by: Transportation, Sustainability, and
Energy Committee; voted 3-0 to endorse October 17, 2012

(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

The Departments of Public Services and Planning & Urban Development request City Council endorsement to proceed with up to six (6) applications for Federal & State Planning funds through the Portland Area Comprehensive Transportation System (PACTS). A list of these six (6) possible application topics is attached.

Every two years, PACTS solicits transportation-related study proposals from member communities and organizations in addition to creating staff recommendations on their own. The proposals are due February 1, 2013 in order to be considered for the FY14/15 work plan, defined as the period of July 1, 2013 to June 30, 2015. All proposals should be endorsed by the community making the submittal, and require a 20% Local Share cost

commitment. Typically these costs are borne by our Operating budgets as Studies are not considered an eligible CIP candidate; we estimate a maximum Local Share of \$75,000 if all six proposals are submitted and awarded.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

Approval to endorse any or all of these applications will allow staff to proceed and the City to potentially receive leveraged funding for Transportation System Planning.

III. INTENDED RESULT (How does it resolve the issue/problem?)

IV. FINANCIAL IMPACT

If the City is awarded any or all of the applied-for funds, we are then obligated to supply a 20% Local Share. Funding is awarded in July 2013, therefore the FY14 Operating budgets would have to supply the necessary Local Share. A maximum of \$75,000 has been estimated as the possible Local Share value.

V. STAFF ANALYSIS & RECOMMENDATION

The Departments of Public Services and Planning & Urban Development recommend endorsement of these projects and therefore a commitment to fund up to \$75,000 in Local Share via the City's FY14 Operating budgets. In addition to these six projects as Local requests, the PACTS organization is also recommending Regional projects that have also been identified as important for Portland. Examples such as "Gorham East-West Corridor Phase II", "Collectors Study Phase IV", "Traffic Signals Study – RTMS Phase III", "Arterials Condition/Capacity Study", and "Bicycle/Pedestrian Planning" are called out for consideration by the PACTS Policy Committee in December 2012. Attached please find a synopsis of the PACTS UPWP process as provided recently by PACTS staff.

Attachments

- List of six (6) potential application topics.
- PACTS synopsis of UPWP process

UPWP: 2014/15 Proposals (updated 11/9/12 per TS&E action and 11/20/12 per staff opinions of cost)

List of Recommended Planning Initiatives Prepared by Planning and Public Services Staff

Project Title: Thompson's Pt Hub Link (Transit Service Plan)

Project Description:

Design a transit service and operational plan for using the Thompson's Point TIF Revenues to fund expanded transit connections between the Portland Jet Port, Thompson's Point, Metro Pulse, and Casco Bay Island Transit District.

Staff Priority: **High**

Estimated Cost: \$50,000 (\$10,000 local match)

Project Title: Transforming Forest Avenue, Phase II

Project Description:

Picking up from the limits of the adopted Transforming Forest Avenue, Phase I study, evaluate streetscape, pedestrian, bicyclist, traffic, and transit enhancements and potential land use/zoning recommendations from Woodford's Corner to Morrill's Corner to promote a pedestrian and transit oriented transition of an increasingly auto-oriented corridor.

Staff Priority: **High**

Estimated Cost: \$80,000 (\$16,000 local match)

Project Title: Bayside Circulation Master Plan

Project Description:

Building on past and on-going evaluations of Marginal Way, Somerset Street, and the Bayside Trail, develop a plan for improved multi-modal circulation for the portion of Portland's Bayside neighborhood defined by Cumberland Avenue, Forest Avenue, Marginal Way and Pearl [Franklin?] Street. Specific feasibility and implementation evaluations shall be included for: Elm and Preble Streets; extension of Pearl Street from Somerset Street to Marginal Way, and filling gaps in pedestrian and bicycle networks. Beyond the immediate study area, the evaluation shall perform feasibility assessment of a Preble Street "road diet" from Marginal Way to Forest Avenue.

Staff Priority: **High**

Estimated Cost: \$125,000 (\$25,000 local match)

Project Title: Martin's Point Path/East Coast Greenway Connection Feasibility

Project Description:

Conduct a feasibility and alignment assessment of a proposed multi-use pathway connecting of the Back Cove Trail/Tukey's Bridge to the sidepath alignment of the planned Martin's Point-Rte 1-Falmouth Bridge. The assessment shall evaluate past studies, new routes, and creative construction technologies to recommend the most cost-effective and functional bicycle and pedestrian route reasonably available.

Staff Priority: **Medium**

Estimated Cost: \$40,000 (\$8,000 local match)

Project Title: On-road Bikeway Expansion Study

Project Description:

Provide bicycle facility specifications and the public process for routes identified on the Portland Bicycle Network Map as included in the Portland Pedestrian and Bicycle Comprehensive Plan. Evaluate each identified route and recommend the type, size and implementation measures needed to achieve the network envisioned in the Ped. Bike Plan.

Staff Priority: High

Estimated Cost: \$50,000 (\$10,000 local match)

Project Title: West Commercial Street Multi-Modal Configuration and
Layout Plan

Project Description:

Provide an alternatives analysis and recommendations for redesigning West Commercial Street to accommodate anticipated future development on both sides of the corridor from High Street to Veteran's Bridge. Changes on the north side of West Commercial Street anticipate a new multi-use pathway and significant mixed-use development. On the south side of West Commercial Street, the study recommendations will facilitate development of new marine industries, retained existing or future rail potential, and continued truck access and industrial flexibility. Safe and functional pedestrian and bicycle network options will be considered throughout the corridor.

Staff Priority: Medium

Estimated Cost: \$30,000 (\$6,000 local match)

Maximum Local Share Obligation = \$75,000

PACTS The Portland Area Comprehensive Transportation System

Overview of the PACTS Unified Planning Work Program: Its Development in the Next Six Months, and Description of Key Policies and Procedures

November 19, 2012

1. Schedule for the development of the UPWP
2. Synopsis of the UPWP
3. Study proposal requirements
4. Process for choosing studies

The PACTS Unified Planning Work Program (UPWP) is funded from many sources:

- Federal Highway Administration (FHWA)
- Federal Transit Administration (FTA)
- Maine Department of Transportation (MaineDOT)
- The 18 PACTS municipal members
- Greater Portland Council of Governments (GPCOG)
- Our region's transit service providers

Schedule for UPWP Development

This schedule is subject to change based on possible changes in the PACTS committees structure (on the December 13th Policy Committee agenda).

- November: MaineDOT advised PACTS on FHWA and MaineDOT planning funding available for the next two years. The FHWA amount for the first year is reasonably certain. The amount for the second year is an estimate for the same amount as in the first year.
- November and December: Staff briefs members at Executive, Transit, Technical and Planning Committees at their meetings.
- November: Staff sends email to our Interested Parties list soliciting public input and distributes a news release.
- December: We hope that FTA will advise soon on federal funding for transit planning.
- December 4th: Executive Committee discusses a budget proposal for PACTS staff and for regional planning work with consultants.
- December 13th: Policy Committee acts on a budget framework for staff, regional consultant work and local consultant work for the next UPWP.
- Policy Committee briefings at their winter meetings.

**Overview of the PACTS Unified Planning Work Program:
Its Development in the Next Six Months, and
Description of Key Policies and Procedures**

November 19, 2012

- February 1st: Study proposals due from municipalities and transit systems.
- January to March: Executive Committee continues work with staff.
- Late February: Staff meets with MaineDOT to receive and discuss MaineDOT comments on all regional and local study proposals.
- March: Staff presents scores of proposals for FHWA-funded to the Planning, Technical and Transit Committees.
- April 1st: **Official Municipal or Transit Board match endorsements are due.**
- April: Executive Committee endorses a final draft UPWP for review by the Policy Committee later that month.
- May: Executive Committee recommends final UPWP budget and tasks to Policy Committee for final action later that month.
- Late May: Staff submits 50-page UPWP document to MaineDOT.
- June: PACTS, GPCOG and MaineDOT sign a contract.
- July 1, 2013: Work begins.

Synopsis of the PACTS Unified Planning Work Program

During the next six months we will develop a 2-year scope and budget for the PACTS planning and administration process. Here is a synopsis to help you understand the process. There is a lot more to this process than can be explained in five pages, so please contact staff at any time with questions.

1. Introduction and Purpose
2. UPWP Development
3. UPWP Funding
4. UPWP Amendments and PACTS Studies Time Clock
5. Consultant Study Administration
6. Studies Coordination with Municipalities, Transit Systems and Regional and State Agencies

1. Introduction and Purpose

As a “metropolitan planning organization”, PACTS is required by the Federal Highway and Transit Administrations (FHWA and FTA) to work within a scope and budget organized in a “Unified Planning Work Program” – or UPWP. Our current 60-page UPWP for July 2011 to June 2013 is available on our website, www.pactspan.org.

**Overview of the PACTS Unified Planning Work Program:
Its Development in the Next Six Months, and
Description of Key Policies and Procedures**
The UPWP supports the following:

November 19, 2012

- Perform studies of regional transportation needs and opportunities.
- Coordinate with the MaineDOT and Turnpike Authority on major regional studies and programs.
- Program Federal Transit and Highway Administration project funds in our Transportation Improvement Program (TIP).
- Serve as a regional forum on transportation and related topics.
- Develop a regional transportation plan which forecasts needs for the region and establishes goals and strategies designed to address future and current needs.

