# CITY OF BELFAST

131 Church Street
Belfast, Maine 04915

**Joseph J. Slocum**
City Manager

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**MANAGER'S REPORT**
Belfast City Council Meeting
Tuesday, August 4, 2015
**6:00 p.m. – Committee Interviews**
**7:00 p.m. – Regular Council Meeting**

**TO: Mayor Walter Ash Jr. and Honorable Members of Belfast City Council**

**FROM:** Joseph J. Slocum, City Manager

**DATE**: Thursday, July 30, 2015

**Agenda Items:**

**10-A Request from the Economic Development Director to proceed with the cleanup of 45 Front Street (former Maskers Property).**

In 2014 the City received a $200,000.00 cleanup grant from the U.S. Environmental Protection Agency (EPA) to help pay for environmental cleanup of the land and the old Masker's Building, located at 45 Front Street. Ransom Consulting will provide you with a verbal update at the meeting. In addition to the verbal update, we are now requesting that the City approve several components of the cleanup plan. First, to allow me to sign the finalized memorandum of the agreement between the EPA and the Maine Historic Preservation Commission regarding required mitigation activities for the demolition of the Masker's Building. It will largely involve making a recording of the building before it is torn down. Secondly, to approve a list of components from the building that has been requested to be saved by local interested non-profit organizations. Thirdly, I would like to hire the firm of Kleinfelder to begin the recordation (documentation) activities on the Masker's Building, as required by the EPA. Finally, we request the Council to authorize Ransom Consulting to initiate the bid process for the abatement of the hazardous material and the demolition of the Masker's Building. You will find a memo from Economic Development Director, Thomas Kittredge in your packet.

**10–B Request from David Carlson to play live music until midnight at Steamboat Landing, as part of the Harbor Festival celebration.**

Normally, music is not allowed past 11:00 p.m. Three Tides & Marshall Wharf Brewing Co., owned by David Carlson, put on an annual musical event on Friday evening as part of the Launch Party for the Harbor Fest. Mr. Carlson is asking for an extension of these hours to play live music until midnight on Friday, August 14, 2015. He made the same request last year and it was approved by the Board. We have had concerns raised in the past by some neighbors, living around the park, about music. Mr. Carlson will be at the meeting to answer your questions.

**10–C Request from Mark Dittrick for permission to place two signs on City Property, one at the Public Boat Launch and the other on the Harbor Walk, relating to preservation of North Atlantic Right Whales.**

Mr. Dittrick is a citizen who has volunteered to work with NOAA (National Oceanic and Atmospheric Administration) to distribute signs around the areas of coastal launches and marinas. He has a letter with an example of the sign. He will be attending the meeting to discuss this with you.

**10–D Second Reading on amendments to Amendment #8 on the Contract Rezoning Agreement between the City and DUBBA, LLC.**

These amendments involve the construction of Building # 6 on the Front Street parking lot in which the most significant change is to extend the time period in which DUBBA, LLC can complete the construction of Building #6 to December 31, 2017. Most other changes are to make other terms in the Contract Rezoning Agreement consistent with this change in construction dates. There is a memo explaining these amendments in your packet from City Planner, Wayne Marshall.

**10–E Second Reading of the consideration of amendments to the Option to Lease Agreement between the City and DUBBA, LLC.**

This involves the lease/sale of the City Parking lot to DUBBA, LLC for the construction of Building #6. The two major changes to the Option to Lease Agreement are:

1) The date by which DUBBA, LLC must execute the Option to Lease has been extended to October 1, 2016.

2) The date by which DUBBA, LLC must complete construction of Building #6 would be extended to December 31, 2017.

There is a memo explaining these amendments in your packet from City Planner, Wayne Marshall.

**10–F Discussion on minor amendments to the Master Boundary Agreement between the City and DUBBA, LLC to address changes associated with Amendment #8 of the Contract Rezoning Agreement and the Lease/purchase Agreement for the Front Street parking area.**

There is a memo from City Planner, Wayne Marshall, in your packet. Essentially the City is providing the Shipyard with additional time to build Building # 6 in keeping with their financial plan.

**10–G Consideration of the appointment of Pamela Chase as the City's General Assistance Administrator.**

We are seeking approval of Ms. Chase's appointment to this position. She has worked for the Town of Liberty where she has served as an elected official, and as the General Assistance Administrator. She is a welcome addition to our team.

**10-H Consideration of a request from the Chief of Police to accept two forfeitures of property to the Department as proceeds of illegal activity.**

From time to time the Police Department is involved in criminal investigations where either cash or goods are seized, and under the law, as part of those seizures the proceeds can be divided amongst the various law enforcement agencies which participated in the seizure. The Chief presently has the ability to accept forfeiture of $597.00 cash, and a vehicle (2011 Subaru Impreza). There is a memo from Chief of Police, Mike McFadden attached in your packet.

**10–I Request from the Economic Development Director to transfer $4,000.00 from the Airport Runway Capitol Reserve Account to pay for survey work associated with the future exchange of land between the City and the Maine National Guard.**

The City is swapping some land with the Maine National Guard. This land will enable the City to develop a parallel taxi-way for the safety of planes, both landing and taking off. In order to accomplish this we need to have some survey work done and there is a memo from the Economic Development Director, Thomas Kittredge in the packet that further explains this request.

**10–J Update from Assistant City Planner, on the efforts of the Energy Committee to develop a solar facility at the old landfill.**

This Committee has been working and reviewing the possibility of using the old land fill on Pitcher Road to develop a solar array. These projects are usually paid for by private dollars, beginning in the seventh year

the City would have the option to buy the system from the investor. Attached in your packet is a memo from Assistant City Planner, Sadie Lloyd explaining this proposal.

**10-K Update and possible action associated with the Downtown Revitalization Project.**

The Downtown Revitalization Project is currently under construction and City staff is requesting action from the Council on two issues:

1) Request of a change order in the amount of $19,475; $15,647 of which is associated with the removal of the rock drain adjacent to Miller Street.

2) Request to remove existing trees on Cross Street at the Cross Street parking lot.

City Planner, Wayne Marshall, has a memo in your packet to further explain this.

**10-L Second Reading of amendments to Chapter 78, Floods of the City Code of Ordinances.**

These amendments address minor revisions requested by the Federal Emergency Management Agency. There is a memo from City Planner, Wayne Marshall in your packet.

**10-M Update from Assistant City Planner, Sadie Lloyd on the bids received for the City lighting audit.**

There is a memo attached in your packet from Assistant City Planner, Sadie Lloyd on the bids received for a lighting auditor to audit all City buildings, facilities, and street lights.

**10-N Discussion of a proposal for a new Fixed Base Operator at the Belfast Municipal Airport.**

There is a memo attached in your packet from Economic Development Director and Airport Manager, Thomas Kittredge.

**10-O Request by the Economic Development Director to submit a preliminary application to the Maine National Guard's Innovation Readiness Training program, for assistance in moving earth as part of a future Airport parallel taxiway project.**

City staff has learned that the Maine Army National Guard has a program whereby which they can provide free services and labor called the Innovation Readiness Training program. There is a memo attached in your packet from Economic Development Director and Airport Manager, Thomas Kittredge explaining application.

**10-P Request to go into Executive Session to discuss an economic development matter pursuant to 1 MRSA 405 (8) C.**

**10-Q Request to go into Executive Session to discuss an economic development matter pursuant to 1 MRSA 405 (8) C.**

**10-R Signing of Council Orders**

**City of Belfast**
**Consent Agenda**
**Tuesday, August 4, 2015**
**Meeting #3**

The following items are proposed as our Consent Agenda. As in the past the items are voted on in one blanket motion to the affirmative. One Councilor makes a motion to approve the items as stated, and then another Councilor will second that motion and the whole Council votes. If a Councilor requests an item be removed from the consent agenda, they do so during the adoption of the agenda. If a member of the public requests that an item be removed from the consent agenda, they can do so in the open to the public section. Suggested motions are listed and supporting material is enclosed.

**9) Permits, Petitions and Licenses - Consent Agenda**

**A. Request to approve an application by Matthew Kenney d/b/a The Gothic Restaurant located at 108 Main Street, Belfast, Maine for a renewal Victualer license to expire May 31, 2016.**

Motion to approve an application by Matthew Kenney d/b/a The Gothic Restaurant located at 108 Main Street, Belfast, Maine for a renewal Victualer license to expire May 31, 2016.

**B. Request to approve an application by Lafayette Belfast, LLC d/b/a Fireside Inn & Suites at Ocean's Edge located at 159 Searsport Avenue, Belfast, Maine for a renewal Hotel-Optional Class I-A liquor license, interior and exterior decks.**

Motion to approve an application by Lafayette Belfast, LLC d/b/a Fireside Inn & Suites at Ocean's Edge located at 159 Searsport Avenue, Belfast, Maine for a renewal Hotel-Optional Class I-A liquor license, interior and exterior decks.

**C. Request to approve an Off Premise Catering application by Mainely Bartenders, LLC for the "Lobster Bake" for the New York Yacht Club located at Front Street Shipyard, 101 Front Street, Belfast, Maine on August 13, 2015 from 6:00 p.m. to 10:00 p.m.**

Motion to approve an Off Premise Catering application by Mainely Bartenders, LLC for the "Lobster Bake" for the New York Yacht Club located at Front Street Shipyard, 101 Front Street, Belfast, Maine on August 13, 2015 from 6:00 p.m. to 10:00 p.m.

**D. Request to approve an Off Premise Catering application by Mainely Bartenders, LLC for the "Officers Party" for the New York Yacht Club located on at Steamboat Landing Park on August 12, 2015 from 5:30 p.m. to 7:30 p.m.**

Motion to approve an Off Premise Catering application by Mainely Bartenders, LLC for the "Officers Party" for the New York Yacht Club located on at Steamboat Landing Park on August 12, 2015 from 5:30 p.m. to 7:30 p.m.

**E. Request to approve an Off Premise Catering application by Trillium Events, Inc for the "Dinner on the Bridge" Our Town Belfast Fundraiser located on the Armistice Bridge on July 30, 2015 from 7:30 p.m. to 9:30 p.m.**

Motion to approve an Off Premise Catering application by Trillium Events, Inc for the "Dinner on the Bridge" Our Town Belfast Fundraiser located on the Armistice Bridge on July 30, 2015 from 7:30 p.m. to 9:30 p.m.

**F. Request to approve an Off Premise Catering application by The Otis Group Incorporated d/b/a Rollie's Bar & Grill for the "Assessors Dinner" located at the Belfast Boathouse, 34 Commercial Street, Belfast, Maine on August 6, 2015 from 5:00 p.m. to 9:00 p.m.**

Motion to approve an Off Premise Catering application by The Otis Group Incorporated d/b/a Rollie's Bar & Grill for the "Assessors Dinner" located at the Belfast Boathouse, 34 Commercial Street, Belfast, Maine on August 6, 2015 from 5:00 p.m. to 9:00 p.m.

**G. Request to approve an Off Premise Catering application by The Otis Group Incorporated d/b/a Rollie's Bar & Grill for the "Street Party" Our Town Belfast Fundraiser located in front of Macleod's Furniture, 187 High Street, Belfast, Maine on August 3, 2015 from 5:00 p.m. to 10:00 p.m.**

Motion to approve an Off Premise Catering application by The Otis Group Incorporated d/b/a Rollie's Bar & Grill for the "Street Party" Our Town Belfast Fundraiser located in front of Macleod's Furniture, 187 High Street, Belfast, Maine on August 3, 2015 from 5:00 p.m. to 10:00 p.m.

**H. Request to approve an Off Premise Catering application by Three Tides for the "Launch Party" for Harbor Fest located at Steamboat Landing on August 14, 2015 through August 15, 2015 from 5:00 p.m. to 1:00 a.m.**

Motion to approve an Off Premise Catering application by Three Tides for the "Launch Party" for Harbor Fest located at Steamboat Landing on August 14, 2015 through August 15, 2015 from 5:00 p.m. to 1:00 a.m.

10.A

Request by the Economic Development Director to proceed with components of the cleanup of 45 Front Street.

In 2014, the City of Belfast $200,000 received in grant funding from the U.S. Environmental Protection Agency (EPA) to help pay for the environmental cleanup of the City-owned parcel (and buildings) located at 45 Front Street (also known as the 'Maskers Theater' property), to help prepare the site for future reuse/redevelopment.

Ransom Consulting, the firm selected by the City to oversee this project, will have staff present to be able to provide the City Council and the public a brief overview/update of the project, as well as be able to answer specific technical questions that the Council may have.

In addition to the overview/update, City staff are now requesting that the City Council approve the following components of the cleanup plan: 1) authorize the City Manager to sign the finalized Memorandum of Agreement between the EPA and the Maine Historic Preservation Commission regarding required mitigation activities for the demolition of the Maskers' Theater; 2) approve the list of components from the Maskers' Theater that were requested to be saved by interested nonprofit organizations; 3) hire the firm Kleinfelder to begin recordation (documentation) activities at the Maskers' Theater; and 4) authorize Ransom Consulting to initiate the bid process for the abatement of hazardous materials from, and the demolition of, the Maskers' Theater.

City staff would also be interested in further discussion regarding the future of the "Storage Building" (the building where the City currently stores the Harbor Master's boat). While the cleanup plan that has been developed for the 45 Front Street site does include the abatement and demolition of this building, the City is not required to proceed with those particular activities, if the City wishes not to do so. The abatement and demolition of the Storage Building could also be delayed until a later date, perhaps as part of the second phase of the cleanup that will deal with soil contamination at the site, or the abatement of this building could be done at the same time as it is done for the Maskers' Theater (while postponing its demolition to a later date, as Ransom informs me that the abatement could be done without structurally compromising the building).

4.01

RANSOM
Consulting
Engineers
and Scientists

# Tech Memo

Date: April 20, 2015

To: Thomas Kittredge and Wayne Marshall, City of Belfast

From: Kevin Trainor, E.I., and Peter Sherr, P.E., Ransom Consulting, Inc. (Ransom)

CC: Aaron Martin, C.G., Ransom and Belfast Brownfields Cleanup Task Force

Subject: Building Component Preservation and Evaluation of Potential Demolition Cost Impact
Demolition of Masker's Theater and Storage Building
45 Front Street, Belfast, ME
Ransom Project R111.06134.034

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Ransom Consulting, Inc. (Ransom) has prepared this memorandum to assist the City of Belfast (the City) and its Brownfields Cleanup Task Force in further assessing the feasibility of preserving historical building components and potential cost impacts to the demolition estimates for the former Masker's Theater and Thompson's Wharf property, located at 45 Front Street in Belfast, Maine (the Site). This memorandum addresses the potential cost implications of including the removal and preservation of select building components previously identified by the City of Belfast, prior to building demolition.

Ransom understands that the City of Belfast has solicited input from local entities regarding preservation for public use of building components that may be considered historically significant. During three separate Site walks lead by the City of Belfast on March 24 and 25, 2015, Brooks Preservation Society, the Belfast Historical Society and Museum, and Our Town Belfast identified select building components that each organization would like to potentially salvage, prior to demolition. A list of these building components along with photos is attached for reference. Building components identified include doors, door frames, the wooden handrail, the sink and faucets, coat hooks, light fixtures, door weight(s), sliding door hardware, exterior wooden corbels, wooden pitched roof supports, and decorative exterior woodwork (a complete list and photos are attached).

Ransom discussed the preservation of these components with an abatement and demolition industry expert. Based on our discussions, removal, segregation, salvage, and temporary on-Site storage of these building components would not significantly affect the demolition bids from abatement and demolition contractors or the previous demolition cost estimates provided in the Reuse Scenario Cost Analysis (Building Demolition Versus Relocation) Memorandum, dated February 24, 2015, addressed to Thomas Kittredge and Wayne Marshall of the City of Belfast. Outside of the identified components to be removed and preserved, protection of remaining building systems is not necessary, since these remaining

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60 Valley Street, Building F, Suite 106, Providence, Rhode Island 02909, Tel (401) 433-2160
2127 Hamilton Avenue, Hamilton, New Jersey 08619, Tel (609) 584-0090

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building systems and components are proposed for demolition. Therefore, it is our opinion and the opinion of the industry expert that the additional labor cost necessary for removal, segregation, salvage, and temporary storage of the identified building components by an abatement and demolition contractor, prior to final building demolition, will be approximately $2,000 or less, and therefore, will likely not significantly influence the overall abatement and demolition bids to be received from prospective contractors in the future.

Please let us know if you have any questions or need further clarification regarding this memorandum.

Attachments

| Item Number | Item Quantity | Item Description | Entity Requesting Item | Notes |
|---|---|---|---|---|
| BPS-1 | 1 | wooden door frame | Brooks Preservation Society | goes with BPS-2 |
| BPS-2 | 1 | wooden door | Brooks Preservation Society | goes with BPS-1 |
| BPS-3 | 1 | wooden door | Brooks Preservation Society | goes with BPS-8 |
| BPS-4 | 1 | wooden door frame, including transom above | Brooks Preservation Society | goes with BPS-6 |
| BPS-5 | 1 | wooden door frame, including transom above | Brooks Preservation Society | goes with BPS-10 |
| BPS-6 | 1 | wooden door | Brooks Preservation Society | goes with BPS-4 |
| BPS-7 | 1 | wooden door | Brooks Preservation Society | goes with BPS-19 |
| BPS-8 | 1 | wooden door frame, including transom above | Brooks Preservation Society | goes with BPS-3 |
| BPS-9 | 1 | wooden handrail and mounting brackets | Brooks Preservation Society | |
| BPS-10 | 1 | wooden door | Brooks Preservation Society | goes with BPS-5 |
| BPS-11 | 1 | sink and faucets/handles | Brooks Preservation Society | not requesting pipes connecting underneath sink |
| BPS-18 | 2 | portion of light fixture – metal base (holds bulb) | Brooks Preservation Society | loose/can be removed from building immediately; goes with BPS-23 |
| BPS-19 | 1 | wooden door frame | Brooks Preservation Society | goes with BPS-7 |
| BPS-22 | 3 | small coat hooks | Brooks Preservation Society | loose/can be removed from building immediately |
| BPS-23 | 2 | portion of light fixture – large white globe dome (covers bulb) | Brooks Preservation Society | loose/can be removed from building immediately; goes with BPS-18 |
| BPS-24 | 1 | door weight | Brooks Preservation Society | loose/can be removed from building immediately |
| BPS-25 | 1 | light fixture | Brooks Preservation Society | item is unmarked (couldn't be reached); located in same area as BPS-9; same as combination of BPS 18 (metal base) and BPS-23 (white globe dome) |

| | | | | |
|---|---|---|---|---|
| BPS-26 | as many as possible (up to 15) | any metal hardware from large sliding doors (tracks, weights (like BPS-24), rollers, other hardware) | Brooks Preservation Society | items are unmarked; 15 large sliding doors exist along side of building fronting Belfast Harbor Walk; hardware is not visible (if still there, most likely located inside wooden panels between doors) |
| BPS-27 | as many pairs as possible (up to 50 pairs) | wooden exterior corbels | Brooks Preservation Society | items are unmarked; total of 50 pairs of corbels are present on the entire building exterior; same item as HIST-1 and OPT-1 |
| HIST-1 | 4 pairs | wooden exterior corbels | Belfast Historical Society and Museum | items are unmarked; total of 50 pairs of corbels are present on the entire building exterior; same item as BPS-27 and OPT-1 |
| OTB-1 | 4 pairs | wooden exterior corbels | Our Town Belfast | items are unmarked; total of 50 pairs of corbels are present on the entire building exterior; same item as BPS-27 and HIST-1 |
| OTB-2 | 2 | wooden supports (currently supporting pitched roof sheltering former ticket windows on Front Street side of building) | Our Town Belfast | items are unmarked |
| OTB-3 | 2 | supports and decorative woodwork above exterior doors on Front Street side of building; not including mini-roof above | Our Town Belfast | items are unmarked; total of 4 of these are present on the entire building exterior |

10.C

July 29, 2015

From:

Mark Dittrick
48-6 Marshall Wharf
Belfast, Maine 04915

To:

Belfast City Council
City Hall
Belfast, Maine 04915

Dear Mayor and Councilors:

I have volunteered to assist the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) in the distribution of a sign they have produced for coastal launch areas and marinas. These 2' x 3' aluminum printed signs were designed to educate boaters about right whales in the waters off our Northeast Coast and to instruct boaters on how they might identify right whales and report sightings.

I requested two signs from NOAA: one for the public launch area near the harbor master's office, and one for the Harbor Walk area within the Front Street Shipyard.

So, I am requesting permission from the City of Belfast to undertake the suitable placement of these two signs on city property, on the Harbor Walk and at the Belfast Public Boat Launch.

I am also requesting placement on the next City Council meeting so that I might formally present the signs to the city and to request Council approval to erect them on city property.

Attached is a copy of a NOAA Press release describing the signs and explaining their "North Atlantic Right Whales Need Your Help!" program

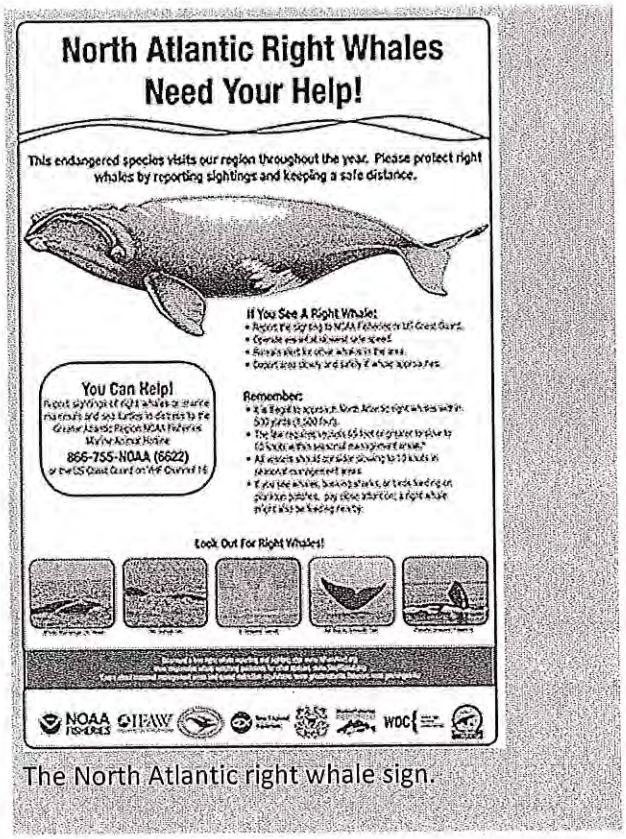
I appreciate your consideration of this request.

Mark Dittrick

3.01

NOAA FISHERIES SERVICE Northeast Fisheries Science Center Newsroom

# Collaboration Key to New Right Whale Sign Campaign



The North Atlantic right whale sign.

North Atlantic right whales in Northeast U.S. waters are getting some help, thanks to a new sign campaign requesting recreational and commercial boaters to report sightings of these whales and to keep a safe distance from them.

Boat ramps and marinas in the Northeast, with an initial focus on key spots around Cape Cod Bay, will be approached to post the new two by three foot aluminum signs featuring right whale graphics, key facts about right whales, and hotline numbers to report right whale sightings, or marine mammals and sea turtles in distress.

Christin Khan of the NEFSC's aerial survey group at the Woods Hole Laboratory developed the idea after seeing similar signs in the Southeast U.S., and having family and friends ask about having something similar in the Northeast. She did some checking with colleagues in the Southeast to see how the signs worked and what was involved, and used the Southeast sign as a template. Khan applied for and received an outreach and education mini-grant for $1,000 from the NOAA Fisheries Communications Office, which provided the seed funds to get the project off the ground as other organizations joined the effort.

"The collaboration and support of so many groups made this project a reality," Khan said. "Allison Rosner at NOAA Fisheries Greater Atlantic Regional Office volunteered to do the graphic design, and Scott Landry at the Center for Coastal Studies offered images. Many other people helped pull this project together, and enabled us to spend most of the NOAA mini-grant on printing the signs."

The design is now complete and the first 16 signs are about to be printed at Cape Print in South Yarmouth, Mass. The specific locations for the signs are now being determined, but the focus is to place them in areas where boaters going offshore are most likely to encounter right whales. "We will probably start with a few signs in New Hampshire and Rhode Island, but most will be placed around Cape Cod Bay. We'd like to have them all along the East Coast, but this is a good start."

In addition to NOAA Fisheries, collaborators include the International Fund for Animal Welfare (IFAW), Center for Coastal Studies, New England Aquarium, U.S. Coast Guard, Massachusetts Division of Marine Fisheries, Whale and Dolphin Conservation, and See a Spout, Watch Out!, a program to promote responsible whale watching.

NOAA Fisheries Service is dedicated to protecting and preserving our nation's living marine resources and their habitat through scientific research, management and enforcement. NOAA Fisheries Service provides effective stewardship of these resources for the benefit of the nation, supporting coastal communities that depend upon them, and helping to provide safe and healthy seafood to consumers and recreational opportunities for the American public.

# AGENDA TOPIC 10.D

TO: Mayor & City Council

FROM: Wayne Marshall, City Planner

DATE: July 30, 2015

RE: Second Reading of Proposed Changes to Amendment #8 - Contract Rezoning Agreement, Front Street Shipyard and Option to Lease Agreement

**REQUESTED ACTIONS**

1) The Council should conduct the scheduled public hearing.

2) The Council should decide if you are prepared to adopt the proposed amendments to the Contract Rezoning Agreement, Amendment #8, as the Second Reading of said amendments. The Council has the authority to adopt, amend, or reject the proposed amendments.

**BACKGROUND INFORMATION**

The City Council, on January 7, 2014, adopted Amendment #8 to the Contract Rezoning Agreement between the City and DUBBA, LLC. Amendment #8 mostly defined terms that the Front Street Shipyard must satisfy to construct Building #6 on the City owned Front Street parking lot. Building #6 is about 21,700 square feet in size, and is similar in size to existing Building #5. Building #6 will provide a building which the Shipyard's larger (480 ton) marine travel-lift can enter. The Shipyard's construction of Building #6 is a $4.5 million project, and will ultimately increase the number of employees at the Shipyard to an estimate of 150 employees.

The City, in May 2013, entered an Option to Lease the Front Street parking lot property to DUBBA, LLC for the purpose of constructing Building #6. Terms of this lease were amended on January 7, 2014, and additional revisions to the Lease are proposed for this same August 4 Council meeting. As the Council is aware, the Shipyard is still working to secure needed financing to purchase the City property and to construct Building #6, which has prompted the Council to consider revising and extending the time period for the Shipyard to execute the lease and construct Building #6. The Shipyard's need for additional time triggered the need to re-examine several provisions of Amendment #8 to the Contract Rezoning Agreement and the Option to Lease agreement, as well as the Comprehensive Master Agreement between the City and DUBBA, an agreement which identifies the 20 plus land exchanges which have been entered between the City and DUBBA for the Front Street Shipyard property.

The Council discussed the proposed amendments to Amendment #8 of the Contract Rezoning Agreement at its meeting of July 21 when you considered and accepted such as the official First Reading of the amendments. Post this Council meeting, the Belfast Planning Board, at its meeting of July 29, 2015, reviewed and approved the proposed revisions to Attachment A of the Contract, as well as proposed revisions to the Site Plan for this project. Clearly, the most significant change is to now extend the time period in which DUBBA can complete the construction of Building #6 to December 31, 2017 (consistent with proposed revisions to the Option to Lease). Most other changes are to make other terms in the Contract Rezoning Agreement consistent with this change in construction dates.

There are a few substantive changes to Amendment #8 which I will highlight below. In highlighting such, the Council should recognize that pages 3 - 8 of this draft is the face page of the Contract Rezoning Agreement which identifies overall terms which the City Council has established. Pages 9-18 are the Attachment A Conditions of Approval recommended by the Planning Board which the Council also adopted; these terms more particularly define requirements which must be met in the Shipyard constructing Building #6, and are directly related to the Site Plans the Shipyard has prepared for this work (which the Planning Board and Council also approved).

Substantive Changes to the Contract are as follows:

1) Page 5. Clauses 7.3 - 7.5. This clause identifies the Site Plan sheets that Gartley-Dorsky is revising for the project. These sheets will illustrate the boundary of the parcel that the City will sell to the Shipyard, the location of the Harbor Walk relief walkway easements, and the final lay-out of Building #6 and certain site amenities.

2) Pages 6 and 7. Comprehensive Master Agreement. This Agreement identifies all land exchanges that have occurred between the City and DUBBA. The updated Master Agreement will reflect all Building #6 transactions, such as the amount of the Front Street parking lot that the City will sell to DUBBA, and the final terms of said Agreement will be presented to the Council at your meeting of August 4 for adoption. I note that the Plan you have received, a copy of which is attached, identifies the land exchanges involved with Building #6.

3) Page 13. Paragraphs regarding Building #6. Two main changes in this clause. First, the date by which the Shipyard is to complete construction of Building #6 is changed from June 30, 2015 to December 31, 2017. The December 31, 2017 date should allow the Shipyard to complete construction of Building #6 if they begin construction in either the spring or fall of 2016. Secondly, if the Shipyard needs to request an extension to the date of completion, for either Building #6 or the approved addition to Building #6, that request would be considered solely by the City Council rather than both the Planning Board and the City Council.

4) Pages 14, 15 and 16, Clause #20. This clause was revised to reflect minor changes to the lay-out of the relief walkways for the Harbor Walk. These changes are depicted on the Comprehensive Master Agreement and the Site Plan sheets.

5) Page 16 and 17, Clause # 25. Applicant City Lease Agreements. The amendments ensure consistency between the language in the Contract Rezoning Agreement and that shown on the Comprehensive Master Agreement based on the portion of the City owned parking lot that will be sold to DUBBA.

Again, while there is a lot of verbiage, the number of substantive changes are quite small and are consistent with the direction that I believe staff has received from the Council. I have not included the site plan drawings in this packet of information, materials which I provided to the Council at the First Reading, however, I will have the Site Plan Sheets available for Council and public review at the Council meeting.

I would be happy to address any questions.

# SECOND READING & PUBLIC HEARING of PROPOSED AMENDMENTS to AMENDMENT #8 CONTRACT REZONING AGREEMENT CITY of BELFAST and DUBBA, LLC

**NOTES TO READER:**

1) The City Council adopted Amendment #8 to the Contract Rezoning Agreement between the City and DUBBA, LLC for the Front Street Shipyard project on January 7, 2014. Amendment #8 mostly addressed terms and conditions for the Shipyard's construction of Building #6 on the City owned Front Street parking lot, a property for which the two parties entered an Option to Lease Agreement in May 2013, as such was amended on January 7, 2014. The land area identified in the Option to Lease Agreement and Contract Rezoning Agreement also are identified in the Master Boundary Agreement between the two parties; an Agreement which identifies all land exchanges and agreements between the City and DUBBA. The original Master Boundary Agreement was adopted in 2011.

   The City Council, in January 2015, considered certain amendments to the above identified Contract Rezoning Agreement, Option to Lease Agreement and Master Boundary Agreement. The amendments mostly involved extending the time period DUBBA had to construct Building #6 and to complete the lease or purchase of the City owned Front Street parking lot property. The Council conducted the First Reading of the above amendments at its meeting of January 6, 2015, and at the scheduled Second Reading of the amendments, and after conducting the attendant public hearing, the Council chose to table action on the amendments.

   The City is now considering additional amendments to the Contract Rezoning Agreement, Option to Lease Agreement, and Master Boundary Agreement. As such, the City Council, at its meeting of July 21, 2015, voted unanimously to consider the amendments that it tabled at its meeting of January 20, 2015. The Council next chose to consider additional revisions presented at the Council meeting of July 21, 2015 to the above amendments, and voted unanimously to accept said revisions as the formal First Reading of the amendments and to schedule such for a formal Second Reading and public hearing at the Council meeting of August 4, 2015.

   The amendments that will be considered at the August 4, 2015 public hearing would extend the date by which DUBBA must complete construction of Building #6 from June 30, 2015 to December 31, 2017. The full text of the proposed amendments to the Contract Rezoning Agreement is identified in this document.

   The Belfast Planning Board, at its meeting of July 29, 2015, considered these same amendments, particularly proposed revisions to Attachment A, Conditions of Approval Recommended by the Planning Board and changes to the project Site Plan. The Planning Board voted unanimously to support and recommend adoption of the proposed amendments.

It is specifically noted that the language in the proposed amendments prospectively identify the final action that the Council will take, the adoption of the amendments, however, the Council has the authority to adopt, reject or change the amendments presented in this proposal. Persons interested in this amendment also should reference the proposed amendments to the Option to Lease Agreement and Comprehensive Master Boundary Agreement which the Council will consider according to the same public review schedule as the amendments to the Contract Rezoning Agreement.

2) All language that appears in black font is the existing language identified in adopted Amendment #8 to the Contract Rezoning Agreement. All language identified in **Bold and Red Font** is language proposed to be added to the Agreement by the now proposed amendments. All language identified in ~~**Blue, Bold and Strike-Through Font**~~ is language proposed to be deleted from the Agreement. It is noted that only the clauses of the adopted Amendment #8 to the Contract Rezoning Agreement that are proposed to be amended are included in this proposal. A copy of the complete adopted Contract Rezoning Agreement, Amendment #8, is available for public inspection at the Code and Planning Department offices.

3) Questions regarding this proposal should be directed to Wayne Marshall, City Planner, at 338-1417 x 25, or at wmarshall@cityofbelfast.org.

# TEXT OF PROPOSED AMENDMETS

## AMENDMENT #8
## CONTRACT REZONING AGREEMENT
## CITY of BELFAST CODE of ORDINANCES

## BELFAST CITY COUNCIL
## AMENDMENTS to AMENDMENT #8, &
## TERMS OF CONTRACT REZONING AGREEMENT
## with DUBBA, LLC (APPLICANT)
## FRONT STREET SHIPYARD PROJECT
## MAP 11, LOT 132 and Map 11/LOT 136, P/O

**1) Parties to Agreement:**

Applicant: DUBBA, LLC (hereinafter 'Applicant')
c/o Front Street Shipyard
101 Front Street
Belfast, ME 04915
Attn: J.B. Turner, Manager

City: City of Belfast (hereinafter 'City')
131 Church Street
Belfast, Maine 04915
Attn: Joseph J. Slocum, City Manager

**2) Description of Property**: The Applicant owns a property identified by the City of Belfast as Map 11, Lot 132, located at 101 Front Street, the former Stinson Seafoods property. The property also includes lands **originally** leased **and subsequently sold** to the Applicant by the City of Belfast, reference: a) the adopted Comprehensive Master Boundary Agreement between the City and the Applicant, and b) the Option to Lease Agreement which the Applicant and City entered in May 2013, **as such was amended on January 7, 2014,** to lease/sell the Applicant a portion of the City owned Front Street parking lot, which is part of Map 11, Lot 136, for the purposes of allowing the construction of Building #6.

**3) Synopsis of City Action on Contract Rezoning Agreement and Amendments #3, #4, #5, #6 and #7 for the Front Street Shipyard Project. (No Changes to this Clause associated with August 4, 2015 changes to Amendment #8).**

**4) Purpose of Amendment #8. (No Changes to this Clause associated with August 4, 2015 changes to Amendment #8).**

**5) City Code of Ordinance Requirements. (No Changes to this Clause associated with August 4, 2015 changes to Amendment #8).**

**6) Description of City Council Action**:

The Belfast City Council conducted the public hearing and meetings associated with its review of Amendment #8 that are required by Chapter 102, Zoning, Section 102-1452(F). The Council conducted the First Reading regarding this proposal at its meeting of October 15, 2013. The Council, during the course of its review of the proposed Agreement, chose to make several amendments to the proposed Agreement. As such, the Council conducted Second Readings and Public hearings regarding proposed Amendment #8 at **the** ~~**its**~~ following meetings: November 6, 2013, November 19, 2013, December 3, 2013, and December 17, 2013. The Council conducted the final Second Reading and Public Hearing regarding Amendment #8 at its meeting of January 7, 2014. The Council, at its meeting of January 7, 2014, found that the Applicant satisfied all requirements of Chapter 102, Zoning, Sections 102-1450 through 102-1454, and voted to approve Amendment #8 to **the** Contract Rezoning Agreement, with the Council finding that Applicant use of the property was consistent with the uses permitted in previously granted Amendments to this Contract Rezoning Agreement. The Council also found that the improvements proposed by the Applicant in Amendment #8 satisfied all Section 102-1453(A) Mandatory Conditions for a Contract Rezoning Amendment (Agreement) that are stipulated in State Law, all Section 102-1453(B) Discretionary Conditions for a Contract Rezoning Agreement that are stipulated in the City Code of Ordinances, and that the project proposal is consistent with the Goal Statements stipulated in Section 102-1454. The Council completed its review at its meeting of January 7, 2014, at which time it voted to approve terms of Amendment #8 to the Contract Rezoning Agreement. The Council authorized the City Manager of the City of Belfast to enter into (sign) this Agreement on their behalf.

**The Belfast City Council, at its meeting of January 6, 2015, conducted the First Reading of amendments to several provisions of Amendment #8, and at its meeting of January 20, 2015, conducted the Second Reading and public hearing regarding said Amendments. The Council considered a recommendation from the Belfast Planning Board, which the Board offered at its meeting of January 14, 2015. The Council, at its meeting of January 20, 2015 chose to table action on said proposed amendments to Amendment #8.**

**The Belfast City Council, at its meeting of July 21, 2015, chose to remove the tabled amendments from the table and to again consider adopting amendments to the Contract Rezoning Agreement. The Council, at this same July 21, 2015 meeting, conducted the First Reading of newly proposed revisions to the Agreement, and at its meeting of August 4, 2015 conducted the Second Reading and public hearing of the proposed amendments. The Council, at its meeting of August 4, 2015 voted to adopt the proposed amendments to Amendment #8 to the Contract Rezoning Agreement.**

**7) Terms and Conditions of Approval**: Amendment #8 to the Contract Rezoning Agreement, **as such was amended by the City Council at its meeting of August 4, 2015,** is subject to Applicant compliance with the following terms and conditions adopted by the City

Council:

7.1 Amendment #8, Attachment A, Belfast Planning Board recommended Conditions of Approval, which the Planning Board reviewed and approved at its meeting of September 11, 2013, as such were reviewed and approved by the City Council. **This also includes amendments to Attachment A, recommended Conditions of Approval, which the Belfast Planning Board subsequently reviewed and approved at its meeting of July 29, 2015.**

7.2 Amendment #8, Attachment B, Harbor Committee Recommended Conditions of Approval which the Harbor Committee recommended and which the City Council adopted as part of Amendment #7 to the Contract Rezoning Agreement. The Amendments to Attachment B, adopted through Amendment #8, involved the Council decision, as part of Amendment #8, to eliminate certain requirements in Attachment B regarding the proposed location and construction of the 'Commercial Fishermen's Dock'. **It is noted that the amendments to Amendment #8 approved by the Council at its meeting of August 4, 2015 did not affect any provisions of Attachment B, Harbor Committee Recommended Conditions of Approval, Amendment #8, as such were adopted by the Council on January 7, 2014.**

7.3 Plan Sheet C-0, Overall Site Plan Amendment #8, Contract Rezoning Agreement, dated June 16, 2011, as updated on January 7, 2014, prepared by Gartley & Dorsky Engineers for Amendment #8. This Site Plan was reviewed and approved by the Planning Board at its meeting of September 11, 2013. The City Council reviewed and approved the Plan at its meeting of January 7, 2014. **This Plan Sheet was updated on January 6, 2015, and these revisions were reviewed by the Belfast Planning Board at their meetings of January 14, 2015, and July 29, 2015 and approved by the Belfast City Council at their meeting of August 4, 2015.**

7.4 Plan Sheet C-2, Front Street Shipyard, Building #6, Proposed Site Plan, dated June 14, 2011, as updated in June, 2013, prepared by Gartley & Dorsky Engineers for Amendment #8. This Site Plan was reviewed and approved by the Planning Board at its meeting of September 11, 2013. The City Council reviewed and approved the Plan at its meeting of January 7, 2014. **This Plan Sheet was updated on January 6, 2015, and these revisions were reviewed by the Belfast Planning Board at their meetings of January 14, 2015 and July 29, 2015, and approved by the Belfast City Council at their meeting of August 4, 2015.**

7.5 Plan Sheet C-3, Front Street Shipyard Building #6, Site Details, dated June 27, 2013, prepared by Gartley & Dorsky Engineers for Amendment #8. This Plan was reviewed and approved by the Belfast Planning Board at its meeting of September 11, 2013. The City Council reviewed and approved the Plan at its meeting of January 7, 2014. **This Plan Sheet was updated on January 6, 2015, and these revisions were reviewed by the Belfast Planning Board at their meetings of January 14, 2015 and July 29, 2015, and approved by the Belfast City Council at their meeting of**

**August 4, 2015.**

7.6 Plan Sheet PK-1, Front Street Shipyard, Building #6, Parking Plan, dated June 27, 2013, prepared by Gartley & Dorsky Engineers for Amendment #8. This Parking Plan was reviewed and approved by the Planning Board at its meeting of September 11, 2013. The City Council reviewed and approved the Parking Plan at its meeting of January 7, 2014.

The Council action of January 7, 2014 to adopt Amendment #8, **and the Council action of August 4, 2015 to adopt changes to the approved Amendment #8,** shall result in modifying certain terms of prior Amendments adopted by the Council, specifically Amendment #3 adopted on March 1, 2011, Amendment #4 adopted on June 20, 2011, Amendment #5 adopted on December 20, 2011, Amendment #6 adopted on March 6, 2012, and Amendment #7 adopted on February 5, 2013. All terms of Amendment #3, Amendment #4, Amendment #5, Amendment #6, and Amendment #7 that were not modified in Amendment #8, **as such was amended,** shall remain in effect.

**8) Comprehensive Master Agreement.**

The Belfast City Council, at its meeting of March 6, 2012, adopted the Comprehensive Master Agreement that addresses property ownership, use and easement agreements between DUBBA, LLC and the City. The agreements are intended to address the Applicant's lease, purchase and/or use of City owned or controlled property and improvements, the City's lease, purchase and/or use of property owned by the Applicant or improvements that will be constructed by the Applicant, and the resolution of certain property issues of mutual interest. The terms of the Comprehensive Master Agreement shall serve as terms to implement certain requirements of this Contract Rezoning Agreement, and said terms shall be binding upon the respective parties. The terms of the Comprehensive Master Agreement shall replace terms identified in Amendment #3 and Amendment #4, Attachment A, Condition #25, that referenced DUBBA's and the City's commitment to enter a Boundary and Easement Agreement Plan. The approved Comprehensive Master Boundary Agreement is recorded in the Waldo County Registry of Deeds in Book 3684, Page 23.

The Belfast City Council, at its meeting of January 7, 2014, adopted amendments to the above referenced Comprehensive Master Agreement. The revisions identified amendments to the following existing sections of said Agreement, and also identified new Sections that were added to the Agreement. Sections of the Agreement which were revised include the following: Clause 3, Walkway in Area 6; Clause 4, Easement to City for Area 4 and Front Street Relief Walkway; Clause 5, Easement to City for Relief Walkway in Area 7; Clause 7, Easement to DUBBA for Use of Area 6; Clause 15, Termination of Sublease Agreement; and Clause 18, Operational Policies (Revisions). New Sections that were added to the Agreement include the following: Clause 22, Easement to City for Area 20 and 20(a) Relief Walkway; Clause 23, Easement to City for Area 15; Clause 24, Easement to City for Area 16; and Clause 25, Temporary Construction Easements to City. Further, the above approved revisions will be identified on a revised Plan that will be prepared by Gartley &

Dorsky Engineers for the Master Boundary Agreement. **The revised plan was subsequently revised on July 16, 2014, by Gartley & Dorsky Engineers.** The City Council authorizes the City Manager to sign the revised plan on its behalf and the revised plan shall be recorded in the Waldo County Registry of Deeds.

The Council, in adopting Amendment #8, chose to release the Applicant from requirements identified in Amendment #7, Attachment B, Harbor Committee Recommended Conditions of Approval regarding the location and construction of the 'Commercial Fishermen's Dock'. The location of this 'Dock' was identified as reserve Area 13 on the Master Boundary Agreement. Pursuant to terms of Amendment #8, the amended Plan for the Comprehensive Master Boundary Agreement will no longer identify Area 13 as a reserve area for the 'Commercial Fishermen Dock'.

**The Council, at its meeting of January 20, 2015, tabled action on proposed amendments to the Comprehensive Master Agreement; the revisions were associated with the construction of Building #6. The Council, at its meeting of August 4, 2015, considered an approved revisions to the Comprehensive Master Agreement associated with the construction of Building #6. Said revisions are depicted on the December 19, 2014 revised Master Boundary Agreement plan. The revisions particularly identify the following: final boundaries of the Front Street parking lot property, Area 1A, that the City intends to convey to DUBBA, LLC for the construction of Building #6; minor adjustments to the lay-out of Areas 20, 20A and 21 for the Relief Walkways for the Harbor Walk, with the relief walkway easements now identified as Areas 20 and 21; and a small triangle of land abutting Front Street which DUBBA, LLC is conveying to the City. A description of the above conveyances will be more specifically described in a Municipal Quit Claim Deed between the City and DUBBA, LLC, and a Corrective Quit Claim Deed between DUBBA, LLC and the City, that are associated with the City sale of the Front Street parking lot to DUBBA, LLC. The final language of said Deeds was pending at the date of adoption of these amendments to Comprehensive Master Agreement.**

9) **Option to Lease Agreement**. **[No changes to this Clause associated with the August 4, 2015 amendments to Amendment #8.]**

10) **Integration**. **[No changes to this Clause associated with the August 4, 2015 amendments to Amendment #8.]**

11) **Assignment**. **[No changes to this Clause associated with the August 4, 2015 amendments to Amendment #8.]**

12) **Enforcement**. **[No changes to this Clause associated with the August 4, 2015 amendments to Amendment #8.]**

13) **Status of Memorandum of Agreement**. **[No changes to this Clause associated with the August 4, 2015 amendments to Amendment #8.]**

14) **Performance Guarantee**. **[No changes to this Clause associated with the**

**August 4, 2015 amendments to Amendment #8.]**

15) **Effective Date of Agreement.** The effective date of Amendment # 8 to this Contract Rezoning Agreement shall be the date of its adoption by the City Council: January 7, 2014. **The effective date of the Amendments to Amendment #8 shall be the date of its adoption by the City Council; August 4, 2015.**

**ON BEHALF OF THE APPLICANT**

_____ _____

John B. Turner, Manager Date

**ON BEHALF OF THE CITY OF BELFAST**

_____ _____

Joseph B. Slocum, City Manager Date

Adoption of Amendment #8**, as such was amended on August 4, 2015,** to the Contract Rezoning Agreement and the accompanying Attachments and Plans is a legal land use decision of the City Council of the City of Belfast. Any appeal of this decision shall be filed directly in the Waldo County Superior Court within 30 days in accordance with provisions of City Code of Ordinances, Chapter 102, Zoning, Section 102-1455.