There are three PACTS “geographies”:

- The PACTS “Funding Area” is the area within our 18-municipalities in which PACTS shares responsibility with MaineDOT for programming federal funds. The Funding Area covers the entirety of only four municipalities, and parts of the remaining fourteen.
- The PACTS “Study Area” is the entirety of the 18 municipalities. As such, PACTS spends federal transportation planning funds on studies anywhere within the 18 municipalities.
- The PACTS “Model Area” includes the same 18 municipalities and 10 more municipalities. Our regional travel demand forecasting model – the “PACTS Model” – simulates traffic patterns, and much more, throughout this large area. We and others use this tool for a variety of purposes.

The UPWP is one of several documents related to the PACTS process. Contact staff if you want to learn more about these documents: the PACTS Bylaws, the PACTS Public Participation Policy, our TIP Policies and Procedures Document, and our biennial Transportation Improvement Program.

2. UPWP Development (roles may change this winter per our work-in-progress committee restructuring)

Similar to a municipal comprehensive plan which provides a framework for municipal planning work, our *Destination Tomorrow* regional transportation plan provides context for PACTS members and staff in the development of the 2-year planning and programming work outlined in the UPWP.

Next May, the Policy Committee will adopt the UPWP for July 2013 to June 2015. The following people and committees will have the following roles between now and then.

- PACTS Staff
 1. Lead the process.
 2. Coordinate with all parties involved in the efforts listed below.
 3. Recommend a set of regionally significant studies.
 4. Solicit and consider public comments.
 5. Produce the final UPWP in collaboration with GPCOG staff.

- GPCOG and SMRPC Staff
 1. Work with the Transit Committee in development of the FTA-funded work.
 2. Contribute to the final UPWP in collaboration with PACTS staff.
- MaineDOT
 1. Advises on the amounts of FHWA and FTA funding available.
 2. Meet with PACTS staff to provide comments on study proposals.
 3. Comment on the draft UPWP document.
- Executive Committee
 1. Suggest proposals for new studies.
 2. Review and comment on PACTS staff's draft work plan and budget for the two years.
 3. Review and comment on staff's monthly updates.
 4. Submit a final UPWP budget and scope to the Policy Committee for action.
- Planning Committee
 1. Suggest proposals for new studies. When appropriate and feasible, the Committee will meet with Technical or Transit Committee to collaborate.
 2. Review staff's scores of local and regional study proposals (FHWA-funded ones only), and recommend a set of studies to be funded to the Executive and Policy Committees.
- Technical Committee
 1. Suggest proposals for new studies. When appropriate and feasible, the Committee will meet with Planning or Transit Committee to collaborate.
 2. Review and comment on staff proposals for regional studies.
- Transit Committee
 1. Suggest proposals for new studies. When appropriate and feasible, the Committee will meet with Planning and Technical Committees to collaborate.
 2. Review staff's scores of transit study proposals, and recommend a set of FTA-funded studies to be funded to the Executive and Policy Committees.
- Policy Committee
 1. Establish a budget framework for regional and local planning efforts.
 2. Review and comment on UPWP development progress reports.
 3. Adopt the UPWP for July 2013 to June 2015.

3. UPWP Funding

The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) finance 80% of the UPWP. MaineDOT provides a 15% match for the FHWA funds, and GPCOG and our municipalities provide the remaining 5%. (For local and certain sub-regional studies we require a 20% local match.) GPCOG, the transit systems and in some cases municipalities match the FTA metropolitan planning funds.

Our biennial FHWA amount is the PACTS share of FHWA “metropolitan planning” funds that come to Maine. We share those funds with the three other metropolitan planning organizations.

The MaineDOT funds provide most of the match needed to support a 3-person PACTS staff every two years. The annual “PACTS Assessments” provide the balance, and also provides match for six regional studies being done with help from consultants.

Periodically other funds are added to the UPWP for special projects. Other funding sources have been FTA 5307, the Maine Turnpike Authority (for upgrades to the PACTS model), and other federal and state funds available via MaineDOT.

4. UPWP Amendments and the PACTS Studies Time Clock

The Executive and Policy Committees share the authority to amend the UPWP. The Executive Committee may only amend the UPWP as follows: (1) for FTA-funded planning tasks based on a recommendation from the Transit Committee, and (2) to use newly available study funds to fund ranked study proposals which were not funded during the development of each biennial UPWP. The authority to make all other UPWP amendments rests with the Policy Committee.

In 2006 the Policy Committee adopted a “Studies Time Clock” policy designed to encourage municipalities to initiate local studies in a timely manner. In April 2011, in response to continued slow performance of some studies, the Policy Committee tightened the time constraints. Here is the revised policy. *(Staff will propose to the Policy Committee next month that we extend the six month deadline to nine (9) months. We will share with all members any changes that the Policy Committee makes.)*

- i. After the adoption of each new biennial PACTS planning budget (UPWP), study proponents will start each PACTS-funded study within six (6) months. The 6-month clock starts on July 1st. The definition of “start” is the signing of a contract with a consultant.
- ii. The Policy Committee will withdraw the funding if 6 months passes without the signing of a consultant contract. After the withdrawal of funds, the study proponent is eligible to submit the study proposal for funding in the next PACTS planning budget.
- iii. This 6-month clock policy (starting at the time of addition to the UPWP) also applies to consultant studies added to the PACTS planning budget at other times during a biennium.
- iv. All studies – including those added to the UPWP during the biennium – lose all unspent funds at the end of the biennium.
- v. The Policy Committee may make exceptions to this policy for good cause.

5. Consultant Study Administration

Here are some bullets on the PACTS-funded consultant study administration process. Please contact staff with any questions.

Consultant Selection

**Overview of the PACTS Unified Planning Work Program:
Its Development in the Next Six Months, and
Description of Key Policies and Procedures**

November 19, 2012

- PACTS and GPCOG staff collaborate with municipal and/or transit staff to organize the selection process.
- We follow certain MaineDOT rules. The rules are different for studies under and over \$50,000. We can go sole source for studies with <\$10,000 budgets.

Study Administration

- The PACTS Director and the chosen consultant sign all PACTS consultant contracts.
- Contracts are required to comply with Federal Title VI and Environmental Justice parameters
- PACTS invoices municipality for the 20% local match after the contract is signed with the consultant.
- Consultants submit invoices and progress reports to PACTS. PACTS staff periodically advises the municipality of costs to date.

6. Studies Coordination with Municipalities, Transit Systems and Regional and State Agencies

The roles of PACTS, GPCOG and SMRPC staff and our members vary from study to study – including studies led by MaineDOT, the Turnpike Authority, individual municipalities, transit systems and others. For the sake of brevity, this document simply lists the variety of studies and programs with which PACTS staff and members are involved.

- GPCOG
 - Technical analysis services for PACTS staff
 - Transit planning work
 - Sustain Southern Maine process
 - Maine Clean Communities
- MaineDOT
 - Corridor studies funded and led by MaineDOT
 - Frequent use of the PACTS model
- Southern Maine Regional Planning Commission
 - Technical analysis services for PACTS staff
 - Transit planning work
 - Sustain Southern Maine process
- The Maine Turnpike Authority
 - Corridor studies funded and led by the Turnpike Authority
 - Frequent use of the PACTS model
- Municipalities
 - PACTS studies
 - Studies wholly funded by a municipality

Thank you for your interest in the PACTS regional transportation planning process. Please let us know when you have questions and suggestions.

Order 124-12/13
Tab 23 12-17-12

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER AMENDING COMPREHENSIVE PLAN TO
INCLUDE THE PEDESTRIAN AND BICYCLE CHAPTER**

ORDERED, that the Pedestrian and Bicycle Chapter dated 12-17-12, attached hereto, is hereby added to and included as part of the City's Comprehensive Plan.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Mayor Michael Brennan
Mark Rees, City Manager
Sonia Bean, Senior Administrative Assistant
Ann Freeman, Associate Corporation Counsel
Theresa Bourgoin, Administrative Assistant

FROM: Michael Bobinsky, Director of Public Services

CC: Katherine Earley, Engineering Services Manager, DPS

DATE: **December 3, 2012**

- 1) Council meeting at which action is requested:

1st reading: December 17, 2012
Final action: December 17, 2012
- 2) Can action be taken at a later date: X YES NO
If not, why not: Request action on December 2012 due to it being the end of the reporting term for the federal grant to report successful completion of grant objectives.
- 3) This item is sponsored by: Transportation, Sustainability and Energy Committee (Feb 15, 2012, 3-0) and Planning Board (Nov. 13, 2012, Unanimous approval)
(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

- I. SUMMARY OF ISSUE**
This item seeks Council adoption of the Pedestrian and Bicycle Chapter into the city's Comprehensive Plan.
- II. REASON FOR SUBMISSION (What issue/problem will this address?)**
State statute requires Planning Board and City Council adoption for items to be recognized as a formal element of a municipality's Comprehensive Plan.
- III. INTENDED RESULT (How does it resolve the issue/problem?)**
A positive vote adopts the chapter as part of the Comprehensive Plan.

IV. FINANCIAL IMPACT

No anticipated direct financial impact.

V. STAFF ANALYSIS & RECOMMENDATION

Staff recommends adoption.

Attachments



Strengthening a Remarkable City. Building a Community for Life • www.portlandmaine.gov

To: Mayor Brennan and City Councilors
From: Michael Bobinsky, Director of Public Services
CC: Mark Rees, City Manager
Date: December 13, 2012
Re: Draft Pedestrian-Bicycle Chapter of the Portland Comprehensive Plan

Introduction

Developing and adopting a Pedestrian-Bicycle Chapter of the Portland Comprehensive Plan was one of the four primary objectives to be accomplished by the Department of Public Services (DPS) as part of the Communities Putting Prevention to Work (CPPW) grant awarded to the Healthy Portland Program. This grant, federally funded by the Center for Disease Control through the American Recovery & Reinvestment Act, had the major outcome of preventing chronic disease, including obesity, through policy and environmental change actions. DPS continues to work with the Planning Division and Healthy Portland to advance this work.

This Chapter is intended to establish:

- the policy framework for subsequent standalone pedestrian and bicycle planning, programs and investments
- a more holistic transportation planning framework within which bicycling and walking will play a greater future role.

The draft chapter would amend the existing transportation section of the Comprehensive Plan with a new vision for pedestrian and bicycle transportation. This vision is further developed and refined through recommended goals, objectives, strategies and performance measures that establish, implement and measure progress toward improved non-automotive transportation.

Specifically, the Department seeks the City Council's endorsement of the draft Chapter as part of the city's Comprehensive Plan

Background

The draft Comprehensive Plan chapter has benefited from feedback and input from the City Departments of Public Services, Health and Human Services, and Planning and Urban Development. Two *ad hoc* transportation advocacy groups, the Bicycle-Pedestrian Advisory Committee and the Bicycle Network Working Group, reviewed draft material and provided regular input to the process. These groups represent a wide range of local and regional transportation interest groups including PACTS, Portland Trails, and the Bicycle Coalition of Maine. Several bicycling and walking forums and planning initiatives such as the Peninsula Transit Study have greatly informed the Chapter's content.

In March 2012, a Public Forum on the draft Chapter was held. Over 50 residents attended and provided input on the policies as well as on very specific infrastructure needs.

In February of 2012 the draft policies and network map were recommended by the Transportation, Sustainability, and Energy Committee of the City Council.

The Planning Board held a workshop on this item on November 5, 2012. The board made several suggested edits to the document that were incorporated into a revised final draft. On November 13, 2012, the Planning Board held a public hearing. At the conclusion of the hearing, the Board unanimously recommended to the City Council adoption of the Chapter, as presented, as part of the city's Comprehensive Plan. This is the draft presented to you on December 17.

Structure and Content of the Chapter

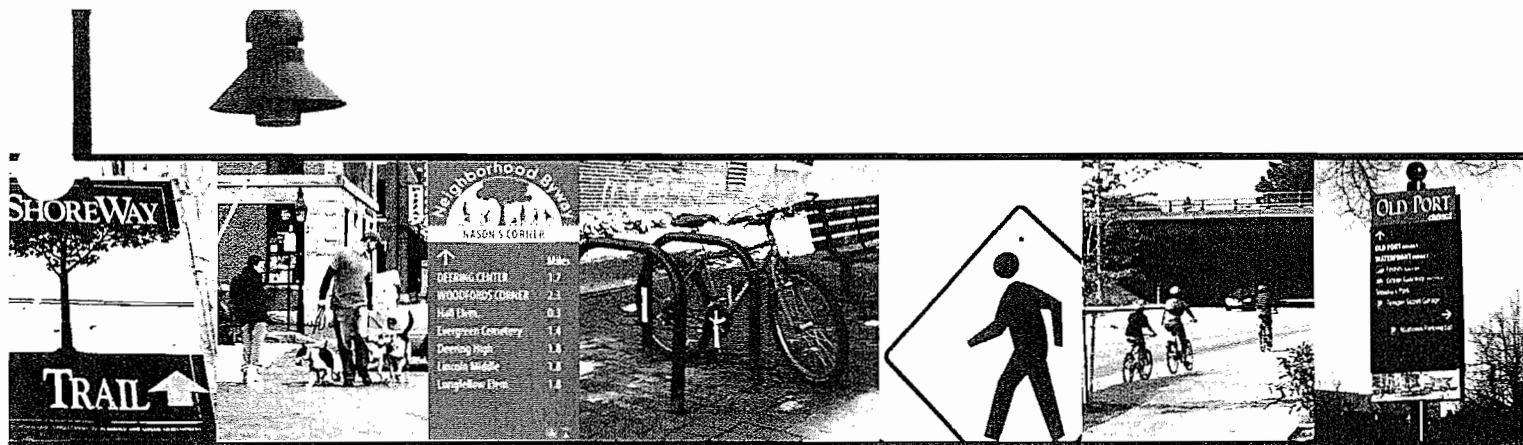
The draft comprehensive plan chapter is intended primarily to set the policy framework for bicycling and walking in Portland to support broader city goals of Livability, Sustainability, Public Health and Public Safety. This policy framework includes:

- adopting and implementing a Complete Streets Policy
- developing Quality of Service indicators for bicycling, walking and transit
- implementing the Transportation Districts and Centers concept from the 1993 transportation plan
- establishing and tracking mode share targets for all types of transportation trips
- work zone pedestrian and bicycling accessibility.

It is structured to provide a draft Vision and then supporting Goals, Objectives, Strategies and Performance Measures (from a higher level/more general to more specific). The performance measures provide a means to benchmark the current status of our efforts and track progress over time.

Sections in the Plan include:

- I. Vision and Existing Policy and Planning Context
- II. The Policy Context of Walking and Bicycling in Portland & in the Transportation System
- III. Pedestrian Network: Policy Context and Goal, Objectives, Strategies, Performance Measures
- IV. Bicycling Network: Policy Context and Goal, Objectives, Strategies, Performance Measures
- V. Education and Enforcement
- VI. Promotion and Encouragement
- VII. Implementation and Evaluation.



Pedestrian and Bicycle

Chapter of the

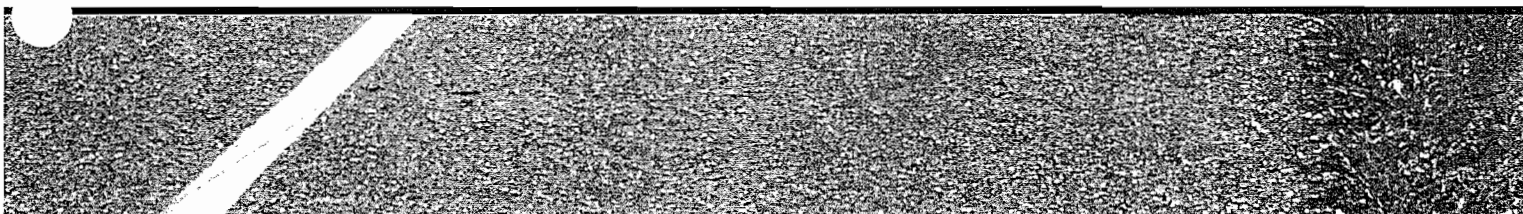
City of Portland Comprehensive Plan



Final Draft
City Council Review
December 2012

Produced by:

Department of Public Services
Department of Planning and Urban Development
Department of Health and Human Services



Pedestrian and Bicycle

Chapter of the

City of Portland Comprehensive Plan



As reviewed by:

City of Portland Transportation, Sustainability and Energy Committee

David Marshall, District 2, Chair
Kevin Donoghue, District 1, Vice Chair
Cheryl Leeman, District 4
John Anton, At Large

City of Portland Planning Board

Carol Morrisette, Chair
Stuart O'Brien, Vice Chair
Timothy Dean
Bill Hall
David Silk
Patrick Venne

Produced with contributing input from:

Portland Bicycle and Pedestrian Advisory Committee

Christian Milneil, Chair

DPS Bicycle Network Working Group

Produced by:

Department of Public Services

Michael Bobinsky, Director
Kathi Earley, Engineering Services Manager
Bruce Hyman, Bicycle and Pedestrian Program Coordinator

Department of Planning and Urban Development

Jeff Levine, Director
Alex Jaegerman, Planning Division Director
Bill Needelman, Senior Planner

Department of Health and Human Services

Doug Gardiner, Director
Bethany Sanborn, Healthy Portland
Joan Ingram, Healthy Portland

Pedestrian and Bicycling Chapter of the Portland Comprehensive Plan: Policy Context and Goals, Objectives, Strategies and Performance Measures

I. Vision and Existing Policy and Planning Context

A. Pedestrian and Bicycling Vision for Portland

DRAFT Vision

Over the next ten years, bicycling and walking will play an integral role in Portland's growing reputation as a livable and sustainable city. More biking and walking facilities that are safe, convenient and attractive will significantly increase the number of bikers and walkers as they travel to work, school, shop, and recreate. High quality complete streets, trails and pathways will provide connections for cyclists and pedestrians of all ages and abilities within and between the city's neighborhoods. These bikeways and walkways will also help grow transit ridership by creating seamless connections to bus routes and transportation centers. Robust enforcement, promotion and education programs help create and foster an active transportation culture within the city.

B. Existing Planning and Policy Context for Walking and Bicycling in Portland

A Time of Change: Portland Transportation Plan (1993)

In 1993, the City adopted a comprehensive transportation plan, *Time of Change*, which remains the foundational transportation policy document for Portland. The Plan was innovative in its day and continues to challenge decision makers to integrate land use and transportation decisions, to reduce automobile dependence, and to promote multi-modal transportation options for the sustainable health and vitality of the City. The Plan establishes targets for walking and biking mode shares for commuting of 20% for walking and 5% for bicycling.