# AMENDMENT # 8
# ATTACHMENT A
# ADOPTED CONDITIONS of APPROVAL
# CONTRACT REZONING AGREEMENT

## RECOMMENDED by BELFAST PLANNING BOARD
## to BELFAST CITY COUNCIL
## ADOPTED by PLANNING BOARD ON SEPTMBER 11, 2013
## and as REVISED by CITY COUNCIL on JANUARY 7, 2014

## AMENDMENTS TO AMENDMENT #8
## ADOPTED by PLANNING BOARD on JULY 29, 2015
## and ADOPTED by CITY COUNCIL on AUGUST 4, 2015

## DUBBA, LLC (APPLICANT)
## FRONT STREET SHIPYARD PROJECT
## MAP 11, LOT 132

### CITY COUNCIL ACTION REGARDING CONDITIONS OF APPROVAL, ATTACHMENT A, RECOMMENDED BY BELFAST PLANNING BOARD.

The Belfast City Council, at its meeting of January 7, 2014, voted to approve Amendment #8 to the Contract Rezoning Agreement between the City and DUBBA, LLC **that** ~~**to**~~ allow**ed** DUBBA, LLC to construct the Front Street Shipyard project. The Council, in adopting this Agreement, voted to require that the Applicant comply with Conditions of Approval recommended by the Belfast Planning Board, Attachment A, as such were adopted by the Planning Board at its meeting of September 11, 2013, and as such were reviewed, amended and approved by the City Council at its meeting of January 7, 2014. The following Attachment A, Conditions of Approval, recommended by the Planning Board, as such were adopted by the Council, are identified in Section 7.a) of the Council's Contract Rezoning Agreement as requirements of the adopted Agreement.

**The Belfast City Council, at its meeting of August 4, 2015, voted to approve several amendments to Amendment #8 that was originally adopted on January 7, 2014. The Council's action involved adopting the following amendments to the Attachment A, Conditions of Approval recommended by the Belfast Planning Board referenced in the above paragraph. The Planning Board, initially at its meeting of January 14, 2015, and subsequently at its meeting of July 29, 2015, reviewed and approved the following amendments to the Attachment A, Conditions of Approval, and the Council approved the same at its meeting of August 4, 2015.**

## SYNOPSIS of CITY ACTION on CONTRACT REZONING AGREEMENT & AMENDMENTS 3, 4, 5, 6 and 7 for the SHIPYARD PROJECT.

**[No changes to this Clause associated with the August 4, 2015 changes to Amendment #8.]**

## PURPOSE OF AMENDMENT #8.

**[No changes to this Clause associated with the August 4, 2015 changes to Amendment #8.]**

## PLANNING BOARD DECISION & RECOMMENDATIONS

The Belfast Planning Board, pursuant to requirements of the City Code of Ordinances, Chapter 102, Zoning, Article X, Contract Rezoning, Division 4, Waterfront Mixed Use zoning district and Waterfront Development shoreland district, is responsible for preparing a Contract Rezoning Agreement for presentation to the City Council as a proposed Contract Rezoning Ordinance amendment. Said Agreement must define specific terms that the Applicant must satisfy, including but not limited to the uses permitted for the site, permitted structures, required site plan improvements, a schedule for the construction of public and private improvements, and a list of all conditions that apply to this application.

The Planning Board, per requirements of the Chapter 102, Zoning, Article 10, Contract Rezoning, Division 4, at its meeting of September 11, 2013, adopted Conditions of Approval that it is recommending the Belfast City Council adopt as provisions of Amendment #8; reference this Attachment A. The Planning Board recommends that the Council require DUBBA, LLC (hereafter Applicant) to satisfy the following Conditions of Approval as requirements of Amendment #6 to the adopted Contract Rezoning Agreement. It is expected that the Applicant must comply with these Conditions to obtain all building permits and subsequent occupancy permits for project development. Planning Board review and approval includes its review and approval of a site plan and a parking plan for Amendment #8 for the Front Street Shipyard prepared by Gartley & Dorsky Engineers.

The Planning Board, in recommending its approval of Amendment #8, endorses Conditions of Approval recommended by the Intown Design Review Committee; reference Condition # 6 of this Attachment A. The Intown Design Review Committee, at its meeting of May 9, 2013 voted unanimously to recommend approval of the proposed building design, including a building height of 69 feet. The Planning Board also acknowledged that the City of Belfast Zoning Board of Appeals, at its meeting of April 23, 2013, voted unanimously to grant the Applicant a variance from certain requirements of Chapter 78, Floods, associated with the construction of Building #6; reference Condition of Approval #5. The terms of Amendment #8, in conjunction with the terms of Amendment #3, Amendment #4 Amendment #5, Amendment #6 and Amendment #7, shall constitute the terms of the Contract Rezoning Agreement that shall apply to the Front Street Shipyard project.

**The Planning Board, at its meeting of January 14, 2015, reviewed and approved several requested amendments to the provisions of the Amendment #8, Attachment A, Conditions**

**of Approval, which it originally adopted on September 11, 2013, and at its meeting of July 29, 2015, reviewed and approved several changes to its January 14, 2015 recommendation to the City Council. The Planning Board, at both its January 14, 2015 meeting, and its meeting of July 29, 2015, chose to recommend the identified amendments finding that the amendments were consistent with its original findings and that the proposed changes would foster construction of the proposed project.**

**PLANNING BOARD CONDITIONS OF APPROVAL**

The specific Conditions of Approval that the Planning Board recommends that the City Council adopt as requirements of Amendment #8 to this Contract Rezoning Agreement are stipulated in (Attachment A) Conditions 1 – 28, below. These amended Conditions of Approval identify revisions to the Attachment A, Conditions of Approval adopted by the Council for Amendments #3, #4, #5, #6 and #7 as appropriate, and amendments to the Conditions recommended by the Planning Board that the City Council chose to adopt. **The Planning Board, at its meeting of January 14, 2015, and subsequently at its meeting of July 29, 2015, identified several changes to the Attachment A, Conditions of Approval for Amendment #8 that it is recommending the Council adopt.** The City Council stipulated that the Applicant must comply with the following Conditions of Approval**, as such were originally adopted by the Council on January 7, 2014, and as such were amended by the Council at its meeting of August 4, 2015**.

1. **CITY PERMIT APPROVAL**

The Belfast Planning Board, after consideration of recommendations offered by the Belfast Intown Design Review Committee, at its meeting of May 9, 2013, and the Chapter 78, Floods, variance granted by the Belfast Zoning Board of Appeals at its meeting of April 23, 2013, granted approval of the terms and Conditions of Approval it is recommending to the City Council for Amendment #8 to the adopted Contract Rezoning Agreement to allow DUBBA, LLC, (hereinafter Applicant) to construct the Front Street Shipyard project. Further, the City Council, at its meeting of January 7, 2014, chose to adopt revisions to the Amendment #7, Attachment B, Conditions of Approval Recommended by the Harbor Committee, and make said revisions to Attachment B, part of the adopted terms of Amendment #8 to the Contract Rezoning Agreement. Planning Board review and approval of this project included its review and approval of the Site Plan, reference Plan sheets C-O, C-2 and C-3, and the Parking Plan, reference Plan sheet PK-1, prepared by Gartley & Dorsky Engineers, and the Building Elevation Drawings for Building #6 prepared by John Hanson, Architect.

The terms of Amendment #8, in conjunction with the terms of Amendment #3, Amendment #4, Amendment #5, Amendment #6 and Amendment #7 shall constitute the terms of the Contract Rezoning Agreement that shall apply to the Front Street Shipyard.

The Board considered the project proposed by DUBBA, LLC and Amendment #8 to the adopted Contract Rezoning Agreement pursuant to Sections 102-1450 through 1456 of the City Code of Ordinances that apply to both the Waterfront Mixed Use zoning district and the Waterfront Development shoreland district. The recommended terms and conditions established through

Amendment #8 regulate the uses the Applicant can conduct and the development and improvements the Applicant must construct on property identified as Map 11, Lot 132, the former Stinson Seafoods property located on Front Street, and on certain City owned lands located adjacent to the project site which the City is granting the Applicant certain rights to use. Amendment #8 specifically involves the Applicant's use of the City owned Front Street parking lot**, Area 1A on the Comprehensive Master Agreement,** for the construction of Building #6; said parking lot being part of Map 11, Lot 136.

Any proposal to amend the terms of this Contract Rezoning Agreement, as such was approved through Amendment #8, shall require City review and approval through the applicable steps of the City contract rezoning process. Notwithstanding this provision, the Planning Board, as stipulated in several of the respective conditions in Attachment A, is recommending that the final location and construction standard of certain activities and improvements be determined by identified City Departments and governmental bodies working in concert with the Applicant.

**DUBBA, LLC and the Belfast City Council, in December 2014, initiated discussion of several potential amendments to the Attachment A, Conditions of Approval when the parties reviewed terms related to the sale of the City Front Street parking lot, Area 1A on the Comprehensive Master Agreement, to DUBBA LLC pursuant to the Option to Lease the City entered with DUBBA, LLC for this project. The Planning Board, pursuant to the above clause that requires Board review of proposed changes to the terms of the Amendment #8, Attachment A, Conditions of Approval, reviewed the proposed changes. The Board reviewed revisions to the plan sheets for the Site Plan and changes to the project schedule. The Planning Board, initially at its meeting of January 14, 2015, and subsequently at its meeting of July 29, 2015, chose to support the requested amendments as acceptable changes to the Attachment A, Conditions of Approval, for Amendment #8 to the Contract Rezoning Agreement.**

**2. <u>CHANGE IN APPLICANT.</u>** No change to terms identified in Amendment #4 **associated with the July (August) 2015 Amendments.**

**3. <u>NON-CITY (OTHER) PERMITS.</u>** No change to terms identified in Amendment #4 **associated with July (August) 2015 Amendments.**

**4. <u>USE OF BUILDINGS & CONSTRUCTION SCHEDULE</u>**

Amendment #8 affects the terms of Condition #4 that were adopted for the use and construction of Building #2, and specifically establishes terms that apply to the construction of a new building, Building #6. Amendment #8 also modifies certain terms that apply to the use of temporary buildings and containers. The terms identified in Amendment #4 for the use and construction of Building #3, Building #4, Building #4A, Building #5, and the terms identified in Amendment #6 for the use and construction of Building #1, are not affected by the terms of Amendment #~~6~~ **8**.

The buildings identified on the site plan shall only be used for the uses identified in this Condition, and the construction of the respective buildings shall be completed by the respective

dates identified in this Condition. The Applicant shall work with the City Code Enforcement Officer and appropriate other authorities to ensure that the buildings that are constructed comply with local, state and federal guidelines that may apply to the use and construction of the respective buildings. Any change in these uses, or the identified construction schedule shall require review by the Planning Board and City Council as an amendment to the Contract Rezoning Agreement.

**The following terms for Building #2 shall replace the terms identified in Amendment #4 for the construction and use of Building #2. [No Changes to Provisions Regarding Building #2 associated with July (August) 2015 changes to Amendment 8].**

**Building #6 is a new building proposed as part of Amendment #8, and the following terms and conditions shall apply to the use and construction of Building #6.**

**Building #6**. Building #6 is a new building that is about 25,800 square feet in size, and it is about 69 feet in height. The height of Building #6 exceeds the standard building height of 35 feet that applies to the Waterfront Mixed Use zoning district and Waterfront Development shoreland district, however the increased height was specifically permitted by both the Intown Design Review Committee and the Planning Board through the flexible height standard that may apply to a Contract Rezoning Agreement. Building #6 will be located on property currently owned by the City of Belfast; a portion of the City Front Street parking lot**, Area 1A on the Comprehensive Master Agreement,** which is located on a part of Map 11, Lot 136. The City Council, in May 22, 2013, **as such was amended by the Council on January 7, 2014, and again amended by the Council on August 4, 2015,** entered an ~~o~~**O**ption to ~~l~~**L**ease agreement with DUBBA, LLC for said property. The Applicant must satisfy terms of the above lease agreement prior to the start of any construction of Building #6.

The Applicant may use Building #6 for any use specifically associated with its operation of a boat repair, boat storage, boat refitting and boat building facility, including ancillary industrial uses, such as but not limited to those performed by Kenway Corporation.

The Applicant intends to construct Building #6 in two phases. Phase 1 construction includes the main portion of the building that is about 21,979 square feet in size; about 160 feet by 140 feet. The Applicant shall complete Phase 1 construction by ~~June 30, 2015~~ **December 31, 2017**. **DUBBA, LLC shall have the right to request a 'good cause' extension to the date for the completion of Building #6, and the City Council shall have the sole authority to consider if any requested extension is warranted and should be granted.** Phase 2 construction involves construction of a wing that is about 4,800 square feet in size; about 60 feet by 80 feet. There is no specific time period proposed by the Applicant for the construction of the Phase 2 extension to Building #6, however, if construction is not completed prior to June 30, 2025, the Applicant must ~~re-~~obtain approval **solely** from the ~~Planning Board and~~ City Council to ~~construct said addition or to~~ extend the time period regarding its construction.

The construction of Building #6 is to occur on the City owned Front Street parking lot**, Area 1A on the Comprehensive Master Agreement**. The Applicant may not make or construct any alterations to the existing City owned parking lot until the City issues a building permit for

Building #6. Also, the City's use and control of said parking lot shall remain until such time as the City issues a building permit for Building #6. Further, the City, shall have the authority to remove any and all lighting and landscaping located within the bounds of the parking lot at any time it may choose until a building permit is issued for the construction of Building #6. The Applicant shall ensure that all construction activities associated with the removal and disposal of the asphalt, base materials and other materials and any contaminated soils found in the parking lot comply with requirements of the Department of Environmental Protection and Environmental Protection Agency permits issued pursuant to the Voluntary Response Action Program permit for this property and facility; reference Phase II Assessment Report prepared by Ransom Consultants.

The Planning Board, in recommending that the City allow the construction of Building #6, acknowledged that the Belfast Zoning Board of Appeals, at its meeting of April 23, 2013, granted a variance from certain requirements of the City Code of Ordinances, Chapter 78, Floods, regarding the construction of Building #6. The Applicant shall comply with all requirements imposed by this variance; reference Condition of Approval #5.

**The following terms and conditions for Permanent Out-Buildings, Temporary Construction Buildings and Other Temporary Buildings shall replace the terms for said buildings that are identified in Amendment #4. [No Changes to Provisions Regarding the above buildings associated with July (August) 2015 changes to Amendment 8].**

**20. <u>PUBLIC ACCESS & IMPROVEMENTS</u>.**

The City and the Applicant, through terms of Amendment #4 to the Contract Rezoning Agreement and terms of the January, 2011 Settlement Agreement between the City, Belfast Bridge, LLC, and the Applicant, pledged their mutual cooperation to facilitate construction of the Harbor Walk project through the Applicant property, both on Applicant property and City property, and to allow public use of the Harbor Walk and/or its relief walkways at all times. The City, by November 1, 2013, completed construction of most improvements for the Harbor Walk through the Applicant site as originally intended, however, the Applicant's proposal to construct Building #6 (Amendment #8) has caused the need to re-examine and amend provisions of the original agreements. Further, the City and the Applicant entered operational policies (reference revised September 4, 2012 policies) that defined how use of the Harbor Walk can occur through the Applicant property, including when and how the Applicant can temporarily close the Harbor Walk. The pending completion and opening of the Harbor Walk, as well as the construction proposed for Building #6, has also caused the two parties to amend terms of the above Operational Policy; **reference amendments adopted on January 7, 2014**.

The following terms and conditions of Amendment #8, Condition #20, shall replace, in their entirety, the provisions of Condition #20, Public Access and Improvements, identified in Amendment #4 to the Contract Rezoning Agreement. The requirements that now apply to the Applicant and City regarding the construction, maintenance and use of the Harbor Walk are identified in this amended Condition.

**The City, in adopting revisions to Amendment #8 in July (August) 2015, made the following changes to the provisions of Condition #20 that were adopted on January 7, 2014.**

**20.1 Building #1 and #2 Area - 'Boardwalk' Section.** **[No Changes to this Clause associated with revisions to Amendment #8 adopted in July (August) 2015.]**

**20.2 Thompson Wharf to 'Boardwalk' Section of Walk**. **[No Changes to this Clause associated with revisions to Amendment #8 adopted in July (August) 2015.]**

**20.3 Relief Walkways and Access to Thompson's Wharf.** **[No Changes to this Clause associated with revisions to Amendment #8. adopted in July (August) 2015]**

**20.3.1 Area 7 Relief Walkway.** **[No Changes to this Clause associated with revisions to Amendment #8 adopted in July (August) 2015.]**

**20.3.2. Area 1B Relief Walkway**. **[No Changes to this Clause associated with revisions to Amendment #8 adopted in July (August) 2015.]**

**20.3.3. Area 20. Relief Walkway**. Amendment #8 to the Contract Rezoning Agreement identifies a new location for the relief walkway originally intended for Area 1B. The new location shall involve and the City constructing a 8 foot wide asphalt path immediately adjacent to the northerly face of existing Building #5. When constructed, the path will connect to the Harbor Walk near Thompson's Wharf, and at present (prior to construction of Building #6), it will connect to the existing sidewalk the City has constructed in the City Front Street parking lot. This new asphalt relief walkway (Area 20), in combination with the City sidewalk in the Front Street parking lot, shall serve as a relief walkway and shall allow connection to the relief walkway the City has constructed adjacent to Front Street. The Applicant shall grant the City a permanent 10 foot wide easement to use Area 20, and this easement shall be identified on a revised Comprehensive Master Boundary Agreement which the City and the Shipyard shall execute.

**The bounds of the 10 foot wide easement granted to the City for Area 20 were revised as part of the changes to Amendment #8 adopted by the Council on August 4, 2015. The revised bounds of said easement are identified on the amended Comprehensive Master Agreement that the City and DUBBA entered on August 4, 2015. The revised location of the easement are also identified on the revised Site Plans for the construction of Building #6 dated January 6, 2015 as considered by the Planning Board and City Council.**

Much of this relief walkway is constructed immediately adjacent to the overhead doors of Building #5. The Applicant will ensure that access to the relief walkway is maintained at all times, and the Applicant shall employ reasonable measures to keep this walkway clear of equipment and materials which would hinder public use. Such measures include but are not limited to the use of trellises or protective covers for power cables from Building 5 that serve boats in the storage yard. The Applicant shall elicit the cooperation of its employees to recognize the purpose of this relief walkway and to foster public use of the area. The City

will install informational signage to direct persons to use this 'relief walkway' when the Harbor Walk is temporarily closed, and the Shipyard shall comply with provisions in the operational policies to direct persons to the relief walkway.

**20.3.4 Area 21. Relief Walkway**. Amendment #8 to the Contract Rezoning Agreement identifies a location for a new relief walkway that the City will construct in concert with the construction of Building #6. The new location shall involve the City constructing an 8 foot wide asphalt path immediately adjacent to the easterly and northerly faces of proposed Building #6. When constructed, the path will connect to the relief walkway constructed in Area 20 and to the relief walkway the City has constructed adjacent to Front Street. The Applicant shall grant the City a permanent 10 foot wide easement to use Area 21, as well as a temporary construction easement that is 20 feet in width from both faces of proposed Building #6, and both the permanent and temporary easements **are** ~~**shall be**~~ identified **on the** ~~**in a**~~ revised Comprehensive Master Boundary Agreement which the City and ~~**the Shipyard**~~ **DUBBA entered on August 4, 2015** ~~**shall execute,**~~ **and on the revised Site Plans for the construction of Building #6.**

Much of this relief walkway that will be constructed will be immediately adjacent to the sliding doors of Building #6. The Applicant will ensure that access to the relief walkway is maintained at all times, and the Applicant shall employ reasonable measures to keep this walkway clear of equipment and materials which would hinder public use. Such measures include but are not limited to the use of trellises or protective covers for power cables from Building 6 that serve boats in the storage yard. The Applicant shall elicit the cooperation of its employees to recognize the purpose of this relief walkway and to foster public use of the area. The City will install informational signage to direct persons to use this 'relief walkway' when the Harbor Walk is temporarily closed, and the Shipyard shall comply with provisions in the operational policies to direct persons to the relief walkway.

It is expressly understood that the City will not construct or operate the relief walkway in Area 21 until the Applicant completes construction of Building #6. While Building #6 is being constructed, the City and Applicant shall employ temporary arrangements to provide a relief walkway through this area to benefit public safety and foster use of the Harbor Walk; reference Building Six Relief Walkway Construction Policy that is pending City and Applicant consideration.

**20.3.5. Building #1 and #2 Pedestrian Amenity**. **[No Changes to this Clause associated with revisions to Amendment #8 adopted in July (August) 2015.]**

## 25. APPLICANT – CITY USE/LEASE AGREEMENTS.

The terms for Condition #25, as identified in Amendment #6 shall remain in effect. The following additional terms are added to this Condition as part of Amendment #8.

The Applicant and the City, in May 2013, entered an Option to Lease Agreement to lease portions of the City owned Front Street parking lot, which is part of Map 11, Lot 136, to the Applicant for the purposes of allowing the Applicant to construct Building #6 on said property.

The City Council, at its meeting of January 7, 2014, adopted an amendment to Section L of the Option to Lease Agreement. Applicant use of this area shall comply with terms of the Lease Agreement, as such was amended, and this contract rezoning agreement.

The City Council, at its meeting of January 7, 2014, adopted amendments to the Comprehensive Master Boundary Agreement adopted in 2012, reference document recorded in Waldo County Registry of Deeds, Book 3684, Page 23. Said amendments to the Comprehensive Master Boundary Agreement shall apply to the Contract Rezoning Agreement, including all Amendments to said Agreement, Amendment #3, Amendment #4, Amendment #5, Amendment #6, Amendment #7, and Amendment #8.