Peninsula Transit Study and Action Plan (2009)

Working in the spirit of the 1994 Transportation Plan, the *Peninsula Transit Study* was approved in 2009 with the expressed goal of reducing the number of single occupancy vehicle trips to and from the Portland Peninsula. Using an integrated approach of policy, land use, and infrastructure innovations, the Transit Study includes an action plan for phased implementation. Implemented actions to date include: a "Fee In-Lieu of Parking" ordinance; Transportation Demand Management requirements, standards and application tools; expanded bike parking with bike parking requirements for private development; and, evaluation of Congress Street as a Bus Priority Corridor.

A Sampling of Related City Plans

Portland Waterfront Public Access Design Guidelines (1985)

The Portland Waterfront Public Access Design Guidelines were developed in the 1980s in recognition of the Waterfront's growing role as a tourism destination and a resource for local recreation and commerce. The guidelines mapped expanded routes and points of access to key places in Portland Harbor and were instrumental in establishing the "Shoreway Trail", Compass Park at Maine State Pier, and improved pedestrian integration between the Old Port and the Waterfront.

Portland Shoreway Access Plan (1987)

Building off the work of the Waterfront Public Access Design Guidelines, the 1987 Shoreway Access Plan established a “Water Links” policy of connecting key points of waterfront access through a city-wide system of off-road trails. The Water Links concept was the predecessor of the Portland Trails system map and the Shoreway Access Plan should be recognized as one of the most important foundational documents for expanded pedestrian infrastructure since plans establishing the Eastern and Western Promenades in the late 1890’s and early 20th Century.

Brighton Avenue / Main Street Corridor Traffic and Streetscape Study (1999)

The Brighton Avenue/Main Street Corridor Traffic and Streetscape Study was a regional planning process between Portland, Westbrook, GPCOG, and PACTS, which evaluated a key gateway corridor prior to opening a new Maine Turnpike interchange at Rand Road. The Streetscape Study was instrumental in establishing improved pedestrian conditions around the “Pine Tree” shopping plaza and in implanting a “road diet” 3-lane section of Brighton Avenue from Rosemont to Nason’s Corners with an on-road bikeway.

Green Spaces Blue Edges: Portland’s Recreation and Open Space Plan (1994 with 2006 update)

The Green Spaces - Blue Edges plan is a comprehensive inventory resources and recommendations for parks and recreation lands city-wide. The plan includes extensive neighborhood descriptions and recreational amenity inventories and is a valuable resource for pedestrian and bicycle planning.

Eastern Promenade Master Plan

The Eastern Promenade Master Plan is the first plan of improvements, treatments and land management for Portland’s signature open space since the Olmstead firm’s plan of 1905. The Eastern Prom is both a regional destination and route for pedestrians and bicyclists and is a link between communities to the north and the eastern portions of the Portland Peninsula.

Connecting Libbytown: Bicycle and Pedestrian Connection Options for a Disconnected Neighborhood (2009)

The Connecting Libbytown plan envisions improved pedestrian and bicycle linkage between the Fore River Parkway and the Portland Transportation Center to Deering Oaks and the planned extension of the Bayside Trail. In addition to providing quality of life amenities for the Libbytown neighborhood, the plan’s implementation will close gaps in completing a circa-peninsular trail network, as envisioned by the 1987 “water links” concept described above.

City of Portland Wayfinding System Study Report (2008)

The Portland Wayfinding System Plan created a set of criteria and graphic conventions for vehicular and pedestrian wayfinding city-wide. The Plan additionally established wayfinding districts and pedestrian signage for the Old Port, Government, Waterfront and Arts Districts. Pedestrian signage for these districts has been installed. Early in 2012, the City will continue the signage effort with a vehicle wayfinding study for the entire peninsula, which will include bicycle wayfinding.

Reclaiming Franklin Street (2009)

Starting as a citizen-led planning effort, the Reclaiming Franklin Street study developed three concept level plans for transitioning Franklin Street from an Urban Renewal era highway into a multi-modal urban mixed use corridor. The concepts retain the arterial function of the street, but add cross street connectivity, bicycle and pedestrian infrastructure, and improved access to adjacent properties in a less

land consumptive right of way. Early in 2012, the City will partner with PACTS and MaineDOT to establish a preferred alternative for design from the concept drawings.

Outer Congress Street Corridor Study (2007)

This study looked at traffic, bicycling, pedestrian and streetscape improvements on Congress Street from St. John Street to the South Portland city line. It recommended a multi-phase set of actions to maintain traffic mobility and make incremental changes to biking and walking environment.

Non-Profit and Regional Initiatives and Plans

PACTS. PACTS, the Portland Area Comprehensive Transportation System, is a federally-mandated regional transportation agency that coordinates the planning and programming of federal transportation funds in the greater Portland (15 communities) region. Plans include:

- PACTS Regional Bicycle/Pedestrian Plan Update: Final Report (2009)
- Bicycle Approaches to Tukey's Bridge (2009)
- Pedestrian Access to Transit (2011)
- Destination Tomorrow, the regional transportation plan (2011).

Portland Trails. Portland Trails is a regional land trust that has a vision to create a 50-mile trail network in greater Portland (generally Portland, Westbrook and Falmouth). To date (2012), approximately 36 miles of trails have been implemented with approximately 30 miles within the City of Portland. Most trails serve primarily recreation purposes but many have high transportation utility. Initiatives include:

- Portland Trails Trail Map and Vision Map
- Active Transportation – Way to Go! Portland.

Regional Trail Initiatives. In addition to Portland Trails, other efforts are underway to link shared use pathways and trails in Portland to larger regional and national trail networks. These include:

- Sebago to the Sea Trail – linking trails from Standish/Sebago Lake to Portland
- Eastern Trail/East Coast Greenway – linking pathways and streets in Portland to larger regional and nation bicycling and walking routes.

C. Goals, Objectives, Strategies and Performance Measures

The heart of the Comprehensive Plan is the set of Goals, Objectives, Strategies and Performance Measures that are inter-related to achieve the city's Vision for bicycling and walking.

Goals - Goals are the desired end result, general in nature, the product of a specific objective or objectives. A goal is finished when the desired end result has been achieved.

Objectives – Objectives are more specific aspects of achieving a Goal and is stated ideally in a way that is measurable.

Strategies – The method or action by which an objective is achieved.

Performance Measures – Qualitative and quantitative measures of progress toward achieving objectives and implementation of strategies. There are three types of performance measures: *Input* (such as dollars spent), *Output* (miles of sidewalks built), and *Outcome* (results of efforts, such as the number of people biking and walking, number of crashes, and reductions in childhood obesity). Outcome

performance measures are the most important type but can be more labor intensive to collect and involve change over longer periods of time. Benchmarks establish the status of a measure at the plan's inception; Targets set a measurable objective to reach at a future date.

The Benchmarks and Targets associated with the Performance Measures will be developed within the year following the Plan's adoption. The intent is to provide a bi-annual report to track implementation progress of the Plan's Goals and Objectives, and ultimately the Vision.

II. The Policy Context of Walking and Bicycling in Portland & in the Transportation System

Livability, Sustainability, Public Health & Public Safety

Overarching policy approach: Recommend important policy and programmatic changes to better coordinate actions and investments to achieve city goals in the areas of Livability, Sustainability, Public Health and Public Safety. Making the city more bikeable and walkable and increasing the amount of biking and walking can contribute significantly to achieving these goals. This Plan will be accomplished by doing more detailed work following the Plan's adoption such as developing a new street planning and design manual and identifying specific streets and areas for future investment or programs.

Livability

Livability is a term that refers to the overall quality of life enjoyed by a city's residents. Portland has long been touted as a highly livable community. Its environment for walking and biking are often cited as contributing factors. These factors include the quality of its streets and streetscapes for walking and biking, the city's compactness, and the quality of its historic and contemporary architecture and urban design characteristics.

Sustainability

As defined in the City's Comprehensive Plan, sustainability planning integrates the city's long-term decision making with environmental goals, economic goals and community goals. It means that local, short-term decisions are consistent with strategic, long-term goals. Walking and biking can contribute to the city's sustainability goals by reducing the environmental impacts and cost of transportation while improving the quality of life and travel experience for area residents and visitors.

Public Health

Increased walking and biking can significantly contribute to a city's overall public health, including reduction in chronic diseases such as diabetes, heart disease and rates of obesity. Achieving these objectives has been linked to increased physical activity through increased bicycling and walking.

Public Safety

Over the six year time period of 2005 to 2010, in Portland there were 283 crashes involving pedestrians and motor vehicles and 208 crashes involving bicyclists and motor vehicles. Better infrastructure, enforcement and education programs can help reduce the number and severity of these crashes. Portland has begun to implement the national program called *Crime Prevention through Environmental Design* that explicitly takes public safety into account when buildings and public spaces are designed.

An Enhanced Multi-modal Framework for Portland's Transportation System

Overarching policy approach: Establish a more holistic framework for the planning, design, construction, operation and maintenance of Portland's transportation system. This is suggested to include, but not be limited to:

- adopting and implementing a Complete Streets Policy (under development)
- developing Quality of Service indicators for bicycling, walking and transit
- implementing the Transportation Districts and Centers concept from the 1993 transportation plan
- establishing and tracking mode share targets for all types of transportation trips
- work zone pedestrian and bicycling accessibility.