**The City Council, at its meeting of August 4, 2015, adopted additional revisions to the above referenced Comprehensive Master Agreement. Said revisions are depicted on the December 19, 2014 revised Master Boundary Agreement plan. The revisions particularly identify the following: final boundaries of the Front Street parking lot property, Area 1A, that the City intends to convey to DUBBA, LLC; minor adjustments to the lay-out of Areas 20, 20A and 21 easements for the Relief Walkways for the Harbor Walk, with the relief walkway easements now identified as Area 20 and 21; and a small triangle of land adjacent to Front Street which DUBBA, LLC is conveying to the City. A description of the above conveyances will be more specifically described in a Municipal Quit Claim Deed between the City and DUBBA, LLC, and a Corrective Quit Claim Deed between DUBBA, LLC and the City, that are associated with the City sale of the Front Street parking lot to DUBBA, LLC.**

**27. <u>CITY BUILDING PERMITS</u>.** The following language supplements the terms identified in all previously granted amendments, and is specific to Amendment #8.

The Applicant may request the issuance of a building permit for the construction of Building #6, as shown on Amendment #8 Plan Sheets C-O, C-2 and C-3 prepared by Gartley & Dorsky Engineers, **as such were further revised (January 6, 2015 updates) and approved in July - August 2015 as part of the changes to Amendment #8,** provided the Applicant has executed the Option to Lease Agreement and **entered an Agreement with the City to lease or purchase Area 1A shown on the Comprehensive Master Agreement** ~~**obtained approval of Amendment #8**~~. The Applicant shall submit building construction plans for Building #6 to the Code Enforcement Officer and such plans shall identify how all applicable City, state and federal requirements are satisfied. Said building permit applications also shall identify how project construction will comply with Chapter 78, Flood requirements. Further, the Applicant shall submit said building plans well enough in advance of the proposed construction so that the CEO has adequate time to consider compliance of the permit application with City requirements. The Applicant shall pay all permit fee costs associated with the issuance of building, plumbing, electrical and similar permits associated with the construction of Building #8.

**The Planning Board, in offering its recommendations for changes to the Attachment A, Conditions of Approval, Amendment #8, which were adopted by the Council on January 7, 2014, did not recommend any changes to the following clauses of said Conditions at its meeting of July 29, 2015. Further, the City Council, at its meeting of August 4, 2015, did not make any changes to the following clauses in approving changes to Amendment #8:**

2. **CHANGE IN APPLICANT.**
3. **NON-CITY (OTHER) PERMITS.**
5. **FLOOD VARIANCE – BUILDING #4A, #5 and #6.**
6. **BUILDING DESIGN**
7. **SEWER.**
8. **WATER SERVICE**.
9. **UTILITY SERVICE**.
10. **SOLID WASTE DISPOSAL & LITTER**.
11. **HAZARDOUS WASTE.**
12. **STORMWATER MANAGEMENT**.
13. **EROSION AND SEDIMENTATION CONTROL**.
14. **PARKING.**
15. **CONSTRUCTION OF STORAGE YARD & YARD MAINTENANCE.**
16. **FRONT STREET & FRONT STREET – PIERCE STREET INTERSECTION (Off-site Improvements).**
17. **MARINE/WATERFRONT CONSTRUCTION**.
18. **LANDSCAPING.**
19. **EXTERIOR LIGHTING**.
21. **FUEL AND PROPANE STORAGE**
22. **PERFORMANCE GUARANTEE**.
23. **CONDOMINIUM ASSOCIATION**.
24. **EVIDENCE OF PROJECT OWNERSHIP.**
26. **SIGNS.**
28. **AS-BUILTS.**

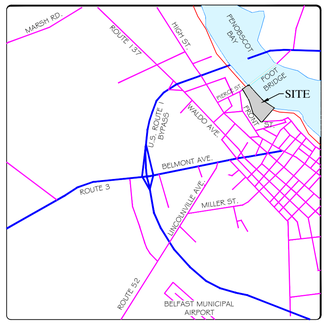
**CITY OF BELFAST**
**NOTICE OF PUBLIC HEARINGS**

The City of Belfast shall conduct public hearings at the following meetings regarding proposed amendments to the adopted Contract Rezoning Agreement, Amendment #8, entered between DUBBA, LLC and the City for the Front Street Shipyard project.

1) City of Belfast Planning Board, Wednesday, July 29, 2015, beginning at 6:30 p.m. or as soon as practical thereafter in the Council Chambers of Belfast City Hall which is located at 131 Church St.
2) Belfast City Council, Tuesday, August 4, 2015, beginning at 7:00 p.m. or as soon as practical thereafter in the Council Chambers of Belfast City Hall.

The amendments will change the date by which construction of Building #6 must be completed from the current date of June 30, 2015 to December 31, 2017, as well as clarify the amount of land the City will sell to the Shipyard and the location of some improvements. The Front Street Shipyard is located at 101 Front Street, and Building #6 is to be constructed on the City owned Front Street parking lot which the City intends to sell to DUBBA, LLC; said property is part of Map 11, Lot 136.

Persons who may be affected by this proposal are encouraged to attend the public hearings and to offer comment. Comment also may be submitted in writing or via email by the date of the respective hearings. Written comment to: Wayne Marshall, City Planner, City of Belfast, 131 Church St., Belfast, ME, 04915. Email comment to: wmarshall@cityofbelfast.org. Persons who have questions can contact Wayne Marshall at wmarshall@cityofbelfast.org or at 338-1417 x 25.




VICINITY MAP
N.T.S.

## LOT INFORMATION

TAX MAP: MAP 11, LOT 132

LOT SIZE: 4.23 ACRES

AREA TO BE CONVEYED:
MAP 11, LOT 136 (0.84 ACRES)

ZONING: WATERFRONT MIXED USE

OWNER: DUBBA, LLC
55 WESTERN ROAD
WARREN, ME 04864

DEED: BOOK 3515, PAGE 4

PROPOSED USE: MARINA/BOATYARD

## TIDE ELEVATIONS

| | ELEVATION |
|---|---|
| HIGHEST ANNUAL TIDE LEVEL (2011) | 12.8' |
| MEAN HIGH WATER | 10.23' |
| MEAN LOW WATER | 0.00 |
| MEAN LOWER LOW WATER | -0.39' |

This is to certify that the City Council of the City of Belfast, at its meeting of June 21, 2011, reviewed and approved this site plan for the Front Street Shipyard project as part of Amendment #4 to a Contract Rezoning Agreement entered between the City and DUBBA, LLC. Approval occurred pursuant to City Code of Ordinances, Chapter 102, Zoning, Article X, Contract Rezoning, Division 4, Waterfront Mixed Use zoning district and Waterfront Development shoreland district. The City Council adopted findings of fact establishing that the site plan satisfies all City Code requirements. The Council, in making its findings, reviewed and considered recommendations from the Belfast Planning Board, Belfast Intown Design Review Committee, Belfast Harbor Committee, and Belfast Comprehensive Planning Committee. This site plan is an integral component of the adopted Amendment #4 to the Contract Rezoning Agreement, a copy of which is on file at the Waldo County Registry of Deeds.

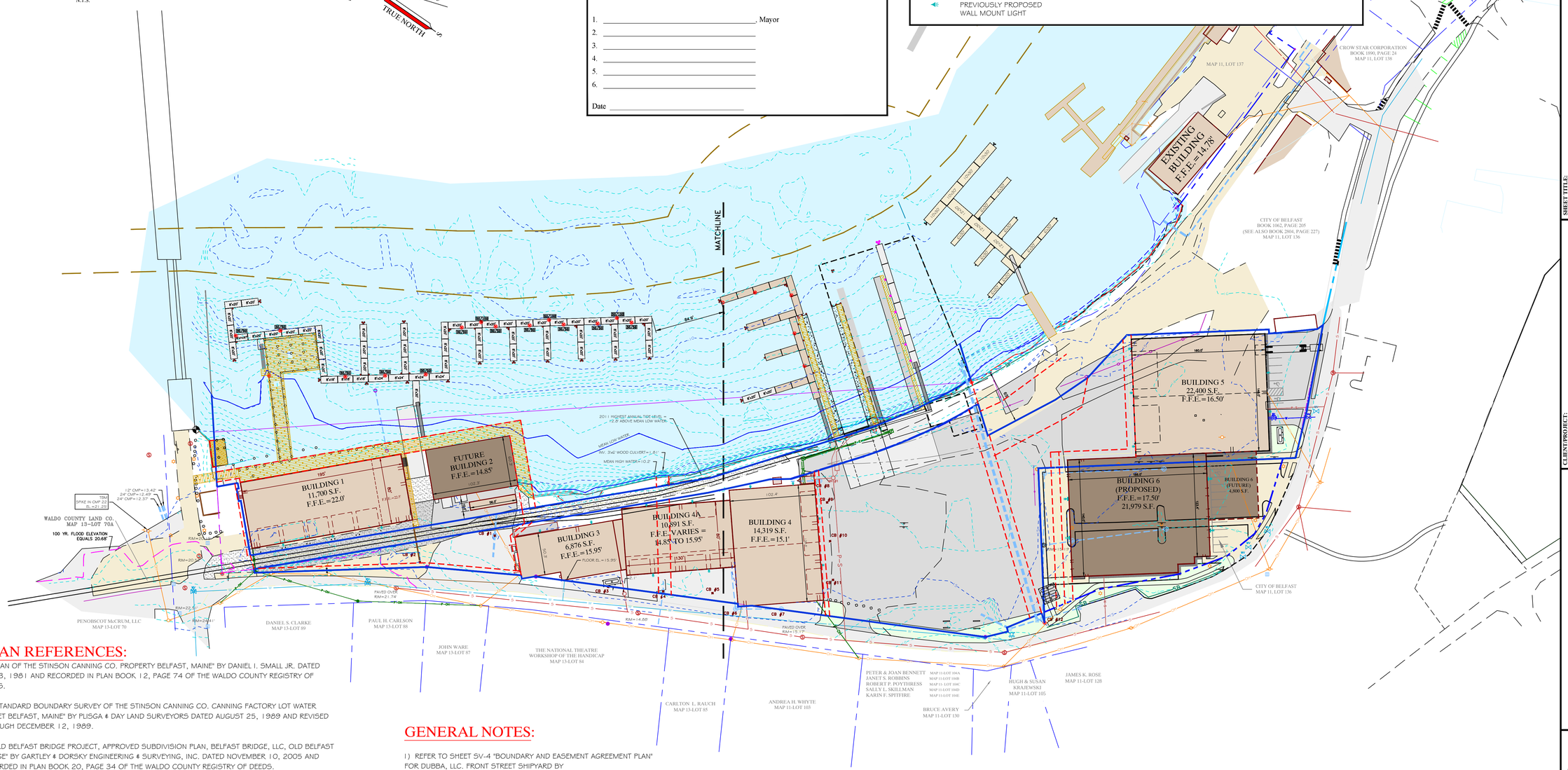
Undersigned by members of the City of Belfast City Council.

1. _____, Mayor
2. _____
3. _____
4. _____
5. _____
6. _____

Date _____

## LEGEND

- APPARENT PROPERTY LINE
- SURVEYED PROPERTY LINE
- IRON ROD FOUND
- UTILITY POLE
- GUY ANCHOR
- OVERHEAD UTILITY LINE
- LIGHT
- HYDRANT
- EXISTING WATER LINE
- WATER VALVE
- SIGN
- EXISTING CONTOUR
- CATCH BASIN
- STORM PIPE
- SANITARY MANHOLE
- SANITARY LINE
- PREVIOUSLY PROPOSED WALL MOUNT LIGHT
- PREVIOUSLY PROPOSED POWER PEDESTAL W/ WATER
- PREVIOUSLY PROPOSED WATER LINE
- PREVIOUSLY PROPOSED STORM PIPE
- PREVIOUSLY PROPOSED CATCH BASIN
- PREVIOUSLY PROPOSED SANITARY LINE
- PROPOSED WALL MOUNTED LIGHT
- PROPOSED SANITARY LINE
- PROPOSED SEDIMENT BARRIER
- EXISTING GRAVEL WORK AREA
- NEW GRAVEL WORK AREA
- EDGE OF EASEMENT
- PROPOSED RIGHT-OF-WAY




## PLAN REFERENCES:

1) "PLAN OF THE STINSON CANNING CO. PROPERTY BELFAST, MAINE" BY DANIEL I. SMALL JR. DATED JULY 3, 1981 AND RECORDED IN PLAN BOOK 12, PAGE 74 OF THE WALDO COUNTY REGISTRY OF DEEDS.

2) "STANDARD BOUNDARY SURVEY OF THE STINSON CANNING CO. CANNING FACTORY LOT WATER STREET BELFAST, MAINE" BY PLISGA & DAY LAND SURVEYORS DATED AUGUST 25, 1989 AND REVISED THROUGH DECEMBER 12, 1989.

3) "OLD BELFAST BRIDGE PROJECT, APPROVED SUBDIVISION PLAN, BELFAST BRIDGE, LLC, OLD BELFAST BRIDGE" BY GARTLEY & DORSKY ENGINEERING & SURVEYING, INC. DATED NOVEMBER 10, 2005 AND RECORDED IN PLAN BOOK 20, PAGE 34 OF THE WALDO COUNTY REGISTRY OF DEEDS.

4) "BOUNDARY SURVEY FOR DUBBA, LLC OF THE FRONTSTREET SHIPYARD", BY GARTLEY & DORSKY ENGINEERING & SURVEYING, INC, DATED APRIL 12, 2011.

## SURVEYOR'S NOTES:

1) This is not a boundary survey.

2) All directions are referenced to Magnetic North 2005, derived from a bearing taken with a hand compass.

3) Elevations are referenced to Mean Low Water.

## GENERAL NOTES:

1) REFER TO SHEET SV-4 "BOUNDARY AND EASEMENT AGREEMENT PLAN" FOR DUBBA, LLC. FRONT STREET SHIPYARD BY GARTLEY & DORSKY ENGINEERING & SURVEYING, INC. FOR PROPOSED EASEMENTS.

The Belfast City Council, at its meeting of March 1, 2011, approved Amendment #3 to the Contract Rezoning Agreement between DUBBA, LLC and the City of Belfast for a property identified by the City of Belfast as as Map 11, Lot 132.

GRAPHIC SCALE
60 0 30 60 120 240
( IN FEET )
1 inch = 60 ft.

FRONT STREET SHIPYARD

| NO. | REVISIONS | DATE |
|---|---|---|
| 6 | UPDATED PROPERTY LINES, ADDED PROPOSED LINES, ADDED BLDG. & EASEMENT, UPDATED LOT INFORMATION | 1/6/15 |
| 5 | ADDED BUILDING #6 | 3/27/12 |
| 4 | RELOCATED UTILITY POLES AND CORRECTED BUILDING 1 LOCATION | 1/30/12 |
| 3 | ADDED MARINA FLOATS | 10/28/11 |
| 2 | UPDATED BUILDING 4A F.F.E. | 8/16/11 |
| 1 | ADDED SIGNATURE BLOCK, RENAMED SHEET | 6/28/11 |

SHEET TITLE: OVERALL SITE PLAN AMENDMENT #8 CONTRACT REZONING AGREEMENT

SCALE: 1"=60'

DRAWN BY: JAM

CHECKED BY:

DATE: JUNE 16, 2011

CLIENT/PROJECT: FRONT STREET SHIPYARD

LOCATION: FRONT STREET

TOWN: BELFAST COUNTY: WALDO STATE: MAINE

Gartley & Dorsky ENGINEERING SURVEYING
59B Union Street P.O. Box 1031 Camden, ME 04843-1031
Ph (207) 236-4365 Fax (207) 236-3055 Toll Free 1-888-282-4365

STATE OF MAINE WILLIAM B. GARTLEY 7961 LICENSED PROFESSIONAL ENGINEER 1-6-15

PROJ. NO. 2010-026

C-0

## CATCH BASIN SCHEDULE (FROM PREVIOUS PLANS; NOT AS-BUILTS)

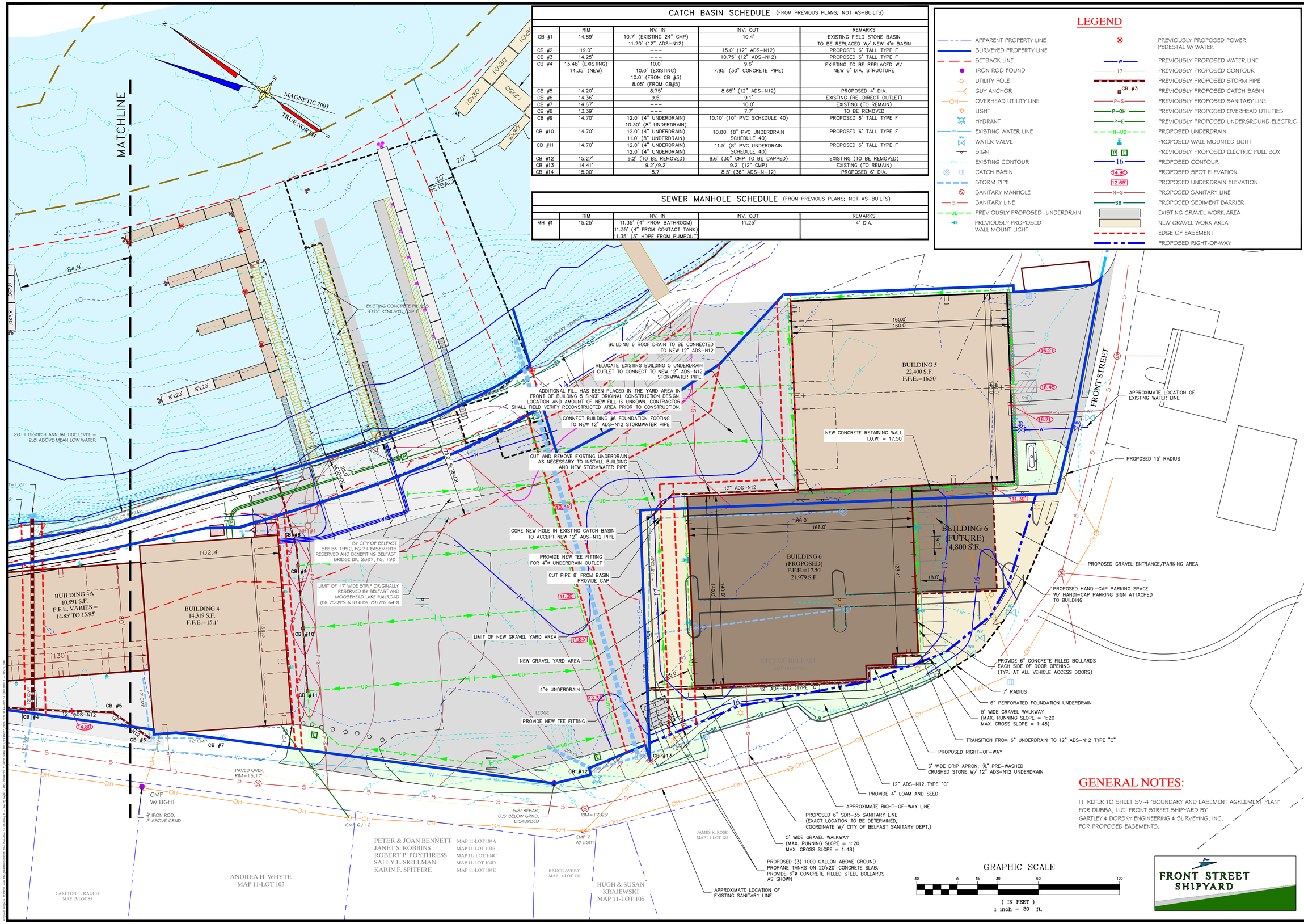
| | RIM | INV. IN | INV. OUT | REMARKS |
|---|---|---|---|---|
| CB #1 | 14.89' | 10.7' (EXISTING 24" CMP)<br>11.20' (12" ADS-N12) | 10.4' | EXISTING FIELD STONE BASIN TO BE REPLACED W/ NEW 4'ø BASIN |
| CB #2 | 19.0' | --- | 15.0' (12" ADS-N12) | PROPOSED 6' TALL TYPE F |
| CB #3 | 14.25' | --- | 10.75' (12" ADS-N12) | PROPOSED 6' TALL TYPE F |
| CB #4 | 13.48' (EXISTING)<br>14.35' (NEW) | 10.0'<br>10.0' (EXISTING)<br>10.0' (FROM CB #3)<br>8.05' (FROM CB#5) | 9.6'<br>7.95' (30" CONCRETE PIPE) | EXISTING TO BE REPLACED W/ NEW 6' DIA. STRUCTURE |
| CB #5 | 14.20' | 8.75' | 8.65" (12" ADS-N12) | PROPOSED 4' DIA. |
| CB #6 | 14.36' | 9.5' | 9.1' | EXISTING (RE-DIRECT OUTLET) |
| CB #7 | 14.67' | --- | 10.0' | EXISTING (TO REMAIN) |
| CB #8 | 13.39' | --- | 7.7' | TO BE REMOVED |
| CB #9 | 14.70' | 12.0' (4" UNDERDRAIN)<br>10.30' (8" UNDERDRAIN) | 10.10' (10" PVC SCHEDULE 40) | PROPOSED 6' TALL TYPE F |
| CB #10 | 14.70' | 12.0' (4" UNDERDRAIN)<br>11.0' (8" UNDERDRAIN) | 10.80' (8" PVC UNDERDRAIN SCHEDULE 40) | PROPOSED 6' TALL TYPE F |
| CB #11 | 14.70' | 12.0' (4" UNDERDRAIN)<br>12.0' (4" UNDERDRAIN) | 11.5' (8" PVC UNDERDRAIN SCHEDULE 40) | PROPOSED 6' TALL TYPE F |
| CB #12 | 15.27' | 9.2' (TO BE REMOVED) | 8.6' (30" CMP TO BE CAPPED) | EXISTING (TO BE REMOVED) |
| CB #13 | 14.41' | 9.2'/9.2' | 9.2' (12" CMP) | EXISTING (TO REMAIN) |
| CB #14 | 15.00' | 8.7' | 8.5' (36" ADS-N-12) | PROPOSED 6' DIA. |

## SEWER MANHOLE SCHEDULE (FROM PREVIOUS PLANS; NOT AS-BUILTS)

| | RIM | INV. IN | INV. OUT | REMARKS |
|---|---|---|---|---|
| MH #1 | 15.25' | 11.35' (4" FROM BATHROOM)<br>11.35' (4" FROM CONTACT TANK)<br>11.35' (3" HDPE FROM PUMPOUT) | 11.25' | 4' DIA. |

## LEGEND

| | |
|---|---|
| APPARENT PROPERTY LINE | PREVIOUSLY PROPOSED POWER PEDESTAL W/ WATER |
| SURVEYED PROPERTY LINE | PREVIOUSLY PROPOSED WATER LINE |
| SETBACK LINE | PREVIOUSLY PROPOSED CONTOUR |
| IRON ROD FOUND | PREVIOUSLY PROPOSED STORM PIPE |
| UTILITY POLE | PREVIOUSLY PROPOSED CATCH BASIN |
| GUY ANCHOR | PREVIOUSLY PROPOSED SANITARY LINE |
| OVERHEAD UTILITY LINE | PREVIOUSLY PROPOSED OVERHEAD UTILITIES |
| LIGHT | PREVIOUSLY PROPOSED UNDERGROUND ELECTRIC |
| HYDRANT | PROPOSED UNDERDRAIN |
| EXISTING WATER LINE | PROPOSED WALL MOUNTED LIGHT |
| WATER VALVE | PREVIOUSLY PROPOSED ELECTRIC PULL BOX |
| SIGN | PROPOSED CONTOUR |
| EXISTING CONTOUR | PROPOSED SPOT ELEVATION |
| CATCH BASIN | PROPOSED UNDERDRAIN ELEVATION |
| STORM PIPE | PROPOSED SANITARY LINE |
| SANITARY MANHOLE | PROPOSED SEDIMENT BARRIER |
| SANITARY LINE | EXISTING GRAVEL WORK AREA |
| PREVIOUSLY PROPOSED UNDERDRAIN | NEW GRAVEL WORK AREA |
| PREVIOUSLY PROPOSED WALL MOUNT LIGHT | EDGE OF EASEMENT |
| | PROPOSED RIGHT-OF-WAY |




## GENERAL NOTES:

1) REFER TO SHEET SV-4 "BOUNDARY AND EASEMENT AGREEMENT PLAN" FOR DUBBA, LLC. FRONT STREET SHIPYARD BY GARTLEY & DORSKY ENGINEERING & SURVEYING, INC. FOR PROPOSED EASEMENTS.

FRONT STREET SHIPYARD

| NO. | REVISIONS | DATE |
|---|---|---|
| 5 | REVISED PROPERTY LINES, ADDED PROPOSED EASEMENT LINES | 1/6/15 |
| 4 | UPDATED BUILDING FOOTPRINT, ADDED WALKWAYS, REVISED GRADING AT S AND W SIDE OF BUILDING 6, UPDATED PROPERTY LINES, NOTES | 12/15/14 |
| 3 | REVISED GRADING AT SOUTH END OF BUILDING 6, NOTES | 12/10/14 |
| 2 | REVISED PROPANE TANK LOCATION AND SETUP | 12/2/14 |
| 1 | RAISED BUILDING 6 F.F.E. TO 17.5', ADDED RETAINING WALL, REGRADED AS NECESSARY | 10/20/14 |

SHEET TITLE: **PROPOSED SITE PLAN**

SCALE: 1"=30'

DRAWN BY: JAM

CHECKED BY: WBG/JAD/BL

DATE: OCTOBER 8, 2013

CLIENT/PROJECT: **FRONT STREET SHIPYARD BUILDNIG #6**

LOCATION: FRONT STREET

TOWN: BELFAST

STATE: MAINE

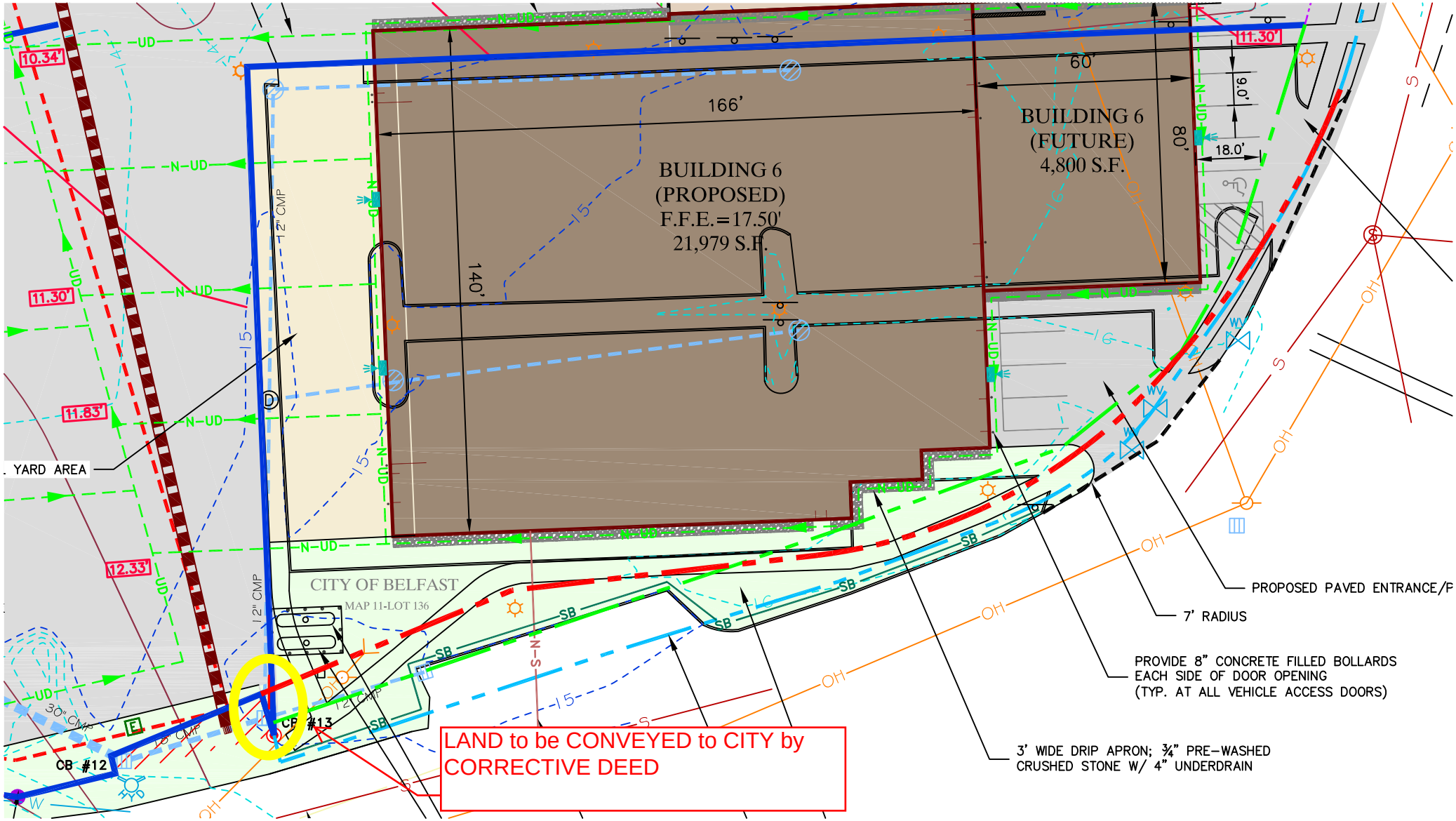
COUNTY: WALDO


Gartley & Dorsky ENGINEERING SURVEYING
518 Union Street, P.O. Box 1031 Camden, ME 04843-1031
Ph. (207) 236-4365 Fax (207) 236-3655 Toll Free 1-888-262-4365


STATE OF MAINE WILLIAM B. GARTLEY 7961 LICENSED PROFESSIONAL ENGINEER 10-8-13

PROJ. NO. 2010-026

C-2


BUILDING 6
(PROPOSED)
F.F.E.=17.50'
21,979 S.F.
166'
140'
BUILDING 6
(FUTURE)
4,800 S.F.
60'
80'
9.0'
18.0'
10.34'
11.30'
11.83'
12.33'
YARD AREA
CITY OF BELFAST
MAP 11-LOT 136
CB #12
CB #13
12" CMP
18" CMP
30" Class
PROPOSED PAVED ENTRANCE/F
7' RADIUS
PROVIDE 8" CONCRETE FILLED BOLLARDS
EACH SIDE OF DOOR OPENING
(TYP. AT ALL VEHICLE ACCESS DOORS)
3' WIDE DRIP APRON; ¾" PRE-WASHED
CRUSHED STONE W/ 4" UNDERDRAIN
LAND to be CONVEYED to CITY by
CORRECTIVE DEED

# AGENDA TOPIC 10.E

TO: Mayor & City Council

FROM: Wayne Marshall, City Planner

DATE: July 30, 2015

RE: Option to Lease for City Front Street parking lot - DUBBA, LLC

**REQUESTED ACTIONS**

1) The Council should conduct the scheduled public hearing.

2) The Council should decide if you are prepared to adopt the proposed amendments to the Option to Lease Agreement between the City and DUBBA, LLC. This Agreement establishes the terms for DUBBA's lease and eventual purchase of the City owned Front Street parking lot on which they propose to construct Building #6.

**BACKGROUND INFORMATION**

The Council and DUBBA, LLC entered an Option to Lease Agreement on May 22, 2013 that established terms for DUBBA, LLC to lease and eventually purchase the City owned Front Street parking lot. The purpose of the Lease was to provide DUBBA the land that they needed on which to construct proposed Building #6, the building which will be used in conjunction with the 480 ton travel-lift. The Council subsequently amended this Option to Lease in January 2014.

The Council has had discussions with DUBBA, LLC regarding their need for additional time to secure the financing needed to construct Building #6. As such, the two parties have expressed their mutual interest in extending the terms of the Option to Lease. The amendments that are now proposed would grant two extensions. The two major changes to the Option to Lease are:

1) The date by which DUBBA must execute the Option to Lease has been extended to October 1, 2016. I note that this means that DUBBA does not have any ownership interest in the City owned parking lot and that they will not be making any identified lease payments until the Option to Lease is executed. They can choose to execute the Option at any time before October 1, 2016.

2) The date by which DUBBA must complete construction of Building #6 would be extended to December 31, 2017, which is the same date as is identified in the Contract Rezoning Agreement, Amendment #8 (as amended) between the City and DUBBA.

The amount DUBBA is to pay for the lease, $3,333/month and the amount DUBBA must pay to purchase the property, $600,000, remains the same. I would be happy to address any questions.

# PROPOSED REVISIONS
# AMENDMENT #2 to OPTION to LEASE AGREEMENT
# REVISIONS to ADDRESS PROPOSED CHANGES in DATE for DUBBA, LLC, EXECUTION of OPTION and CONSTRUCTION of BUILDING #6
## Prepared by Wayne Marshall, City Planner

**NOTE TO PUBLIC# 1:** The City and DUBBA, LLC entered an Option to Lease Agreement on May 22, 2013, and amended this Agreement on January 7, 2014. The Agreement identified terms for the City to lease or sell a portion of the City owned Front Street parking lot to DUBBA, LLC for the purposes of allowing DUBBA, LLC to construct Building #6 on said property. The City and DUBBA, LLC are now proposing to amend the Option to Lease Agreement (Amendment #2) to extend the time period available to DUBBA, LLC to exercise their Option to Lease the Parking Lot property. Pursuant to the proposed terms, DUBBA, LLC would have until October 1, 2016 to execute this Option.

**NOTE TO PUBLIC #2:** The City Council will consider adopting Amendment #2 to the Option to Lease Agreement at an August 4, 2015 public hearing and Council meeting at which it also will consider amendments to the adopted Contract Rezoning Agreement, Amendment #8, between the City and DUBBA, LLC for the Front Street Shipyard project. Amendment #8 mostly identifies terms for the construction of Building #6 on the City owned Front Street parking lot property.

**NOTE TO PUBLIC #3.** All text in black font is language in the executed agreement that is now in effect; terms of the original May 22, 2013 Agreement and Amendment #1 adopted on January 7, 2014. All new language now proposed to be added is shown in **red and bold font**. All language proposed to be deleted is shown in **~~bolded blue strike-through font~~**.

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**CITY OF BELFAST-DUBBA, LLC OPTION TO LEASE**

WHEREAS, **DUBBA, LLC,** with a principal place of business at 101 Front Street, Belfast, Maine, a Maine Corporation doing business in Belfast, Maine, and the **City of Belfast,** a duly incorporated Municipality, located in Belfast, Waldo County, Maine, wish to enter into an agreement which would provide the Option for DUBBA, LLC to lease certain premises from the City of Belfast with an inclusive Option to purchase; and

WHEREAS, there are ~~**multiple**~~ development **approaches** ~~**considerations that are currently**~~ being considered by DUBBA, LLC and it wishes to presently obtain an Option to

Lease certain premises from the City of Belfast such that said Option rights may be presented to third parties and permitting authorities as evidence of legal rights and standing to use said premises.

WHEREAS, post approval of this Option to Lease on May 22, 2013, the City of Belfast, in January 2014, approved a Contract Rezoning Agreement, Amendment #8, requested by DUBBA, LLC to allow DUBBA, LLC to construct Building #6 on the property owned by the City of Belfast that is the subject of this Option to Lease.

WHEREAS, the City of Belfast and DUBBA, LLC initially entered this Option to Lease Agreement on May 22, 2013, and subsequently amended (Amendment #1) said Agreement on January 7, 2014.

WHEREAS, post the approval of Amendment #1 to this Option to Lease Agreement, the parties have engaged in ongoing mutual discussions and negotiations regarding this Option to Lease Agreement and the construction of Building #6, some of which discussions were the subject of public Council meetings and public hearings.

WHEREAS, the City of Belfast and DUBBA, LLC have determined that is in the mutual interests of both parties to revise certain provisions of the Option to Lease Agreement to provide DUBBA, LLC additional time to execute the Option to Lease and to construct Building #6.

NOW THEREFORE, for valuable consideration, including the exchange of mutual promises, the parties hereby covenant as follows:

1. The City of Belfast hereby grants DUBBA, LLC an Option to enter into a Lease Agreement with the City of Belfast to lease with an exclusive option to purchase certain premises owned by the City of Belfast, more particularly known as the "paved parking lot", which abut Front Street and is adjacent to Building #5 as built (and which is located on a parcel subject to the Commercial Land Lease between the City and DUBBA, and which is recorded at the Waldo County Registry of Deeds, Book 3684, Page 198). Said premises to be optioned are more particularly depicted on Exhibit A attached hereto and incorporated herewith.

2. If exercised, the terms of the lease with option to purchase shall be consistent with the terms and conditions described in a Commercial Lease described in the Waldo County Registry of Deeds in Book 3684, Page 198. Provided, however, that the following terms and conditions shall replace and modify the terms in said Commercial Lease recorded in Book 3684, Page I98[1]:

a. Consideration for the lease **of the paved parking lot property** shall be paid in the amount of $3,333.00 per month to the City of Belfast as lease payments.

[1] n.b. For clarification purposes, the existing Lease for the Building 5 lot shall remain in full force and effect separate and aside from the terms of any new lease entered into as described herein.

b. The term of the lease shall be for 5 years.

c. The continuation of the lease term shall be contingent upon the substantial completion of construction of a building**, Building #6, that is** similar in size to Building #5, as presently located on other leased premises of DUBBA, LLC, ~~within 24 months of execution of a lease~~ **by December 31, 2017**. Substantial completion shall mean that an occupancy permit has been issued. Failure to substantially complete the structure ~~within the 24 month period~~ **by December 31, 2017** shall cause the Lease to terminate and the land and all improvements thereon shall revert back to the City of Belfast free of all liens and encumbrances. This provision is subject to further negotiation by the parties should DUBBA, LLC substantially commence but fail to substantially complete the construction ~~within the 24 month period~~ **by December 31, 2017**.

d. DUBBA, LLC shall take the premises "as is, where is", and acknowledges full disclosure and opportunity to investigate all hazardous materials located on or under the premises to be leased and DUBBA, LLC shall fully indemnify and hold the City of Belfast harmless from any demands, claims, liability, or causes of action which arise as a result of the disturbance of the soil by DUBBA, LLC and use thereafter of said premises. DUBBA, LLC acknowledges that the City used the services of Ransom Consulting, Inc. to conduct both a Phase I and Phase II Environmental Site Assessment of the City owned Parking Lot located at 45 Front Street (the 'paved parking lot'), that the City provided DUBBA, LLC with a copy of the Phase I Assessment dated .January 11, 2013, and the Phase II Assessment dated March 13, 2013, and that DUBBA, LLC is aware of the results of the analysis identified in the above reports and the actions recommended by Ransom Consulting, Inc.

e. At the end of the lease period, at which time DUBBA, LLC will have paid the City of Belfast a total of $200,000.00 in rental payments, DUBBA, LLC shall have the option of purchasing the premises for $400,000.00. If DUBBA, LLC fails to exercise its purchase option and the Lease term expires, the land and all improvements shall revert to the City free and clear of all liens and encumbrances.

f. In the event that DUBBA, LLC seeks to purchase the premises before the expiration of the lease term, it shall pay to the City of Belfast the purchase price of $400,000.00, plus any and all lease payments for the entire five (5) year period that, at the time of closing, have not yet been paid to the City of Belfast. Thus, at no time shall the total sum of lease payments and purchase price be less than $600,000.00 payable to the City of Belfast.

g. DUBBA, LLC shall pay all real property and personal property taxes related the leased lot and all improvements and betterments constructed thereon by DUBBA, LLC to the City of Belfast in the normal course of Citywide assessment.

h. DUBBA, LLC shall be responsible for obtaining all necessary City, State, and Federal permits and licenses so as to approve the construction of the new Building #6 and all related improvements on said lot. Further, the current parking lot shall remain a public parking lot until such time as all of the following actions occur: 1) the lease is executed between the

City and DUBBA, LLC; 2) DUBBA, LLC has obtained any and all City, state and federal permits to allow the construction of Building # 6 and accompanying improvements; and 3) DUBBA, LLC begins construction of Building # 6. Notwithstanding these requirements, DUBBA, LLC, may obtain the approval of the City to conduct investigatory work in the parking lot associated with its pursuit of permits to construct Building # 6, so long as such work does not interfere with the public use of said parking lot.

i. DUBBA, LLC shall pay the City of Belfast's costs relating to the negotiation of this Option to Lease (which specifically includes the cost of the City to obtain an appraisal of this property), all City legal review costs relating to the required Contract Rezoning approval, the drafting of all subsequent lease documents and any deed of conveyance and/or other necessary professional fees incurred by the City of Belfast in the negotiation of this Option to Lease, the subsequent Commercial Lease Agreement, and the transfer of the premises hereby optioned to DUBBA, LLC.

j. DUBBA, LLC acknowledges that the ~~exact location of the boundary by and along Front Street is yet to be determined by the City of Belfast, and that this boundary will be determined at a later date through a mutual agreement with DUBBA, LLC and the City of Belfast~~**boundary of the premises to be leased shall be as shown on the Plan entitled ''Proposed Site Plan, Front Street Shipyard Building #6, Sheet C-2, prepared by Gartley & Dorsky Engineering & Surveying, dated October 8, 2013, including all revisions through January 6, 2015'', a copy of which shall be attached to this Agreement.** The parties acknowledge**, and as shown on the above referenced Plan Sheet C-2,** that the 7 City (public) parking spaces which are located directly adjacent to Front Street will remain the sole property of the City of Belfast and shall not be subject to the Lease.

k. DUBBA, LLC, prior to the start of construction of Building # 6, shall remove all existing electric/lighting utility poles located in the parking lot and shall deliver such in good condition to the City of Belfast. The City **also shall** ~~may~~ require re-location of viable trees to other areas within the City at the expense of DUBBA, LLC.

l. The City of Belfast and DUBBA, LLC have determined that the most appropriate location for a 'relief walkway' for the Belfast Harbor Walk project through the premises to be leased to DUBBA, LLC shall be consistent with Area 21 (Location of Relief Walkway - Building #6') which shall be depicted on the revised Comprehensive Master Boundary Agreement adopted by the parties. A permanent easement that is 10 feet in width shall be granted to the City for the location of the 'relief walkway', and the City shall be granted a temporary construction easement that is 20 feet in width and which is located immediately adjacent to the permanent easement for the purposes of constructing and maintaining this 'relief walkway'. The 'relief walkway' the City will construct shall be an asphalt surface and shall be consistent with construction standards identified in Amendment #8 to the Contract Rezoning Agreement. Further, the City and DUBBA, LLC, shall comply with terms of the Operational Policies adopted by the parties to manage use of this 'relief walkway'.

m. Without limiting the conditions and terms that shall be applicable to any lease entered into by DUBBA, LLC and the City of Belfast, so as to be consistent with the terms and conditions described in a Commercial Lease recorded in Book 3684,

Page 198, it is hereby acknowledged that at no time shall the City of Belfast be obligated to transfer by deed the premises hereby optioned for lease to DUBBA, LLC unless and until DUBBA, LLC may demonstrate that it has obtained a commitment letter from a lending institution, demonstrating that DUBBA, LLC is capable of obtaining financing of 60% of the value of all of the Front Street Shipyard premises located in the City of Belfast which are adjacent to Front Street and Belfast Harbor (excluding the premises formerly known as the Belfast Boatyard).

n. Notification of the desire of DUBBA, LLC to exercise this Option to Lease and execute a Commercial Lease Agreement with Option to Purchase shall be made in writing care of the City Manager, City of Belfast, 131 Church Street, Belfast, Maine 04915, by letter to be hand delivered to the City Manager's office. Said letter shall be hand delivered by ~~within 12 months of the date of execution of this Option to Lease~~ **October 1, 2016**. In the event that said letter has not be delivered ~~within 12 months of the execution of this Option to Lease~~ **by October 1, 2016**, then this Option to Lease shall automatically terminate without further notice and there shall be no further rights or obligations between the patties relating to this Option to Lease and the potential Commercial Lease Agreement with Option to Purchase the premises described herein.

The parties acknowledge that there are no other terms or conditions or agreements between the parties unless they are recited hereby in writing. To the extent that issues and circumstances are not mutually agreed upon due to mutual mistake or lack of mutual awareness as of the date of execution of this Agreement, the parties hereby mutually agree to exercise good faith efforts to negotiate any presently unknown facts or circumstances which may impact the terms and conditions of this Option to Lease and the potential subsequent Lease.

Both parties have been represented by separate counsel in this matter.

By signing below, the parties hereby represent that they have been duly authorized to execute this agreement and that all necessary actions have been taken so as to authorize the execution of this document by the entities signing below.

This document shall <u>not</u> be recorded in the Waldo County Registry of Deeds.

ADOPTED: May 22, 2013
AMENDMENT #1: January 7, 2014
AMENDMENT #2: August 4, 2015

| On Behalf of DUBBA, LLC | On Behalf of the City |
|---|---|
| _____ | _____ |
| John B. Turner, Manager | Joseph J. Slocum, City Manager |

CITY OF BELFAST CITY COUNCIL
NOTICE OF PUBLIC HEARING

The Belfast City Council, at its meeting of Tuesday, August 4, 2015, beginning at 7:00 pm or as soon as practical thereafter, in the Council Chambers of Belfast City Hall located at 131 Church Street, shall conduct a public hearing regarding proposed amendments to the Option to Lease Agreement between DUBBA, LLC (Front Street Shipyard) and the City adopted by the Council on May 22, 2013, and as such was amended on January 7, 2014. This Option to Lease Agreement identifies terms DUBBA, LLC must satisfy to execute the Option and subsequently to lease the City owned Front Street parking lot, which is part of Map 11, Lot 136, for the purposes of constructing Building #6. Currently proposed amendments would extend the date to allow execution of the Lease to October 1, 2016, and extend the date for the Shipyard to complete construction of Building #6 to December 31, 2017.

The public is invited to attend the August 4 public hearing and to offer comment. Comment also can be submitted in writing or via email by the date of the hearing. Written comment should be sent to Wayne Marshall, City Planner, City of Belfast, 131 Church St, Belfast, ME, 04915, and email comment to wmarshall@cityofbelfast.org. The proposed amendments can be inspected at the Code and Planning offices in Belfast City Hall between the hours of 8:00 am - 5:00 pm, Monday - Friday, and on the City website; cityofbelfast.org. Questions regarding the Ordinance amendments should be directed to Wayne Marshall, City Planner, at 338-1417 x 25, or at wmarshall@cityofbelfast.org.