Complete Streets Policy

A Complete Streets Policy is a policy statement expressing the community's aspirations to create streets that 1) fit their particular context and 2) give full consideration to and balance the needs of all users of the street of all ages and abilities – motorists, pedestrians, transit users, commercial vehicles, and bicyclists. Careful consideration must simultaneously be given to neighborhood livability in looking at items such as on-street parking and maintaining traffic flow on arterials to reduce diversion onto residential neighborhood streets. Such a Policy defines the suggested process and procedures involved to institutionalize this full consideration of all users' needs and would develop a new planning and design manual for Portland's streets.

A Multi-modal Quality of Service/Level of Service Framework

Multi-Modal Quality/Level-of-Service Indicators are rating systems that can be used to more equitably evaluate various transportation modes and impacts. Quality/Level of Service can refer to the speed, convenience, comfort and security of transportation facilities and services as experienced by users. Ratings, typically from A (best) to F (worst), are widely used to evaluate problems and potential solutions. Such ratings systems can be used identify problems, establish Performance Measures and targets, evaluate trade-offs between potential solutions, compare locations, and track trends. For instance, when looking at a street's intersection performance, the trade-offs and impacts on the different modes for various possible solutions can be explicitly identified.

Current planning in Portland and most elsewhere tends to evaluate transportation system performance based primarily on motor vehicle traffic speed and delay. There are generally no Q/LOS ratings used for other modes or problems. This tends to favor highway expansion over other types of transportation improvements. A Q/LOS approach can help level the playing field between the modes to help achieve broader strategic livability and sustainability goals (adapted from the VTPI website, www.vtpi.org).

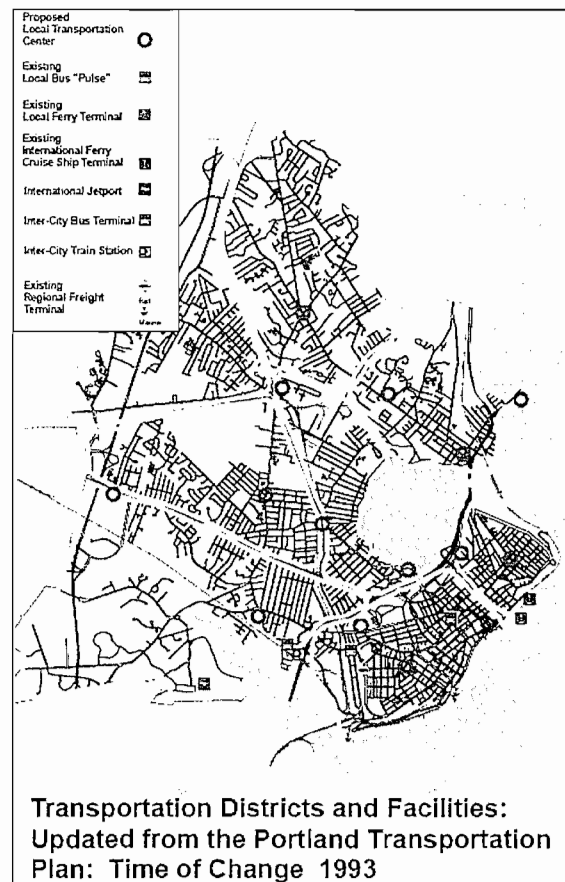
Another element to consider adding to a new planning framework is to revise how LOS for motor vehicles is being analyzed. Numerous communities are moving toward 1) lower LOS acceptable targets (such as LOS E (and in some cases LOS F) being 'acceptable' rather than the current typical LOS D being the target) or 2) changing the 'design hour' volumes from the highest peak hour to also include the hour before or after the highest peak hour. Either approach can potentially reduce the amount of infrastructure built to handle short, high traffic peak periods of the day. Building to the highest traffic peaks tends to negatively impact biking and walking infrastructure and the quality of the biking and walking environment.

Transportation Districts

A major innovation in the 1993 *Time of Change* Portland Transportation Plan was the recommendation to use the concept of Transportation Districts as a transportation planning framework. A major finding of the Plan is that most of the busier arterial streets serve as barriers within neighborhoods rather than as connectors of the community. It is recommended that these districts (illustrated at the right) be revisited for their utility/functionality and be used more effectively to plan for new biking and walking (and transit) infrastructure.

Mode Share Targets

The 1993 Transportation Plan established mode share targets for biking and walking commute trips of 5% and 20%, respectively. Mode share targets are included in the current Transportation Demand Management plans required of certain employers/sites. Data for more extensive use of mode share targets is difficult to come by currently and may take significant effort to expand their use.



III. Pedestrian Network: Policy Context and Goal, Objectives, Strategies, Performance Measures

Potential pedestrian policy emphasis areas

Develop new and revisit existing policies related to pedestrian planning, infrastructure and investment, including:

- pedestrian Quality of Service indicators and targets
- Sidewalk Material Policy for cost-effectiveness and serviceability
- Sidewalk Snow Clearance Policy for effectiveness
- more systematic pedestrian ADA and work zone accessibility and safety program
- arterial and collector street crossings.

Pedestrian Quality of Service

A number of factors can be used to develop Quality of Service indicators for the pedestrian environment that more fully capture the quality of the pedestrian experience. These include factors related to sidewalk segments and intersections.

Sidewalk Segments – sidewalks between intersections

Possible rating elements include:

- Continuity of sidewalk and condition
- Quality and frequency of street crossing opportunities
- ADA accessibility compliance - curb ramps, width, obstruction free
- Streetscape characteristics - esplanades, street trees, lighting, street furniture, etc
- Urban design characteristics - building placement, architecture, parking lot design and orientation, visual interest
- Sidewalk width related to pedestrian congestion.

Intersections – pedestrian crossings at signalized or unsignalized intersections

Possible rating elements include:

- Crossing distance – length of crossing, presence of pedestrian refuge islands and/or curb extensions
- Signalization – concurrent versus exclusive pedestrian phases, pedestrian-activated versus automatic phases, allotted crossing time, countdown timers, overall signal cycle length
- Traffic exposure – traffic volumes, speeds, right turn on red, congestion
- Accessible Pedestrian Signals – MUTCD/ADA compliance, audible signals.

These indicators can be used to establish Quality of Service targets for various types of areas or districts. For instance, 'Main Streets' and retail districts (such as the Old Port, the Arts District or Forest Avenue) may have higher pedestrian Quality of Service targets than industrial areas (such as Warren Avenue).

Sidewalk Material Policy

The Sidewalk Material Policy establishes expectations for the materials to be used for new sidewalk construction and rehabilitation of existing sidewalks on specific streets in Portland. In general, the Peninsula is a brick district, the areas abutting the Peninsula are concrete, and the outlying areas are asphalt sidewalk districts. Main critiques of the current policy include: 1) the relative higher cost to

construct and maintain an extensive brick sidewalk network (versus concrete or asphalt sidewalks) and
2) the relative difficulty to maintain passable brick sidewalks in the winter due to snow and ice.

Sidewalk Winter Clearing Policy

Currently, residential and commercial property owners are responsible for maintaining clear and passable sidewalks and curb ramps to crosswalk in the winter in a timely way on sidewalks along their property frontage with certain exceptions. The City provides the initial clearing of sidewalks for a small percentage of sidewalks that are key walking routes including within the downtown and primary school walking routes.

Compliance is monitored on a complaint-based system. Several options exist for revisiting the current Sidewalk Winter Clearing Policy including: 1) retaining the complaint-based process 2) moving to a more pro-active process and 3) expanding the city's responsibilities for clearing and maintaining sidewalks on certain classifications of streets (possibly focusing on priority streets (arterials/collectors) that have more snow loading and traffic exposure for pedestrians should sidewalks and crosswalks not be consistently cleared.

Safe and Accessible Streets/ADA Compliance

Create more systematic and sustained programs and funding to address ADA accessibility issues, work zone pedestrian accessibility and pedestrian safety issues. Federal law such as ADA and the implementing regulations such as the Public Right of Way Accessibility Guidelines (PROWAG) and the Manual on Uniform Traffic Control Devices (MUTCD) specify standards to establish and maintain accessible pedestrian routes along sidewalks (surface quality, slope and cross-slope), at intersections (curb ramps and accessible pedestrian signals) and within construction zones (allowable barriers, signs and detour routes).

Arterial/Collector Street Crossings

The 1993 Transportation Plan, 'A Time of Change', identified the 'barrier effect' that many of the city's arterial and collector streets can create which has the effect of reducing pedestrian safety and accessibility within and between neighborhoods. Enhanced pedestrian crossings can be created by a combination of one or more strategies, including reducing crossing distances, creating pedestrian refuge islands, active traffic speed management through street design, and pedestrian signal systems. Safe street crossings are needed to access bus transit routes which run on many of the city's arterial and collector streets. Crossing distances, traffic volumes, traffic speeds and the type of traffic control at a crossing all have significant impacts on pedestrian safety and comfort.