# AGENDA TOPIC 10.F

TO: MAYOR & CITY COUNCIL

FROM: WAYNE MARSHALL, CITY PLANNER

DATE: JULY 31, 2015

RE: MASTER BOUNDARY AGREEMENT - DUBBA, LLC

**REQUESTED ACTION**

I am recommending that the Council adopt the identified revisions, Amendment #3, to the Master Boundary Agreement between DUBBA and the City for the Front Street Shipyard project.

**BACKGROUND INFORMATION**

The City and DUBBA have entered a Master Boundary Agreement that identifies all land exchanges and easements between the two parties for the Front Street Shipyard project. The terms of this Master Boundary Agreement tract all provisions of the Contract Rezoning Agreement between the two parties, as well as the Option to Lease/Purchase that the two parties entered for the land associated with the Shipyard's construction of Building #5. The current revisions to the Master Boundary Agreement, Amendment #3, are associated with the City's Option to Lease (purchase) with DUBBA for Building #6, and proposed amendments to adopted Amendment #8 to the Contract Rezoning Agreement.

The main substantive change to the Agreement is the addition of Section #27. This section identifies the bounds of the property, parcel 1A, that the City would lease/sell to DUBBA for the construction of Building #6. The bounds of Parcel 1A are shown on the revised Master Boundary Agreement Plan, copy attached. This parcel is .89 acres in size. The parcel also includes easement rights for a relief walkway for the Harbor Walk, Area 21, reference Clause #26. Other changes to the Agreement are to ensure greater consistency among the Contract Rezoning Agreement, the Option to Lease (for the Parking Lot), and this Agreement.

The Council is <u>not</u> required to conduct a public hearing on these amendments. I would be happy to answer any questions.

**PROPOSED AMENDMENTS**
**COMPREHENSIVE MASTER AGREEMENT**
**CITY OF BELFAST AND DUBBA, LLC**

## NOTES TO PUBLIC

Note #1: The purpose of these amendments is to identify changes to the Master Boundary Agreement between the City and DUBBA, LLC that are associated with the proposed construction of Building #6 and the City's future lease and sale of the City owned parking lot for the purpose of allowing DUBBA, LLC to construct Building #6.

Note #2: All language proposed to be added to the Agreement is shown in **Red Font**. All language proposed to be deleted from the Agreement is shown in ~~**Blue strike-through Font**~~. All other language is existing language identified in the existing adopted Agreement.

## TEXT OF PROPOSED AMENDMENTS

### AMENDMENT #~~2~~ 3
### COMPREHENSIVE MASTER AGREEMENT

**WHEREAS,** DUBBA, LLC, and the CITY entered an Agreement entitled the COMPREHENSIVE MASTER AGREEMENT, that identified a series of property, easement, and use agreements between the two parties to foster DUBBA's development of a shipyard and marina on the former Stinson Seafoods property, and to accomplish the CITY's intent to foster public access along its waterfront. Said COMPREHENSIVE MASTER AGREEMENT is recorded in the Waldo County Registry of Deeds; reference Document 9009, Book 3684, Page 23.

**WHEREAS**, DUBBA, subsequent to adoption of Amendment #3, Amendment #4 and Amendment #5 to the CONTRACT REZONING AGREEMENT, has obtained further approvals from the City for development of its commercial shipyard and marina subject to all the terms and conditions of Amendment #6 to the CONTRACT REZONING AGREEMENT dated March 6, 2012, Amendment #7 to the CONTRACT REZONING AGREEMENT dated February 3, 2013, and Amendment #8 to the CONTRACT REZONING AGREEMENT dated January 7, 2014. The above referenced 6 amendments to the CONTRACT REZONING AGREEMENT identify terms which shall apply to DUBBA'S development of its commercial shipyard and marina.

**WHEREAS**, DUBBA, LLC and the CITY have determined that changes in the Front Street Shipyard project being developed by DUBBA and the Harbor Walk being constructed by the CITY has caused the two parties to amend certain provisions of the COMPREHENSIVE MASTER AGREEMENT.

**WHEREAS, DUBBA, subsequent to adoption of Amendment #8 of the Contract Rezoning Agreement dated January 7, 2014, sought several amendments to this Contract Rezoning Agreement, and said amendments were reviewed and approved by the City Council at its meeting of August 4, 2015. These August 4, 2015 amendments to the Contract Rezoning Agreement also resulted in the need to make further amendments to the Master Boundary Agreement, the now proposed Amendment #3 to said Master Boundary Agreement.**

**NOW THEREFORE for valuable consideration, DUBBA and the CITY agree to amend the following provisions of the COMPREHENSIVE MASTER AGREEMENT; Section 1, Section 2, Section 22, and Section 25, identified in the original COMPREHENSIVE MASTER AGREEMENT, including Amendment #1 and Amendment #2, and to add new Section 27 to said AGREEMENT, the terms of all said Amendments being as follows. Further, all Sections of the original COMPREHENSIVE MASTER AGREEMENT, as such was amended by Amendment # 1 and Amendment #2, not identified above, shall remain in effect.**

**1. CONTRACT REZONING.** The CITY and DUBBA have entered into **the following amendments to the Contract Rezoning Agreement: Amendment #8 to Amendment #8 to the Contract Rezoning Agreement dated August 4, 2015, Amendment #8 to the Contract Rezoning Agreement dated January 7, 2014, Amendment #7 to the Contract Rezoning Agreement dated February 3, 2013, Amendment #6 to the Contract Rezoning Agreement dated March 6, 2012,** ~~an~~ Amendment #5 to Contract Rezoning Agreement dated December 20, 2011 and Amendment #4 to Contract Rezoning Agreement dated June 21, 2011. As provided in Amendment #4, certain portions of Amendment #3 to Contract Rezoning Agreement dated March 1, 2011 remain in full force and effect. All earlier versions of the Contract Rezoning Agreement entered between the CITY and Belfast Bridge, LLC have been terminated and revoked. Copies of **Amendment #8 to Amendment #8 (and its related exhibits), Amendment #8 (and its related exhibits), Amendment #7 (and its related exhibits), Amendment #6 (and its related exhibits),** Amendment #5 (and its related exhibits), Amendment #4 (and its related exhibits) and Amendment #3 (and its related exhibits) are attached hereto as EXHIBIT B (**said Amendment #8 to Amendment #8, Amendment #8, Amendment #7 Amendment #6,** Amendment #5, Amendment #4 and Amendment #3 being collectively referred to herein as the "CONTRACT REZONING AGREEMENT). The CITY and DUBBA confirm that the CONTRACT

REZONING AGREEMENT is in full force and effect and the parties agree they are bound by all its terms and conditions.

**2. <u>BUILDING 5 LEASE WITH PURCHASE OPTION</u>.** Amendment #**2 3** does not affect the specific terms of Section 2 as identified in the original Agreement.

**DUBBA, LLC, on -----, 2015, completed the purchase of Parcel #1 on which Building #5 is located and as such is identified on the Master Boundary Agreement from the City. The purchase occurred pursuant to terms of the Lease with Option to Purchase Agreement.**

**3. <u>CITY PUBLIC WALKWAY IN AREA 6.</u> Amendment #3 does not affect the terms of Section 3 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**4. <u>EASEMENT TO CITY FOR AREA 4 AND FRONT STREET RELIEF WALKWAY.</u> Amendment #3 does not affect the terms of Section 4 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**5. <u>EASEMENT TO CITY FOR RELIEF WALKWAY IN AREA 7.</u> Amendment #3 does not affect the terms of Section 5 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**6. <u>EASEMENT TO DUBBA FOR AREA 5.</u> Amendment #3 does not affect the terms of Section 6 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**7. <u>EASEMENT TO DUBBA FOR USE OF AREA 6.</u> Amendment #3 does not affect the terms of Section 7 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**8. <u>EASEMENTS TO CITY FOR STORMWATER DRAINAGE.</u> Amendment #3 does not affect the terms of Section 8 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**9. <u>DEED TO DUBBA FOR AREAS 8</u>. Amendment #3 does not affect the terms of Section 9 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**10. <u>DEED TO CITY FOR AREA 3.</u> Amendment #3 does not affect the terms of Section 10 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**11. MODIFICATION OF BOUNDARY LINE AGREEMENT.** **Amendment #3 does not affect the terms of Section 11 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**12. DEED TO CITY OF AREA 12.** **Amendment #3 does not affect the terms of Section 12 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**13. DEED TO DUBBA OF WEDGE PARCEL.** **Amendment #3 does not affect the terms of Section 13 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**14. TERMINATION OF LEASE AGREEMENT.** **Amendment #3 does not affect the terms of Section 14 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**15. TERMINATION OF SUBLEASE AGREEMENT.** **Amendment #3 does not affect the terms of Section 15 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**16. TERMINATION OF WAKEAG LANDING CONDOMINIUM DECLARATION AND RELATED SUBDIVISION AND SITE PLANS.** **Amendment #3 does not affect the terms of Section 16 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**17. INDEMNITY AND INSURANCE.** **Amendment #3 does not affect the terms of Section 17 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**18. OPERATIONAL POLICIES.** **Amendment #3 does not affect the terms of Section 18 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**19. EASEMENT TO DUBBA FOR PORTION OF WHARF AND PORTION OF CONCRETE FOUNDATION.** **Amendment #3 does not affect the terms of Section 19 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**20. DISPUTE RESOLUTION.** **Amendment #3 does not affect the terms of Section 20 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**21. RELEASE OF ENCUMBRANCES.** **Amendment #3 does not affect the terms of Section 21 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**22. EASEMENT TO CITY FOR AREA 20 ~~and 20(a)~~ RELIEF WALKWAY.** DUBBA hereby grants to the CITY, its successors and assigns, a perpetual easement for the construction, maintenance, repair, replacement and use of a Relief Walkway for the Harbor Walk up to ten (10) feet in width open to public access over that portion of the DUBBA LAND designated on the revised AGREEMENT PLAN as Area 20, being located immediately adjacent to the northerly face of Building #5**, and the northwesterly side of Building #6 approved as part of Contract Rezoning Agreement #8**. The CITY, at its expense, shall construct, maintain, repair and replace the Relief Walkway within Area 20, said construction to comply with standards identified in Amendment #8 to the Contract Rezoning Agreement, and the CITY shall obtain all permits and licenses required for such construction and shall comply with all applicable laws and ordinances, including environmental laws, related thereto, and shall maintain such Relief Walkway at all times in a good and safe condition for public pedestrian use. Consistent with the adopted Operational Policies for the Harbor Walk, reference Section 18 herein, said Relief Walkway shall be used for pedestrian access only and not for motor vehicles, skate boards, or other types of vehicles of any kind, whether motorized or not, except that (i) wheelchairs shall be permitted for handicapped or disabled persons and (ii) vehicles are permitted for purposes of construction, maintenance and repair of the Relief Walkway and for security, lighting or emergency access. With respect to bicycle access, the Shipyard may ask bicycles to be walked but not ridden through sections of the Shipyard property during a temporary closure if the Shipyard determines that temporary closure could result in a situation that may be considered unsafe for a person riding a bicycle. Much of this relief walkway is constructed immediately adjacent to the overhead doors of Building #5. The Applicant will ensure that access to the relief walkway is maintained at all times, and the Applicant shall employ reasonable measures to keep this walkway clear of equipment and materials which would hinder public use. Such measures include but are not limited to the use of trellises or protective covers for power cables from Building 5 that serve boats in the storage yard. The Applicant shall elicit the cooperation of its employees to recognize the purpose of this relief walkway and to foster public use of the area. CITY and DUBBA shall work cooperatively to establish the type and location of signs that provide instruction to the public using the Relief Walkway regarding its location and rules regarding its use and advising the public to remain on the Relief Walkway and not trespass onto the adjacent DUBBA LAND or its adjacent buildings, launch ramps and pier/wharf. The cost of posting and maintaining such signs shall be paid by the City. The Relief Walkway described herein over Area 20 shall be used only during those times when the Harbor Walk over Area 6 has been temporarily closed by DUBBA when boats, materials or equipment are being transported over the Harbor Walk in Area 6 or boats are being washed in the wash basins within the Harbor Walk in Area 6 as described and permitted in Section 7 of this Agreement. DUBBA may also temporarily close the Relief Walkway over Area 20 when DUBBA is transporting

boats, equipment and materials over such Relief Walkway. Except for emergency safety reasons, DUBBA shall not close both the Harbor Walk over Area 6 and the Relief Walkway over Area 20 at the same time. The Relief Walkway described herein over Area 20 may be used by DUBBA for commercial business purposes and other uses so long as such use does not interfere or impede public access, except for temporary closing of such access as described herein. The uses described herein shall be subject to review and modification pursuant to the procedures adopted for modifying the Operational Policies as described in Section 18.

~~**DUBBA also shall grant to the CITY, its successors and assigns, a perpetual easement for the construction, maintenance, repair, replacement and use of a Relief Walkway for the Harbor Walk up to ten (10) feet in width open to public access over that portion of the DUBBA LAND designated on the revised AGREEMENT PLAN as Area 20 (a), which is located parallel to a section of the City owned Front Street parking lot, and which is about 55 feet in length, and which connects to the easement shown in Area 20 located immediately adjacent to the northerly face of Building 5. The final location of the easement for Area 20(a) and the final location of the Relief Walkway the CITY shall construct shall be determined when DUBBA constructs Building 6 (pursuant to terms of Amendment 8 to the Contract Rezoning Agreement). Further, the CITY shall not use this easement for purposes of constructing or using a Relief Walkway until DUBBA completes the construction of Building 6. The CITY, until such time as DUBBA starts construction on Building 6, shall use the sidewalks constructed in the City Front Street parking lot to provide a connection to the Relief Walkway the City shall construct in Area 20. The terms and conditions that apply to CITY use of the Relief Walkway it shall construct in Area 20(a) shall be the same as the terms that apply to the use of easement Area 20.**~~

Upon the approval of the establishment of the easement for Area 20, the easement to the CITY shown on the MASTER AGREEMENT PLAN for Area 1B for the purposes of constructing a Relief Walkway shall be rescinded and vacated.

**23. <u>EASEMENT TO CITY FOR AREA 15.</u> Amendment #3 does not affect the terms of Section 23 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**24. <u>EASEMENT TO CITY FOR AREA 16</u>. Amendment #3 does not affect the terms of Section 24 as identified in the original Agreement, as such may have amended by Amendment #1 or Amendment #2.**

**25. <u>TEMPORARY CONSTRUCTION EASEMENTS TO CITY.</u>** DUBBA hereby grants to the CITY temporary construction easements to allow the CITY to

construct the Belfast Harbor Walk project. Said easements shall be fifteen feet in width and shall apply to the following areas identified on the Boundary and Easement Agreement Plan entered between DUBBA and the CITY: Area 4 (area near the westerly entrance to the pier), Area 6 (both sides of the Harbor Walk location in this area, and as such areas may be located on property owned by DUBBA), Area 7 (the one side to the south of Building 4), Area 16 (the northerly side of Building 3), Area 20 (the northerly **and northwesterly** side**s** of Building 5 and the easement in this area), **Area 21 (which will be along the northwesterly face of Building #6 when it is constructed),** Area 15 (easterly side of easement adjacent to Front Street), and the northeasterly side of the common property line for the DUBBA property and the Front Street right-of-way that is located along Front Street from the southeasterly corner of the DUBBA property to the southeasterly corner of Building 4. The City and its contractors that construct the Harbor Walk project shall cooperatively work with DUBBA and its representatives in using the areas granted by these construction easements to minimize potential disruption of DUBBA's operations during construction of the Harbor Walk project.

**26. FUTURE EASEMENT TO CITY FOR AREA 21.** The CITY and DUBBA acknowledge that Amendment #8 to the Contract Rezoning Agreement, **and the subsequent Amendments to Amendment #8 to the Contract Rezoning Agreement which were adopted by the Council on August 4, 2015,** and the Option to Lease Agreement entered between the CITY and DUBBA on May 22, 2013, as amended on January 7, 2014**, and again amended on August 4, 2015** regarding the lease/sale of a portion of the City owned Front Street Parking Lot to DUBBA for the purposes of constructing Building #6, involves establishes a perpetual easement on said Parking Lot property for the purposes of establishing and constructing a new location for a relief walkway that connects the relief walkway the CITY has constructed **or will construct** in Area 20 ~~**and the relief walkway the CITY will construct in Area 20(a)**~~ to the relief walkway the CITY has constructed along Front Street on land which it owns. The parties to this AGREEMENT acknowledge that the location and size of this Relief Walkway and the policies which apply to its use shall be consistent with terms identified in Amendment #8 to the Contract Rezoning Agreement and in the Operational Policies for the Harbor Walk.

**27. Option to Lease, Area 1A. The City and DUBBA, LLC have entered an Option to Lease Agreement regarding Area 1A shown on the Master Boundary Agreement; reference revisions to the Boundary and Easement Agreement Plan Sheet prepared by Gartley & Dorsky Engineers, including all revisions through December 19, 2014. The Option to Lease was executed on May 22, 2013, and includes amendments adopted on January 7, 2014 and August 4, 2015. This Option of Lease would allow DUBBA, LLC to lease and subsequently to purchase Area 1A from the City for the purposes of constructing Building #6. The construction of Building #6 is identified in Amendment #8 to the Contract Rezoning Agreement adopted**

**on January 7, 2014, and the Amendments to Amendment #8 to the Contract Rezoning Agreement adopted by the City on August 4, 2015. Requirements regarding the construction of Building #6 are also identified in the Option to Lease Agreement. The parties acknowledge that the City of Belfast is and shall remain the owner of Area 1A until such time as DUBBA, LLC executes the Option to Lease Agreement.**

AMENDMENT #3 DATED: August 4, 2015

On Behalf of DUBBA, LLC

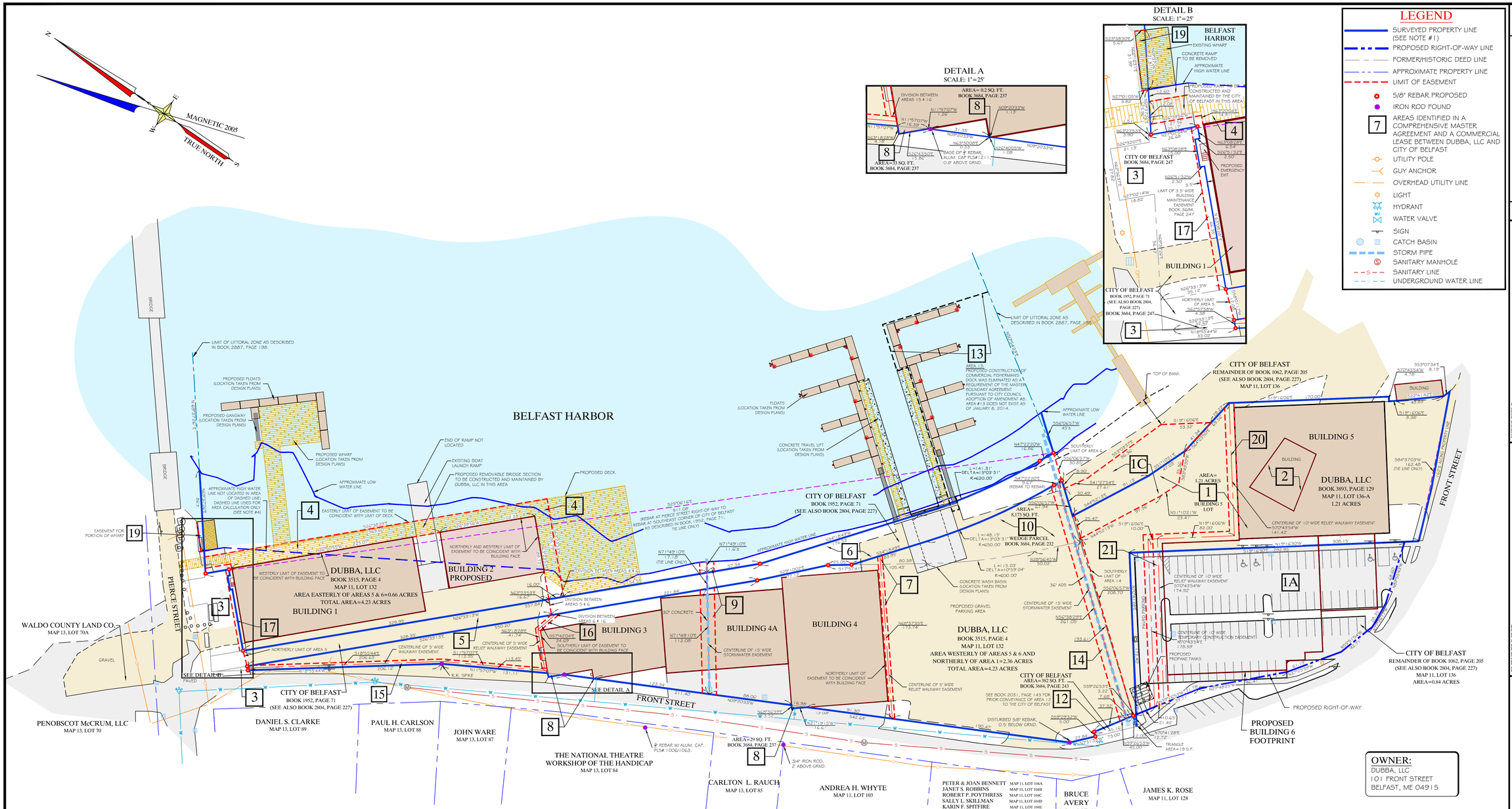
_____

John B. Turner, President

On Behalf of the City of Belfast

_____

Joseph J. Slocum, City Manager




OWNER:
DUBBA, LLC
101 FRONT STREET
BELFAST, ME 04915

## SURVEYOR'S NOTES:

1) PERIMETER PROPERTY LINES OF THE CURRENT DUBBA, LLC PARCEL ARE BASED ON PLAN REFERENCE #3. LIMITED RESEARCH WAS PERFORMED PER AN AGREEMENT WITH THE CLIENT.

2) THIS PLAN IS TO BE USED IN CONJUNCTION WITH THE COMPREHENSIVE MASTER AGREEMENT BETWEEN DUBBA, LLC AND THE CITY OF BELFAST.

3) NO RECORD ROAD LAYOUT WAS FOUND FOR THE PORTION OF FRONT STREET WHICH ADJOINS THE CITY OF BELFAST PROPERTY LOCATED SOUTHERLY OF THE DUBBA, LLC PROPERTY. THE CITY OF BELFAST CONSIDERS THE RIGHT-OF-WAY TO BE 41.25' WIDE FROM PIERCE STREET TO THE MOST SOUTHERLY CORNER OF THE DUBBA, LLC PROPERTY AND 33' WIDE FROM THAT POINT TO MAIN STREET. THE RIGHT-OF-WAY LINE ADJACENT TO THE CITY PROPERTY IS SHOWN 16.5 FEET FROM THE CENTERLINE OF THE EXISTING TRAVELED WAY.

4) ALL AREAS WERE CALCULATED TO THE APPROXIMATE HIGH WATER LINE, USING THE DASHED BLUE LINE SHOWN RUNNING THROUGH BUILDING 1 AND 2 AS THE APPROXIMATE HIGH WATER LINE WAS NOT LOCATED IN THAT AREA.

5) THE LOCATION OF GRAVEL PARKING AREAS SHOWN HEREON IS TAKEN FROM DESIGN PLANS.

6) THE LOCATION OF EXISTING UTILITIES SHOWN HEREON IS BASED ON AS-BUILT SURVEYS CONDUCTED IN 2011 AND PLAN REFERENCE #3 AND MAY NOT REFLECT CURRENT SITE CONDITIONS.

7) ADJOINING PROPERTY OWNER INFORMATION WAS TAKEN FROM THE CITY OF BELFAST'S REAL ESTATE TAX COMMITMENT INFORMATION.

8) ALL DIRECTIONS ARE REFERENCED TO MAGNETIC NORTH 2005, DERIVED FROM A BEARING TAKEN WITH A HAND COMPASS.

9) ALL IRON PINS SET ARE 5/8" REBAR MARKED WITH A PLASTIC SURVEYOR'S CAP STAMPED "G&D 2290-2424-2468".

10) BOOKS AND PAGES REFERRED TO ON THIS PLAN ARE RECORDED IN THE WALDO COUNTY REGISTRY OF DEEDS.

11) NO FIELDWORK HAS BEEN PERFORMED SINCE THE ORIGINAL DATE OF THIS PLAN (DECEMBER 7, 2011).

## PLAN REFERENCES:

1) "PLAN OF THE STINSON CANNING CO. PROPERTY BELFAST, MAINE" BY DANIEL I. SMALL JR. DATED JULY 3, 1981 AND RECORDED IN PLAN BOOK 12, PAGE 74 OF THE WALDO COUNTY REGISTRY OF DEEDS.

2) "STANDARD BOUNDARY SURVEY OF THE STINSON CANNING CO. CANNING FACTORY LOT WATER STREET BELFAST, MAINE", BY PLISGA & DAY LAND SURVEYORS, DATED AUGUST 25, 1989 AND REVISED THROUGH DECEMBER 12, 1989.

3) "BELFAST BRIDGE, LLC, OLD BELFAST BRIDGE, OLD BELFAST BRIDGE PROJECT, APPROVED SUBDIVISION PLAN, FRONT STREET, TAX MAP 11, LOT 132, BELFAST, MAINE", BY GARTLEY & DORSKY ENGINEERING & SURVEYING, DATED NOVEMBER 10, 2005 AND RECORDED IN CABINET 20, SHEET 34 OF THE WALDO COUNTY REGISTRY OF DEEDS.

4) DEPICTION OF THE RIGHT OF WAY BOUNDARIES OF FRONT STREET FROM MAIN STREET TO PIERCE STREET, BELFAST, WALDO COUNTY, MAINE" BY GOOD DEEDS, INC. DATED AUGUST 9, 2013.

GRAPHIC SCALE

50 0 25 50 100 200

( IN FEET )
1 inch = 50 ft.

THIS IS TO CERTIFY THAT THE CITY OF BELFAST CITY COUNCIL, AT ITS MEETING OF JANUARY 7, 2014, ADOPTED AMENDMENTS TO THE BOUNDARY AND EASEMENT AGREEMENT PLAN FOR DUBBA, LLC PREPARED BY GARTLEY & DORSKY ENGINEERING & SURVEYING THAT IS RECORDED IN THE WALDO COUNTY REGISTRY OF DEEDS AT PLAN BOOK 22, PAGE 187. UNDERSIGNED BY JOSEPH SLOCUM, CITY MANAGER, CITY OF BELFAST, ON BEHALF OF THE CITY OF BELFAST CITY COUNCIL.

Joseph J. Slocum, Belfast City Manager _____ Dated _____

## SURVEYOR'S CERTIFICATION:

TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, AND IN MY PROFESSIONAL OPINION, THIS SURVEY CONFORMS TO THE STANDARDS OF PRACTICE PROMULGATED BY THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS WITH THE FOLLOWING EXCEPTIONS:
NO WRITTEN REPORT PREPARED; LIMITED RESEARCH PERFORMED (SEE NOTE #1)

| NO. | REVISIONS | DATE |
|---|---|---|
| 3 | PLAN UPDATE | 1/21/14 |
| 2 | REMOVE AREA 1B AND 1.3, ADD AREA 20 & 20A | 07/16/14 |
| 1 | REVISED PROPOSED SOUTHERLY PROPERTY LINE OF AREA 3 AND ADDED AREA 1.7 | 02/01/12 |

SHEET TITLE: **BOUNDARY AND EASEMENT AGREEMENT PLAN**

SCALE: 1"=50' DRAWN BY: JAM/JAD/TAD

DATE: DECEMBER 7, 2011 CHECKED BY: JAD

CLIENT/PROJECT: **DUBBA, LLC FRONT STREET SHIPYARD**

LOCATION: FRONT & PIERCE STREETS

TOWN: BELFAST COUNTY: WALDO STATE: MAINE

Gartley & Dorsky ENGINEERING SURVEYING
598 Union Street P.O. Box 1031 Camden, ME 04843-1031
Ph (207) 236-4365 Fax (207) 236-3655 Toll Free 1-888-282-4365

ADVANCE COPY

PROJ. NO. 2010-026

SV-4

© GARTLEY & DORSKY ENGINEERING & SURVEYING, INC. THIS PLAN MAY NOT BE COPIED WITHOUT THE EXPRESS PERMISSION OF GARTLEY & DORSKY ENGINEERING & SURVEYING, INC. AND IS THE CLIENT'S FOR PERUSE THE PLAN AS COMMISSIONED.

10.H

City of Belfast

Manda Cushman <managersasst@cityofbelfast.org>

# (no subject)

1 message

**Michael McFadden** <chief@belfastmepd.org> Mon, Jul 27, 2015 at 11:58 AM
To: Manda Cushman <managersasst@cityofbelfast.org>, Joe Slocum <jslocum@cityofbelfast.org>

Manda,

We have two things for the agenda this time around. They are both Forfeiture topics, they are as follows.

1) As a result of a criminal drug trafficking case against Ryan Thornton, in which the Belfast Police Department played a substantial role, a 2011 Subaru Impreza, VIN # JF1GE69BH522351 was subsequently ordered forfeited by the Court. The Maine Attorney General's Office has requested that the Belfast City Council vote publicly to accept the item above.

2) As a result of a criminal drug trafficking case against Arthur Gardiner, in which the Belfast Police Department played a substantial role, the sum of $597.00 in US currency was forfeited. The Waldo County District Attorney's Office has requested that the Belfast City Council vote publicly to accept the forfeited funds stated above.

In the event the City Council accepts these forfeitures, the attached forms must be signed and the originals must be delievered back to the respective agency so the processes can be finalized.

If you have any questions, please contact me. I'll bring the forms over so you'll have them for the meeting.

Mike.

Chief Michael J. McFadden III

Belfast Police Department

112 Church Street

Belfast, Maine 04915

Office: (207) 338-5255

FAX: (207) 338-0258

10.I

Request by the Economic Development Director to transfer $4,000.00 from the Airport Runway Capital Reserve account to pay for survey work necessary for a future exchange of parcels of land between the City of Belfast and the Maine Army National Guard.

Belfast Municipal Airport's current capital improvement plan includes the construction of a partial parallel taxiway. The construction of this taxiway requires an adjacent parcel of land that is currently owned by the Maine Army National Guard.

In December 2014, the City of Belfast held a series of discussions with the Maine Army National Guard regarding the framework for a land exchange. In August 2014, the City Council authorized the expenditure of funds to be able to conduct appraisals on parcels owned by both entities to establish relative values for an exchange. In December 2014 the City Council approved the framework for such an exchange. In 2015 a bill was passed by the Maine Legislature (LD 638, *An Act to Authorize the Transfer of State-owned Real Estate to the City of Belfast*) which authorized the Maine Army National Guard to make such an exchange (it will take effect in mid-October 2015).

The next step in this process is to have survey work done to describe the final, new boundary lines and parcels that will be created through this swap. City staff is recommending that $4,000.00 be transferred from the Airport Capital Reserve account (640-595) to the account that was previously established for this project (730-807). Some of the recent fieldwork that was conducted as part of the partial parallel taxiway environmental assessment/preliminary design project can be taken advantage of for this new survey work. The work would be done by a combination of Good Deeds and Plisga and Day (the latter was the firm that did the fieldwork for the parallel taxiway environmental assessment/preliminary design project); these two firms work very closely together. The City intends to do have this work done to a standard that will allow for the possibility to have 95% of these funds reimbursed to the City as part of a future FAA project (unless that incremental cost for the higher standard is prohibitively expensive).

10.J

# MEMORANDUM

TO: CITY COUNCIL

FROM: SADIE LLOYD, ASSISTANT PLANNER

DATE: JULY 30, 2015

RE: SOLAR ARRAY ON THE OLD LANDFILL

*Actions requested:*
No action is requested at this time. It is the recommendation of the City Manager that we hold a public hearing at the next Council meeting (August 18th) before the Council votes on the project. This is an update for the Council and information for the public.

Details below:

In April of this year, IGS Generation (an energy supplier that owns generation systems and is increasing investment in alternative energy systems) and ReVision Energy (the solar installation company the City partnered with on the Fire Station solar array) presented the City Energy Committee with a proposal for a large solar array (115 kW) on the old City landfill property on Pitcher Road. The original proposal stipulated the following conditions:

- IGS Generation would own the solar array and the City would lease the electricity (this is the current arrangement between ReVision and the City for the Fire Station solar array). This means that instead of paying Constellation for the portion of electricity generated by this system, we would pay IGS.

- Over the course of the first 5 years the City would pay an energy premium payment of $50,000 to IGS ("the investor"), or approximately $10,000/year. This is due to the fact that there is no State incentive in Maine. If there was a State rebate this premium would be much lower or not necessary. This premium payment is what makes it possible for an investor to support the project without losing money.

- For the first year the City would lease the electricity at a rate of $.136/kWh. This is based on our current contract with Constellation (this is the rate we are locked into under that contract). For each year thereafter the rate the investor would charge the City for the electricity would escalate 3%. The proposal states that they expect electricity to increase 5% annually, resulting in a savings over time as long as the City is leasing the electricity.

- There would be no upfront cost to the City. ReVision would install a small shed with a light on the site in order to establish an electric meter for the project (the electricity from this project will credit multiple City accounts. A CMP meter needs to be established on site in order to make this possible). ReVision will install the solar panels and maintain them as long as the City is under this contract and leasing the electricity. ReVision would manage the permitting process required through any State agencies (including DEP).

L.01

- Beginning in year 7 the City would have the option to buy the system from the investor. The estimated cost of buyout was $211,427, which is determined by a formula to calculate depreciated cost of the system. If and when the City chose to buy the system we would own it outright. If and when the City owns the system we will receive a credit on our electricity bill; our electricity bill will be lower by the amount of electricity the system generates. This system combined with the smaller system on the Fire Station roof would generate and cover approximately 20% of the City's electric demand.

- I calculated that all costs to the City, including cost of the system, the energy premium payment, bond interest, replacing the inverters (between years 15 and 20), and maintenance after buying the system, would come to approximately $298,884 under this proposal. The total cost if the City bought the system outright without using an investor would be approximately $419,552.

- ReVision estimated that under this proposal the payback would be approximately 14 years, however their calculations do not include the added costs of bond interest, maintenance, and replacing inverters. As well, their scenario assumes a cost savings on electricity each year, and a 5% escalation of electricity costs, which the Committee believed to be ambitious and perhaps unrealistic. The Committee expected payback to be more like 17 years under this scenario. The expected life of the system, according to ReVision, is 40 years.

- The proposed contract with IGS is for a 20 year lease unless the City buys the system in year 7 or at a later date.

**The following conditions were negotiated with IGS. These are the terms of the proposal**:

- The City would lease the electricity at a rate of $.136/kWh for the first two years as opposed to just the first year. This is based on our current contract with Constellation (this is the rate we are locked into under that contract). For each year thereafter the rate the investor would charge the City for the electricity would escalate 2.25% (as opposed to 3%). In order to calculate payback we assumed a 3% escalation in electricity rates (as opposed to 5%). The Committee and I spent some time researching historical rates (in particular, I worked with the PUC to obtain historical rates for CMP over the past ten years). While it is nearly impossible to predict future electricity rates, the Committee believes that electricity rates are more likely to stay stagnant in the near future than escalate sharply, hence why we negotiated a lower escalator.

- The City would have the option to buy the system outright in year 7 at a not-to-exceed amount of $208,000.

- These adjustments lowered the total cost to the City (assuming a buyout in year 7) to $295,320. Using the escalators mentioned two bullets above, ReVision estimated the payback to be 15 years (with the bulk of the cost after year 7 and without the maintenance and bond interest costs). If all the costs over the life of the system are spread out evenly starting from year 1, the simple payback is approximately 14 years. Therefore

for the sake of this proposal the assumed payback is 14-15 years.

- ReVision Energy stated to us that they reduced their charges to the investor during the negotiation in order to make the numbers work and support the project.

Paying for the project: I spoke with Joe about financing the project and it is his opinion that, should the Council approve the project, the City budget the approximately $10,000 per year for the first five years to cover the premium payment (using the undesignated fund the first year if the first payment is due before July 1, 2016). At the time of the buyout, whether the City pursues it in year 7 or a later time, the City would then bond the buyout cost (not-to-exceed $208,000). Maintenance costs are expected to be about $500/year after the buyout should the City chose to have ReVision inspect the system annually. As well, the inverters should be replaced sometime between years 15 and 20 and would be roughly $25,000.

Risk: The inherent risk with any solar project is unknown future electricity rates. No one can predict for sure what electricity rates will do. Should electric prices increase greatly in the next few years, the City would benefit from continuing to lease the system with the investor. Should prices continue to decline or stay stagnant it would be in the City's best interest to purchase the system in year 7, as soon as the option is available.

The Energy Committee prepared an official statement and asked me to share it with you. I will also share it on Tuesday evening at your meeting:

*The Belfast Energy Committee recommends the investment of a 115 kW solar electric system. While the financial return is modest initially, the Committee recognizes that this is due to the lack of State tax incentives for alternative energy systems. Despite that, the Committee feels the investment has merit due to the significant long-term financial and environmental benefits.*

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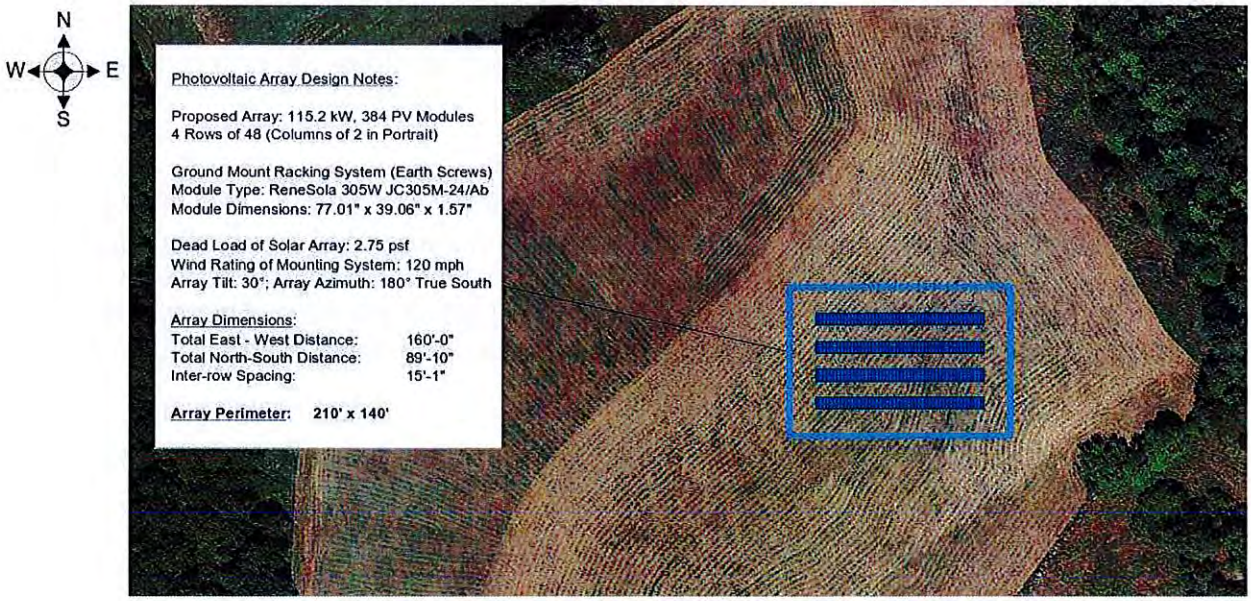
ENERGY SOLUTIONS OFF THE GRID™

ReVision Energy

# Solar PPA Proposal

## City of Belfast Solar Power Purchase Agreement

July 10, 2015




**Engineer's Rendering of 120.78 Kilowatt Solar Electric System at City of Belfast-Landfill**

IGS GENERATION
ENERGY SOLUTIONS OFF THE GRID

ReVision Energy

July 10, 2015

Michael Hurley
City of Belfast
131 Church St
Belfast, ME 04915

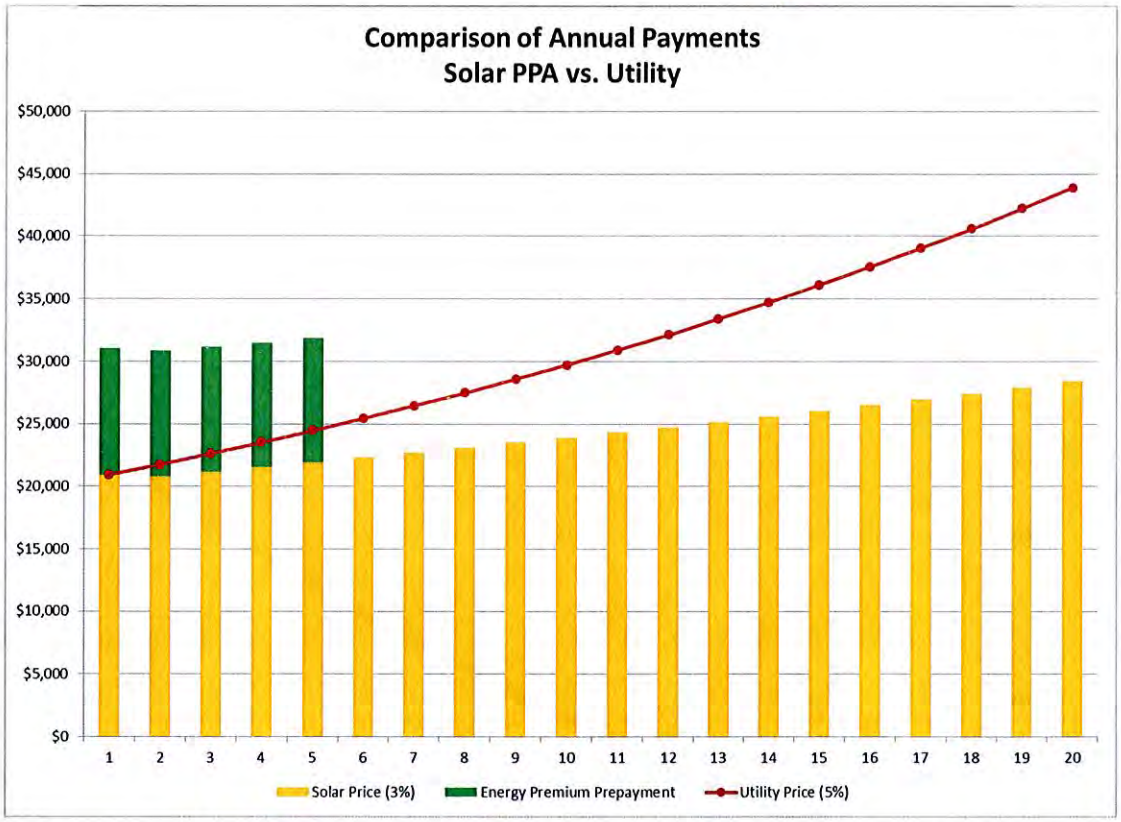
Dear Mr. Hurley,

Thank you for considering ReVision Energy and IGS Generation as City of Belfast's solar partners! We appreciate this opportunity to work together to continue to bring renewable energy to your city and further reduce Belfast's carbon footprint.

Based on an analysis of your site and energy usage, ReVision Energy and IGS Generation are excited to propose a 120.78 kilowatt ("kW") grid-tied solar electric system to be located at the City of Belfast Landfill. With this letter, ReVision and IGS are offering to develop the system using a Power Purchase Agreement ("PPA") ownership structure in which IGS Generation will own and operate the solar project on behalf of the city. This allows Belfast to benefit from the solar project at zero upfront capital cost, and enables the city to buy clean, renewable solar power generated at its own facility.

The Solar PPA is designed to be competitive with market rates, yet also overcome the lack of renewable energy incentives in Maine. We do this by establishing two PPA price components. First, the base price is set in years one and two at the city's current rate, which allows the city to purchase "green" solar power for the same as "brown" electricity from traditional fossil fuel sources. Thereafter, the PPA price is designed to rise at a slower rate (2.25%) than historical trends for Maine's commercial electricity rates (4.5%). This should allow the city to purchase "green" solar power at the same price or slightly less than "brown" power throughout the 20-year PPA term.

Second, to overcome the lack of a renewable energy incentive in Maine, the Solar PPA includes a solar premium fee in years 1-5, payable at the start of commercial operations. It is our understanding that project donors may be able to support any increased cost of the project to the city, which guarantees that the solar system will – at a minimum – be revenue neutral and, over time, will likely produce energy cost savings. (See graphic below).