Pedestrian crossings can be located at controlled intersections (a crossing where there are traffic signals or stop signs) or at uncontrolled locations (a crossing not governed by signals or stop signs). Uncontrolled crossings can be located between corners at intersections or at mid-block locations between intersections. The city's Crosswalk Committee has jurisdiction over the approval and design of pedestrian crossings at uncontrolled locations.

Pedestrian/Walking Goal, Objectives, Strategies and Performance Measures

Pedestrian Network Goal: Establish and maintain a quality pedestrian network and supporting infrastructure and programs that safely serve: pedestrians of all ages and abilities; all neighborhoods and the islands; and, Portland residents, businesses and visitors.

- **Objective:** Expand the quality and continuity of the pedestrian network.
 - **Strategy 1P:** Identify sidewalks in poor condition for rehabilitation
 - **Performance Measure:** *Number of Miles of Sidewalks*
 - **Strategy 2P:** Identify priority missing gaps in the sidewalk network for construction.
 - **Performance Measure:** *Number of Miles of Sidewalk Gaps*
 - **Strategy 3P:** Identify priority missing gaps in the shared use pathway network for construction.
 - **Performance Measure:** *Number of Miles of Pathway Gaps*
 - **Strategy 4P:** Identify priority missing gaps in the trail network for construction.
 - **Performance Measure:** *Number of Miles of Trail Gaps*
- **Objective:** Expand the accessibility of the pedestrian network.
 - **Strategy 5P:** Develop and implement a Pedestrian ADA Accessibility Action Plan.
 - **Performance Measure:** Develop plan by June 30, 2014
 - **Performance Measure:** Implementation of Plan:
 - **Strategy 6P:** Revise work zone accessibility ordinance and processes to maintain pedestrian access .
 - **Performance Measure:** Revise by June 30, 2013
 - **Strategy 7P:** Reduce the barriers that arterials and collector streets can create by enhancing the number and quality of pedestrian crossings.
 - **Performance Measure:** Bicycle Parking Capacity (Public)
- **Objective:** Reduce by half the number of pedestrian-motor vehicle crashes that occur annually.
 - **Strategy 8P:** Develop and implement a Pedestrian Safety Action Plan with an emphasis on Safe Routes to School as identified within School Travel Plans and Arterial/Collector Street Crossings.
 - **Performance Measure:** Develop plan by June 30, 2014
 - **Performance Measure:** Reduce annual average of pedestrian crashes from 48 to 24 – *Existing:* Average number of pedestrian crashes – averaged over latest 3 yr period: 48 crashes (2008-2010); *Target:* 24 crashes (2025)
 - **Strategy 9P:** Develop and implement School Travel Plans as part of Safe.
 - **Performance Measure:** Development of School Travel Plans/Safe Routes to School recommendations.
 - **Performance Measure:** Implementation of School Travel Plans/Safe Routes to School recommendations.

IV. Bicycling Network: Policy Context and Goal, Objectives, Strategies, Performance Measures

Potential bicycling policy emphasis areas

Develop new and revisit existing policies related to bicycle planning and infrastructure development, including:

- bicycling Quality of Service indicators and targets
- update bicycling related ordinances
- adopt/update bicycle facility design guidelines and standards
- more systematic bicycling accessibility and safety program.

Bicycling Quality of Service

A number of factors can be used to develop Quality of Service indicators for the bicycling environment that more fully capture the quality of the bicycling experience. For on-road bicycle facilities, these include factors related to street segments and intersections.

Street Segments

Possible rating elements include:

- Traffic exposure – the volume, speed and composition of motor vehicle traffic
- On-street parking – the amount, location and turnover rate of on-street vehicle parking (door hazard)
- Bicycle Facility – the type (bike lane, paved shoulder, shared lane, bike boulevard) and continuity of bikeway facility along the segment
- Type of Intended User – the skill level, age and ability of cyclists
- Pavement markings and signs
- Availability of alternative/parallel routing options.

Intersections

Possible rating elements include:

- Traffic exposure – the volume, speed and composition of motor vehicle traffic
- Signalization and detection – the traffic signal cycle length and the quality of detection of bicyclists at intersection
- Bicycle Facility – the type (bike lane, paved shoulder, shared lane, bike boulevard) and continuity of bikeway facility through the intersection (do markings/facilities continue through the intersection?, e.g.)
- Type of Intended User – the skill level, age and ability of cyclists
- Pavement markings and signs
- Refuge islands/medians – their width and storage capacity (number of bikes/bikes with trailers).

Bikeway Facilities

Different on-road bicycle facilities provide distinct levels of accommodation and perceived safety for cyclists. Their application is dependent upon a roadway's characteristics, its context and intended its users.

Five types of on-road bikeway facilities that comprise Portland's designated bikeway network are included on a DRAFT Bikeway Network Map (attached): Bicycle lanes, Paved shoulders, Shared lanes,

Cycle-tracks, and Bicycle Boulevards (called 'Neighborhood Byways' in Portland). Existing and potential Future bikeways are shown. Each facility type has their own set of signs and pavement markings to denote them and are covered within the city's Technical Manual.

Regardless of whether a street is part of the designated bikeway network, Portland has adopted a Complete Streets Policy (pending as of October 2012) that states in principle that the entirety of Portland's streets (except where bicycling is expressly prohibited) should provide a safe environment for bicyclists of all abilities. Most of these types of facilities have specific pavement markings and signs and design guidelines or standards for implementation.

A large number of variables must be considered and balanced when selecting an on-road bicycle facility for a particular street. These variables include:

- existing road pavement width (and the potential/opportunities for widening)
- number of travel lanes, their width and their configuration
- traffic volumes – existing and future
- traffic speeds – posted speed limit and actual traffic speed
- composition of the traffic (such as the volume of trucks, buses and RVs)
- the skill level of likely cyclists using the facility
- the presence of on-street parking and its turnover rate
- the continuity of bikeway facility-type that can be achieved (frequent transitions between facility types within short distances should be avoided)
- surrounding land use context
- types of activity centers/destinations connected.

Bicycle lanes are designated bikeways that have stenciled bicycle symbol pavement markings and often have accompanying roadside signs. Bicycle lanes are designated for exclusive or preferential use by bicycles. They may be located on streets with or without on-street parking. On streets with parking, the lanes are placed between the travel lane and the parking. In Portland, the arterial and collector streets are candidates for bicycle lanes. These are the streets typically with the highest traffic volumes and even with bicycle lanes are most comfortable for cyclists riding with heavier traffic.

Paved shoulders are located to the right of the outside travel lane and delineated by a white pavement stripe. They are not designated specifically for use by bicycles but are available for bicycle use and provide room for separation from motor vehicle traffic. Paved shoulders are located on roads with and without curbing. They are distinct from on-street parking lanes.

Shared Lanes are roadway travel lanes that are shared by motorists and bicyclists. Shared Lanes, as a bicycle facility, are often used where the roadway is not wide enough to provide another facility such as a bike lane. Shared Lane pavement markings, also called Sharrows, may be appropriate if the Shared Lane is part of a designated bicycle network. 'Share the Road' signs or more recently 'Bikes May Use Full Lane' signs are often placed along roads where an on-road bicycle facility may transition from a bicycle lane or paved shoulder to shared lane facility due to reduced pavement width.

Shared lanes may be of two types:

narrow travel lanes 10' to 13' wide that require motorists to change lanes or cross the center line to safely pass cyclists with the required 3' of clearance

wide curb lanes that have additional width (14' to 16' wide) and allow motorists to overtake and pass cyclists without changing lanes (depending upon cyclist positioning within the travel lane).

The Shared Lane Markings are placed differently depending upon whether the lane is a narrow or wide curb lane and with or without the presence of on-street parking. The markings are intended to raise the visibility of bicyclists on roadways and provide lateral positioning guidance to cyclists as well.

Shared Use Pathways are facilities physically separated from the roadway and are intended for multiple simultaneous types of path users including bicyclists and pedestrians. They have a firm, compacted surface (paved, stone dust, etc) that serves road bicycles well. Depending upon the type of surface, roller bladers and equestrian users may also use the path.

Neighborhood Byways (commonly known as Bicycle Boulevards in other communities) are designated local streets that form a network of quality biking and walking connections that cater to cyclists and pedestrians of all ages and abilities, with special attention to making streets safer and more comfortable for children to use to and from schools. The streets are selected as Byways to allow travel off the busier arterial and collector streets provide connections to and between residential areas, schools, neighborhood business centers, parks, trails and open spaces and transportation centers. Byway treatments include Bicycle Boulevard pavement markings, wayfinding and destination signs, traffic calming measures, sidewalk and crosswalk improvements and streetscaping, such as street trees.

Bicycling Goal, Objectives, Strategies and Performance Measures

Bicycling Network Goal: Establish and maintain a quality bikeway network and supporting infrastructure and programs that safely serve: cyclists of all ages and abilities; all neighborhoods, the island and adjoining communities; and, Portland residents, businesses and visitors.

- **Objective:** Expand the amount and quality of the network of bike lanes, paved shoulders and shared lanes on the city's arterial and collector streets.
 - **Strategy 1B:** Re-purpose streets with surplus traffic capacity, pavement width and/or under-utilized on-street parking to create bicycle lanes, paved shoulders or wide curb lane shared lanes, where appropriate. Care must be taken not to create traffic bottle-necks that divert traffic from major streets into neighborhoods nor to negatively impact residential livability.
 - **Performance Measure:** Number of Miles of Bicycle Lanes & Paved Shoulders
 - **Strategy 2B:** For bikeway network streets without the width for bicycle lanes (or as an interim measure) create Shared Lanes with Shared Lane Markings (Sharrows).
 - **Performance Measure:** Number of Miles of Shared Lanes
- **Objective:** Meet the needs of younger and less skilled cyclists with skill-appropriate bicycle facilities.
 - **Strategy 3B:** Create a network of Neighborhood Byways/Bicycle Boulevards on local residential streets that serve trips within (neighborhoods) and between Transportation Districts.
 - **Performance Measure:** Number of Miles of Neighborhood Byways
 - **Strategy 4B:** Create a network of Shared Use Pathways.
 - **Performance Measure:** Number of Miles of Shared Use Pathways
- **Objective:** Reduce by half the average number of annual bicycle crashes (over three year period)
 - **Strategy 5B:** Develop and implement a Bicycling Safety Action Plan
 - **Performance Measure:** Development and Implementation of a Bicycle Safety Action Plan
 - **Performance Measure:** Reduction in the Annual Bicycle Crashes
- **Objective:** Increase Bicycle Parking - Public
 - **Strategy 6B:** Establish and use funding mechanisms, including the Sustainable Transportation Fund, to create more short term bicycle parking including bike racks and bicycle corrals within the public right of way, at transportation centers (ferry terminal),
 - **Performance Measure:** Short-term Bicycle Parking Capacity (Public)
 - **Strategy 7B:** Create long term parking including bicycle lockers at transit centers, including the Casco Baylines Ferry Terminal, the Metro Pulse, and the Portland Transportation Center possibly to include Bike Stations (attended bicycle parking facilities)
 - **Performance Measure:** Long-term Bicycle Parking Capacity (Public)
- **Objective:** Increase Bicycle Parking - Private
 - **Strategy 8B:** Continue to include bicycle parking as part of overall parking requirements for private development – some may be on private property, some may be within the public right-of-way.
 - **Performance Measure:** Amount of Bicycle Parking Capacity (Private)

- **Objective:** Better maintenance of streets for bicycling
 - **Strategy 9B:** Institutionalize processes for more timely street sweeping, pavement patching, pavement markings, snow removal, signs and signalization.
 - **Performance Measure:** Bicycle Facility Maintenance
- **Objective:** Increase availability of bicycles for short trips and for visitors.
 - **Strategy 10B:** Conduct Bike Sharing feasibility study.
 - **Performance Measure:** Bike Sharing Feasibility Study Performed
- **Objective:** Address key barriers to increased bicycle network connectivity (example: Rte 295 exits and bridges)
 - **Strategy 11B:** Identify key barriers and design improved connectivity.
 - **Performance Measure:** Develop and Implement Barrier Report

V. Education and Enforcement

Education and Enforcement Goal: Develop and deliver effective education and enforcement programs to reach pedestrians and bicyclists of all ages and abilities and motorists and law enforcement officers.

- **Objective:** Increase awareness of best/safe practices among bicyclists and pedestrians, as well as motorists and law enforcement.
 - **Strategy 1EE:** Promote regional cycling education classes by third parties through sponsorship, publicity, and use of city venues including the League of American Cyclists, the Bicycle Coalition of Maine, the Safe Routes to School program and *Cycling Saavy*.
 - **Performance Measure:** Increase number of education classes and students year over year.
 - **Strategy 2EE:** Increase amount and frequency of age-appropriate bicycling and pedestrian safety/education classes at elementary and middle schools.
 - **Performance Measure:** Amount of Education Programs Delivered
 - **Strategy 3EE:** Adopt a manual of best recommended practices for city bicyclists and create promotional and/or distribution system for it.
 - **Performance Measure:** Adopt manual, arrange printing and distribution program, track numbers distributed
 - **Strategy 4EE:** Increase law enforcement knowledge of bicycle law by instituting officer training in bicycle-specific law and best traffic practices (lane position, etc.).
 - **Performance Measure:** Amount of training for new officers within their first year, refresher every 5 years
 - **Strategy 5EE:** Institute law enforcement priorities and system for cyclist adherence to operational road rules, especially proper riding direction and use of lights at night, through either negative or positive reinforcement (i.e., ticket violations or reward adherence)
 - **Performance Measure:** Decrease in observed violations over time
 - **Performance Measure:** Increase number of positive recognition "citations"
 - **Strategy 6EE:** Integrate enforcement and education programs such that fines for violations by cyclists, and bicycle-related violations by motorists, may be waived or reduced

through completion of a sanctioned cycling education program, such as those promoted by Strategy 1 above.

- **Performance Measure:** Institute program and track use
- **Strategy 7EE:** Partner with third parties (such as GoMaine and Bicycle Coalition of Maine and media partners) to create radio and television Public Service Announcements to increase motorist awareness of cyclist and pedestrian presence, expected behavior, and road use rights.
 - **Performance Measure:** Number of PSA's under development and running concurrently at any given time

VI. Promotion and Encouragement

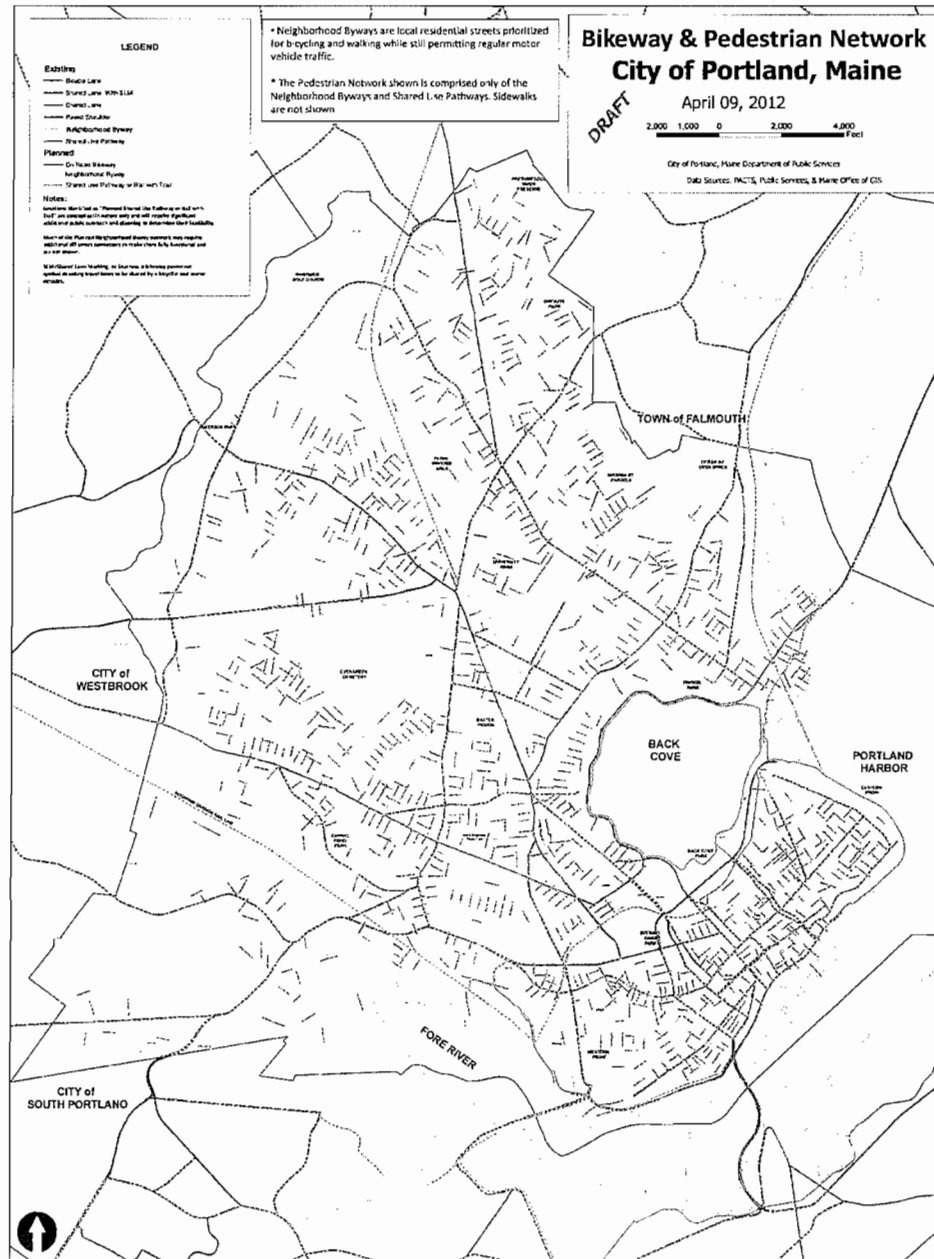
Promotion and Encouragement Goal: Create and implement effective promotion and encouragement programs to increase the enjoyment of and amount of walking and bicycling in Portland by pedestrians and cyclists of all ages and abilities and for trips of all purposes.

- **Objective:** Increase the amount of commuting by bicycling and walking to meet established mode share targets and to contribute to broader city sustainability, public health and livability goals.
 - **Strategy 1PE:** Implement promotional commute programs such as Bike to Work Day, Commute Another Way Week, and Transportation Demand Management Programs (TDM2GO.org).
 - **Performance Measure:** Measures of Work Commute Mode Share.
 - **Strategy 2PE:** Produce and promote up to date bicycle network map.
 - **Performance Measure:** Map and website produced
 - **Performance Measure:** Numbers of maps distributed and hits on website
- **Objective:** Increase and measure the amount of bicycling and walking to contribute to city sustainability public health and livability goals.
 - **Strategy 3PE:** Implement promotional programs such as Cyclovias (closing of streets such as Congress Street and Baxter Boulevard to motor vehicle traffic for walking and biking and celebrations), Gateway signage citing Portland as a Bicycle Friendly Community, cycling events (races, etc), signage/wayfinding, and public information (website, promotional materials).
 - **Performance Measure:** Measured increases in bicycling and walking at cycling events
 - **Strategy 4PE:** Develop a systematic and regular program of bicycle and pedestrian counts to accurately measure and track changes in levels of bicycling and walking.
 - **Performance Measure:** Change in amounts of walking and biking over time
- **Objective:** Increase the safety of and the amount of walking and bicycling to school by children and staff.
 - **Strategy 5PE:** Implement the program elements of School Travel Plans such as Walking School Buses and others.
 - **Performance Measure:** Measured changes in the amounts of bicycling and walking to school.

VII. Implementation and Evaluation

Over time, progress on implementing the policies and programs is to be measured and reported upon.

- **Emphasis on Outcome Performance Measures** including systematic methods to perform counts of bicycling and walking throughout the city.
- **Bi-annual Reporting** on Implementation via the Performance Measures.



*Order 125-12/13
Tab 24 12-17-12*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER ADOPTING "COMPLETE STREETS" POLICY

ORDERED, that the "Complete Streets" Policy, attached hereto, is hereby adopted.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Mayor Michael Brennan
Mark Rees, City Manager
Sonia Bean, Senior Administrative Assistant
Ann Freeman, Associate Corporation Counsel
Theresa Bourgoin, Administrative Assistant

FROM: Michael Bobinsky, Director of Public Services

CC: Katherine Earley, Engineering Services Manager, DPS
Bruce Hyman, Bicycle-Pedestrian Program Coordinator (DPS)

DATE: **December 3, 2012**

- 1) Council meeting at which action is requested:

1st reading: December 17, 2012
Final action: December 17, 2012
- 2) Can action be taken at a later date: X YES NO
If not, why not: Request action on December 2012 due to it being the end of the reporting term for the federal grant to report successful completion of grant objectives.
- 3) This item is sponsored by: Transportation, Sustainability and Energy Committee (Mar 21, 2012, 3-0).
(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

This item seeks Council adoption of the Complete Streets Policy. A Complete Streets Policy is a policy statement expressing the community's aspirations to create streets that 1) fit their particular context and 2) give full consideration to and balance the needs of all users of the street of all ages and abilities – motorists, pedestrians, transit users, commercial vehicles, emergency responders, and bicyclists.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

Provides new city council policy guidance for transportation and other projects that impact the public right of way.

- III. INTENDED RESULT** (How does it resolve the issue/problem?)
Creates new procedures and processes to ensure that the maintenance, planning, design and operation of public streets considers and balances the needs of all users.
- IV. FINANCIAL IMPACT**
Will require staff resources, possible seeking of grant funding with local match requirements for implementation, as well as new processes for implementation of transportation and other projects within the public right of way.
- V. STAFF ANALYSIS & RECOMMENDATION**
Staff recommends adoption.

Attachments



Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

To: Mayor Brennan and City Councilors
From: Michael Bobinsky, Director of Public Services
CC: Mark Rees, City Manager
Date: December 12, 2012
Re: Portland Draft *Complete Streets* Policy

Developing and adopting a *Complete Streets* Policy for Portland was one of the four primary objectives to be accomplished by the Department of Public Services (DPS) as part of the Communities Putting Prevention to Work (CPPW) grant awarded to the Healthy Portland Program. This grant, federally funded by the Center for Disease Control through the American Recovery & Reinvestment Act, had the major outcome of preventing chronic disease, including obesity, through policy and environmental change actions. A *Complete Streets* Policy would touch on both of these types of actions. DPS continues to work with the Planning Division and Healthy Portland to advance this work.

Specifically, the Department seeks the City Council's endorsement of the draft *Complete Streets* Policy. A Policy, once adopted, directs staff to implement the *Complete Streets* Policy over the coming months and years. A *Complete Streets* Resolution was adopted unanimously by the full City Council in March 2011. At its March 2012 meeting, the Transportation, Sustainability and Energy (TS&E) Committee endorsed the draft Policy along with the recommendation that staff develop an implementation plan for the Policy. Staff presented a draft implementation plan to the TS&E Committee at its August 2012 meeting. The outline of this plan is adapted as Policy Element #10, Implementation, of the draft *Complete Streets* Policy.

What Is a *Complete Streets* Policy?

A *Complete Streets* Policy is a policy statement expressing the community's aspirations to create streets that:

- 1) fit their particular land use and transportation context
- 2) give full consideration to and balance the needs of all users of the street of all ages and abilities – motorists, pedestrians, transit vehicles and users, bicyclists, commercial vehicles, and emergency responders.

Such a Policy outlines the suggested process and procedures involved to institutionalize this full consideration of all users' needs during the planning, design, construction, maintenance and operation of the city's streets.

A *Complete Streets* Policy's intent is to advance the sustainability, neighborhood livability, transportation, public safety, economic growth, and public health goals of Portland. It is not a Policy to implement a "one size fits all" street design in the City. It will require several years to implement

fully. The Policy is also an integral part of a more holistic multimodal planning approach for transportation in the city.

Key Elements of a *Complete Streets* Policy

The National Complete Streets Coalition has identified important elements of a *Complete Streets* policy that reflect national best practices (more details can be found at <http://www.smartgrowthamerica.org/complete-streets/changing-policy/policy-elements>). Key elements of an effective Policy that have been identified include:

- Includes a **vision** for how and why the community wants to complete its streets
- Specifies that “**all users**” includes pedestrians, bicyclists and transit passengers of all ages and abilities, as well as trucks, buses and automobile
- Encourages **street connectivity** and aims to create a comprehensive, integrated, connected network
- Applies to **both new and retrofit projects**, including planning, design, construction, maintenance, and operations, for the entire streets’ right of way
- Makes **any exceptions specific** and requires high-level approval for and documentation of the exceptions
- Directs the use of the **latest and best design criteria** and guidelines
- Includes **specific next steps** for implementation of the policy (adapted, Complete Streets Coalition).

The draft Policy reflects these national best practices.

Previous Work and Next Steps

Nationally, over 400 jurisdictions (including municipalities and state and regional agencies) have adopted some form of a Complete Streets Policy during the last ten years.

In March 2011 the Portland City Council adopted a Complete Streets Resolution directing city staff to develop a draft Policy for its consideration. In July 2011, the Department of Public Services convened a working group of city staff, advocates and other local and regional stakeholders for a one day workshop to discuss the ten policy elements of a Complete Streets policy. This workshop was facilitated by the National Complete Streets Coalition and funded by the EPA’s Smart Growth Technical Assistance program.

Implementation of the Policy, once adopted, will begin over the coming months and will take up to several years to fully implement. Complete Streets principles and ideas have already been incorporated into several recent transportation planning and design initiatives by the City including Franklin Street, Forest Avenue and Outer Congress Street.

1. Vision. The City of Portland's streets shall sustainably provide for the needs of all current and future users and all modes in planning, programming, design, construction, reconstruction, paving, retrofit, operations, and maintenance activities. The goal is to create a connected network of facilities accommodating each mode of travel that is consistent with and supportive of the local community, recognizing that all streets are different and that the needs of various users will need to be balanced in a flexible manner.

Complete Streets contribute to the city's sustainability and livability goals including: creating a comprehensive, equitable, and fully accessible transportation network; enhancing public safety and public health; complementing land use patterns and economic development; and, achieving energy and environmental sustainability.

Decisions regarding the public right-of-way shall promote use by all users and all modes in a safe, balanced and effective manner taking into account the surrounding community context and land uses. The principles and policies guiding these decisions shall be known as Complete Streets.

2. All Users and All Modes. This Policy is inclusive of all users of all ages and abilities and all modes including: motorists; bicyclists; pedestrians, including persons with disabilities which may use mobility devices such as wheelchairs; public transportation services, vehicles and patrons; freight providers; and, emergency responders.

3. All Projects. Early consideration of all modes for all users will be important to the success of this Policy. Those planning and designing projects that affect public streets will give due consideration to all roadway users from the very start of planning and design work. This will apply to all roadway projects, including those involving new construction, reconstruction, re-paving/rehabilitation or roadway retrofit. Roadway retrofits may include changes in the allocation of the right-of-way and pavement space on an existing roadway, such as changes to the number and use of lanes, changes in lane widths, and/or reconfiguration of on-street parking.

When applying for and reviewing projects for funding purposes regardless of funding source, Complete Street practices and principles will be included, as appropriate, for all projects that affect the public right-of-way.

4. Exceptions. Bicyclist, pedestrian and bus transit users and facilities and their considerations shall be included in street construction, re-construction, re-paving, and rehabilitation projects, except under one or more of the following conditions:

- a. A project involves only ordinary maintenance activities designed to keep assets in serviceable condition, such as mowing, cleaning, sweeping, spot repair, concrete joint repair, or pothole filling, or when interim measures are implemented on temporary detour routes.