*Utility price assumptions based on historical data published by the Federal Energy Information Agency (www.eia.gov).*

### *What Are the Next Steps?*

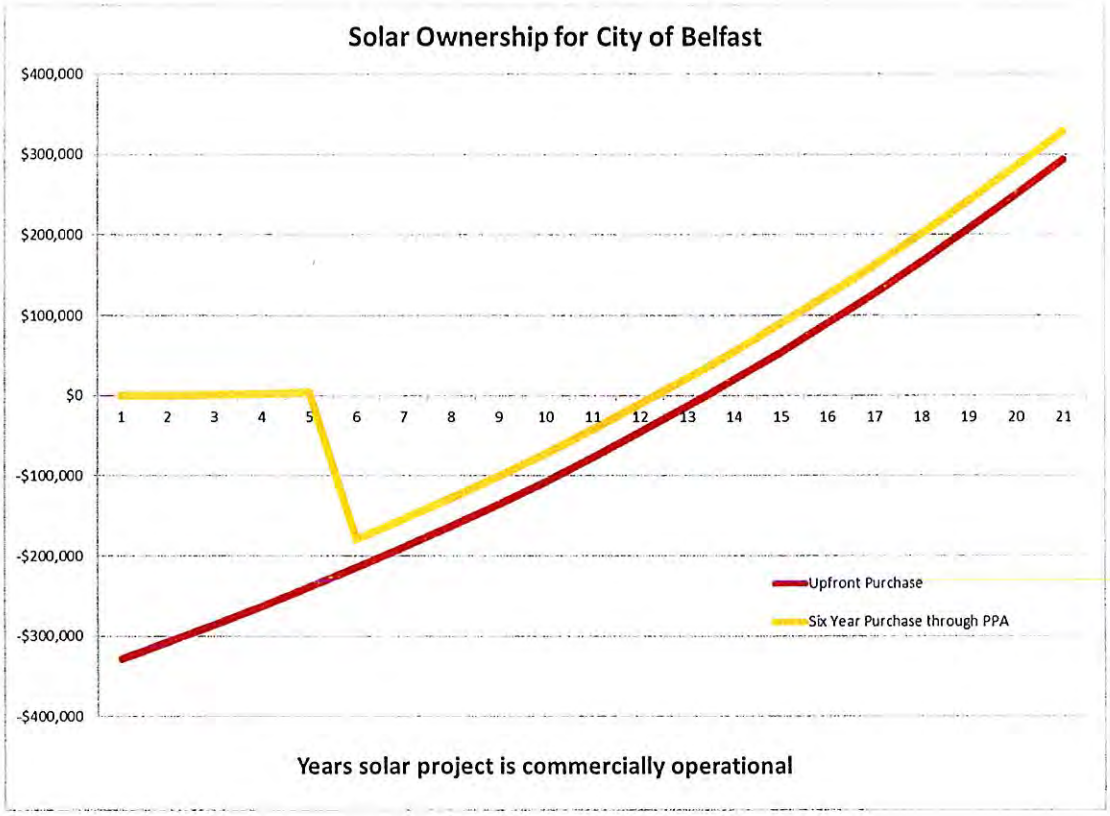
- *Non-Disclosure Agreement (NDA): This Proposal Package includes an NDA for your signature. This NDA provides for confidentiality of these initial negotiations to protect the interests of all parties.*

### Here are the details of the Solar Power Purchase Agreement:

Under the terms of the PPA proposal, IGS Generation is offering to finance, own and operate a 120.78 kW solar array at the City of Belfast Landfill for a contract term of twenty years, with an option to extend to thirty years. Placing the system in private ownership enables the project to capture federal renewable energy tax credits that are unavailable to the city. The City of Belfast would purchase all electricity from the solar project at the PPA rate shown in the schedule below.

After the first six years, the City of Belfast will have an annual opportunity to compare the solar PPA rate to the market, to look at capital and borrowing opportunities, and to determine whether it is a better choice to keep buying solar power, or to purchase and own the solar array

at its fair market value. If the city chooses to own the array all the electricity generated thereafter is essentially free. Solar arrays have a productive commercial lifetime of forty years or more; and because the solar output over time is completely predictable, City of Belfast can calculate the payback time of any system purchase in any year. That payback time will always be less than the expected productive lifetime of the array (see graph below).




The partnership between City of Belfast, ReVision and IGS allows the city to demonstrate real and visible commitment to sustainability in our New England region, while saving money on electricity for the full twenty (or thirty) year period. Our partnership puts City of Belfast in the vanguard of those taking action to solve our energy and climate crises, all the while conserving dollars that can be put to better use, contributing to our local economy.

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ReVision Energy

**Here are the Project Highlights:**

| | |
|---|---|
| System size: | 120.78 kW |
| Estimated Annual Output: | 153,750 kWh |
| PPA Term: | 20 Years, option to extend to 30 |

**Electric Rates Summary:**

| | |
|---|---|
| CMP Market Rate | $0.136/kWh |
| **City of Belfast PPA Rate, Year 1 and Year 2 (post-"EPP" Payment)** | **$0.136/kWh** |

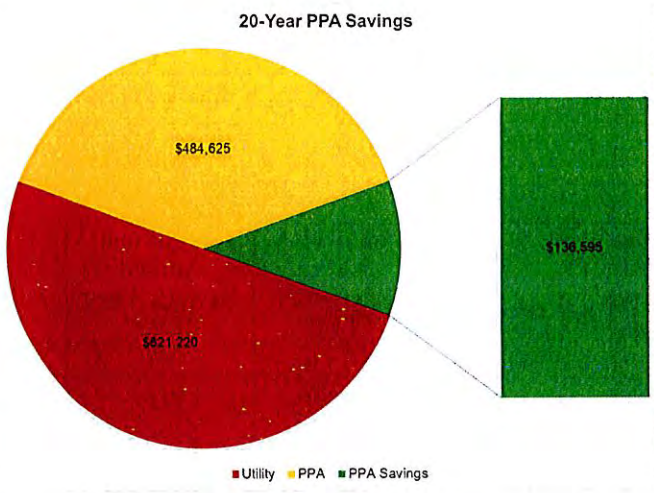
**Here is the Solar Rate and Savings Schedule:**

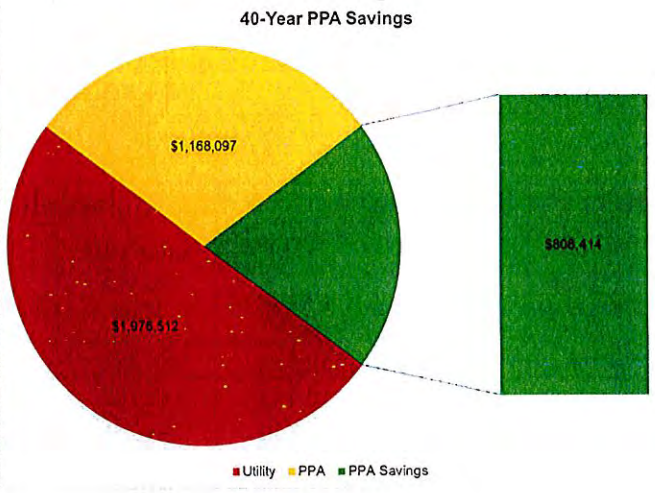
| Year | Generation (kWh) | Expected $/kWh Utility Rate | Solar PPA $/kWh Rate | Solar "EPP" $/kWh Rate | Total "EPP" Payment | Solar PPA $/kWh Rate After "EPP" | Projected Annual Savings After "EPP" |
|---|---|---|---|---|---|---|---|
| 1 | 153,753 | $0.136 | $0.202 | $0.066 | $10,101 | $0.136 | $0 |
| 2 | 152,984 | $0.142 | $0.202 | $0.066 | $10,050 | $0.136 | $936 |
| 3 | 152,219 | $0.149 | $0.205 | $0.066 | $10,000 | $0.139 | $1,439 |
| 4 | 151,458 | $0.155 | $0.208 | $0.066 | $9,950 | $0.142 | $1,970 |
| 5 | 150,701 | $0.162 | $0.211 | $0.066 | $9,900 | $0.145 | $2,531 |
| 6 | 149,947 | $0.169 | $0.149 | $0.000 | $0 | $0.149 | $3,122 |
| 7 | 149,198 | $0.177 | $0.152 | $0.000 | $0 | $0.152 | $3,745 |
| 8 | 148,452 | $0.185 | $0.155 | $0.000 | $0 | $0.155 | $4,402 |
| 9 | 147,709 | $0.193 | $0.159 | $0.000 | $0 | $0.159 | $5,094 |
| 10 | 146,971 | $0.202 | $0.162 | $0.000 | $0 | $0.162 | $5,822 |
| 11 | 146,236 | $0.211 | $0.166 | $0.000 | $0 | $0.166 | $6,588 |
| 12 | 145,505 | $0.221 | $0.170 | $0.000 | $0 | $0.170 | $7,394 |
| 13 | 144,777 | $0.231 | $0.174 | $0.000 | $0 | $0.174 | $8,242 |
| 14 | 144,053 | $0.241 | $0.178 | $0.000 | $0 | $0.178 | $9,132 |
| 15 | 143,333 | $0.252 | $0.182 | $0.000 | $0 | $0.182 | $10,068 |
| 16 | 142,616 | $0.263 | $0.186 | $0.000 | $0 | $0.186 | $11,052 |
| 17 | 141,903 | $0.275 | $0.190 | $0.000 | $0 | $0.190 | $12,084 |
| 18 | 141,194 | $0.287 | $0.194 | $0.000 | $0 | $0.194 | $13,168 |
| 19 | 140,488 | $0.300 | $0.199 | $0.000 | $0 | $0.199 | $14,306 |
| 20 | 139,785 | $0.314 | $0.203 | $0.000 | $0 | $0.203 | $15,499 |
| **Total** | **2,933,284** | | | | **$50,000** | | **$136,595** |

*** Beginning in year 7, City of Belfast will have an annual option to purchase the system at its then Fair Market Value.**

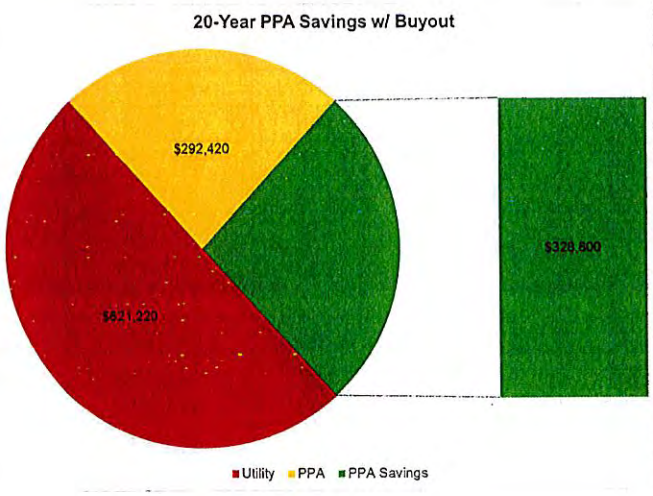
## 20 and 40 Year Savings Estimates

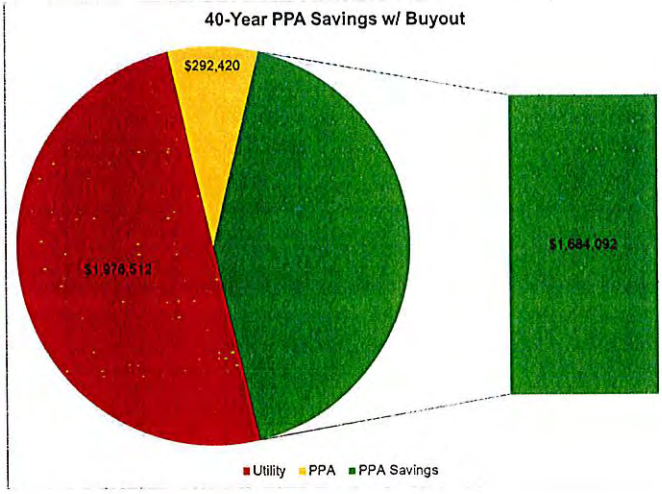
## Under Power Purchase Agreement:




## Under Power Purchase Agreement with Year 7 Fair Market Value Buyout:



**Here are the responsibilities of the City of Belfast:**

- Collaborate with donor to fund Solar Energy Premium.
- Lease the site and utility space required for the solar installation to ReVision Energy for $1/year;
- Purchase all the solar electricity generated according to the PPA schedule;
- Obtain a net metering contract with CMP (ReVision and IGS will arrange that for the organization. The organization will need to sign);
- Add a liability insurance rider to your regular coverage, to cover the solar facility.

**Here are the responsibilities of ReVision Energy and IGS Generation:**

- Build, own and operate the solar system for the duration of the PPA contract;
- Market the Renewable Energy Credits, to help pay for the investment;
- Maintain the system for the duration of the PPA (no O&M costs to the organization);
- Insure the system (both property and liability) for the duration of the PPA.

**Here are the Next Steps toward Construction:**

- City of Belfast executes the NDA;
- City of Belfast provides its financial reports;
- ReVision and IGS provide a draft PPA contract;
- ReVision and IGS respond to any information requests from the organization;
- IGS and City of Belfast sign the PPA;
- ReVision begins construction.

**Here's what we need in terms of timing:**

ReVision and IGS would like to proceed expeditiously toward construction, recognizing that we need to file all necessary permitting applications as soon as possible in order to achieve a timely construction schedule. We'd like to suggest that we all consider this offer as being open until July 31, 2015, all the while presuming that there are no changes in either Federal or State statutes and the project continues to be eligible for the federal Investment Tax Credit (ITC).

**About ReVision Energy, IGS Generation & Our Mission**

Since 2003, ReVision Energy has installed more than 4,000 solar energy systems in Maine and Maine. To ensure maximum performance and longevity in our harsh climate, each system is designed by ReVision engineers from Brown, Dartmouth, MIT, UMaine and UNH and installed by our in-house team of licensed, professional solar technicians. The company mission is to lead the region's transition from a fossil fuel based economy to a sustainable, renewable energy based economy. Our solar energy solutions provide our partners with a viable, long-term plan for responsible energy consumption and recurring savings with zero up front capital costs. Today northern New England has the highest per capita carbon pollution on the east coast—every solution we provide at ReVision Energy is laser-focused on reducing greenhouse gas emissions.

IGS GENERATION™
ENERGY SOLUTIONS OFF THE GRID™

ReVision Energy

IGS Generation develops, owns, operates, and maintains distributed generation assets. Our turnkey energy solutions give customers a long-term plan for responsible energy consumption and recurring savings with no upfront capital costs. Since 1989, IGS Energy has been an advocate for change in the energy industry. As one of the largest independent energy suppliers, we help more than one million residential, commercial, and industrial consumers make smart energy decisions. As part of the IGS family, IGS Generation is dedicated to providing efficient methods of power generation and responsible consumption through sustainable energy solutions.

ReVision Energy and IGS Generation deeply admire City of Belfast's leadership in the effort to lower Maine's carbon footprint and to reduce our reliance on fossil fuels. It is our hope that this project will both reward and aid you in those efforts. Please let us know if we can provide any additional information.

Sincerely,

William Behrens, PhD, Managing Partner
ReVision Energy, LLC
207-322-9977
bill@revisionenergy.com

Hugh C. Scott IV, P.E., Region Manager
IGS Generation, LLC
603-828-9253
hscott@igsgeneration.com

| Inputs | |
|---|---|
| System Size in kW | 115.20 |
| Kwh/kW/year | 1235 |
| Annual Degradation % | 0.5% |
| Year 1 PPA Rate | $0.1360 |
| PPA Escalator % | 2.25% |
| Year 1 Utility Rate | $0.1360 |
| Utility Escalator | 3.0% |
| EPP | $50,000 |
| Year 1-5 Adder | $0.0710 |
| EPP Term | 5 |
| Estimated Buyout | $208,000 |
| Purchase Price | $375,552 |
| ave 15 yr utility payment with 2.25% increase in utility rate/year | $ 21,437.74 |
| total expenses and buyout | $295,320 |
| simple payback | 13.78 |

| Year | Generation | Utility $/kWh | Utility Payment | PPA $/KWh Base | Solar Price (2.25%) | EPP | PPA $/kWh | Energy Premium Prepayment | Solar Price w/ EPP | PPA Savings | Estimated Buyout | Annual PPA Cash Flow | Cumulative PPA Cashflow | Annual Purchase Cashlow | Cumulative Purchase Cashflow |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 142,272 | $0.13600 | $19,349 | $0.13600 | $19,349 | $0.07099 | $0.20699 | $10,101 | $29,449 | -$10,101 | | -$10,101 | -$10,101 | -$356,203 | -$356,203 |
| 2 | 141,561 | $0.13600 | $19,252 | $0.13600 | $19,252 | $0.07099 | $0.20699 | $10,050 | $29,302 | -$10,050 | | -$10,050 | -$20,150 | $19,252 | -$336,951 |
| 3 | 140,853 | $0.14008 | $19,731 | $0.13906 | $19,587 | $0.07099 | $0.21005 | $10,000 | $29,587 | -$9,856 | | -$9,856 | -$30,007 | $19,731 | -$317,220 |
| 4 | 140,149 | $0.14428 | $20,221 | $0.14219 | $19,928 | $0.07099 | $0.21318 | $9,950 | $29,877 | -$9,656 | | -$9,656 | -$39,663 | $20,221 | -$296,999 |
| 5 | 139,448 | $0.14861 | $20,723 | $0.14539 | $20,274 | $0.07099 | $0.21638 | $9,900 | $30,174 | -$9,451 | | -$9,451 | -$49,114 | $20,723 | -$276,276 |
| 6 | 138,751 | $0.15307 | $21,238 | $0.14866 | $20,627 | $0.00000 | $0.14866 | $0 | $20,627 | $21,238 | | $21,238 | -$27,875 | $21,238 | -$255,037 |
| 7 | 138,057 | $0.15766 | $21,766 | $0.15200 | $20,985 | $0.00000 | $0.15200 | $0 | $20,985 | $21,766 | -$208,000 | -$186,234 | -$214,109 | $21,766 | -$233,271 |
| 8 | 137,367 | $0.16239 | $22,307 | $0.15542 | $21,350 | $0.00000 | $0.15542 | $0 | $21,350 | $22,307 | | $22,307 | -$191,802 | $22,307 | -$210,964 |
| 9 | 136,680 | $0.16726 | $22,861 | $0.15892 | $21,721 | $0.00000 | $0.15892 | $0 | $21,721 | $22,861 | | $22,861 | -$168,940 | $22,861 | -$188,102 |
| 10 | 135,996 | $0.17228 | $23,430 | $0.16250 | $22,099 | $0.00000 | $0.16250 | $0 | $22,099 | $23,430 | | $23,430 | -$145,511 | $23,430 | -$164,673 |
| 11 | 135,316 | $0.17745 | $24,012 | $0.16615 | $22,483 | $0.00000 | $0.16615 | $0 | $22,483 | $24,012 | | $24,012 | -$121,499 | $24,012 | -$140,661 |
| 12 | 134,640 | $0.18277 | $24,608 | $0.16989 | $22,874 | $0.00000 | $0.16989 | $0 | $22,874 | $24,608 | | $24,608 | -$96,891 | $24,608 | -$116,053 |
| 13 | 133,967 | $0.18826 | $25,220 | $0.17371 | $23,272 | $0.00000 | $0.17371 | $0 | $23,272 | $25,220 | | $25,220 | -$71,671 | $25,220 | -$90,833 |
| 14 | 133,297 | $0.19390 | $25,847 | $0.17762 | $23,677 | $0.00000 | $0.17762 | $0 | $23,677 | $25,847 | | $25,847 | -$45,824 | $25,847 | -$64,986 |
| 15 | 132,630 | $0.19972 | $26,489 | $0.18162 | $24,088 | $0.00000 | $0.18162 | $0 | $24,088 | $26,489 | | $26,489 | -$19,335 | $26,489 | -$38,497 |
| 16 | 131,967 | $0.20571 | $27,147 | $0.18571 | $24,507 | $0.00000 | $0.18571 | $0 | $24,507 | $27,147 | | $27,147 | $7,812 | $27,147 | -$11,350 |
| 17 | 131,307 | $0.21188 | $27,822 | $0.18988 | $24,933 | $0.00000 | $0.18988 | $0 | $24,933 | $27,822 | | $27,822 | $35,634 | $27,822 | $16,472 |
| 18 | 130,651 | $0.21824 | $28,513 | $0.19416 | $25,367 | $0.00000 | $0.19416 | $0 | $25,367 | $28,513 | | $28,513 | $64,147 | $28,513 | $44,985 |
| 19 | 129,997 | $0.22479 | $29,222 | $0.19853 | $25,808 | $0.00000 | $0.19853 | $0 | $25,808 | $29,222 | | $29,222 | $93,369 | $29,222 | $74,207 |
| 20 | 129,347 | $0.23153 | $29,948 | $0.20299 | $26,256 | $0.00000 | $0.20299 | $0 | $26,256 | $29,948 | | $29,948 | $123,317 | $29,948 | $104,155 |
| 21 | 128,701 | $0.23848 | $30,692 | $0.20756 | $26,713 | $0.00000 | $0.20756 | $0 | $26,713 | $30,692 | | $30,692 | $154,009 | $30,692 | $134,847 |
| 22 | 128,057 | $0.24563 | $31,455 | $0.21223 | $27,177 | $0.00000 | $0.21223 | $0 | $27,177 | $31,455 | | $31,455 | $185,464 | $31,455 | $166,302 |
| 23 | 127,417 | $0.25300 | $32,236 | $0.21700 | $27,650 | $0.00000 | $0.21700 | $0 | $27,650 | $32,236 | | $32,236 | $217,701 | $32,236 | $198,539 |
| 24 | 126,780 | $0.26059 | $33,038 | $0.22189 | $28,131 | $0.00000 | $0.22189 | $0 | $28,131 | $33,038 | | $33,038 | $250,738 | $33,038 | $231,576 |
| 25 | 126,146 | $0.26841 | $33,859 | $0.22688 | $28,620 | $0.00000 | $0.22688 | $0 | $28,620 | $33,859 | | $33,859 | $284,597 | $33,859 | $265,435 |
| 26 | 125,515 | $0.27646 | $34,700 | $0.23198 | $29,118 | $0.00000 | $0.23198 | $0 | $29,118 | $34,700 | | $34,700 | $319,297 | $34,700 | $300,135 |
| 27 | 124,888 | $0.28475 | $35,562 | $0.23720 | $29,624 | $0.00000 | $0.23720 | $0 | $29,624 | $35,562 | | $35,562 | $354,859 | $35,562 | $335,697 |
| 28 | 124,263 | $0.29330 | $36,446 | $0.24254 | $30,139 | $0.00000 | $0.24254 | $0 | $30,139 | $36,446 | | $36,446 | $391,305 | $36,446 | $372,143 |
| 29 | 123,642 | $0.30210 | $37,352 | $0.24800 | $30,663 | $0.00000 | $0.24800 | $0 | $30,663 | $37,352 | | $37,352 | $428,657 | $37,352 | $409,494 |
| 30 | 123,024 | $0.31116 | $38,280 | $0.25358 | $31,196 | $0.00000 | $0.25358 | $0 | $31,196 | $38,280 | | $38,280 | $466,936 | $38,280 | $447,774 |
| 31 | 122,409 | $0.32049 | $39,231 | $0.25928 | $31,739 | $0.00000 | $0.25928 | $0 | $31,739 | $39,231 | | $39,231 | $506,167 | $39,231 | $487,005 |
| 32 | 121,797 | $0.33011 | $40,206 | $0.26512 | $32,290 | $0.00000 | $0.26512 | $0 | $32,290 | $40,206 | | $40,206 | $546,373 | $40,206 | $527,211 |
| 33 | 121,188 | $0.34001 | $41,205 | $0.27108 | $32,852 | $0.00000 | $0.27108 | $0 | $32,852 | $41,205 | | $41,205 | $587,579 | $41,205 | $568,416 |
| 34 | 120,582 | $0.35021 | $42,229 | $0.27718 | $33,423 | $0.00000 | $0.27718 | $0 | $33,423 | $42,229 | | $42,229 | $629,808 | $42,229 | $610,645 |
| 35 | 119,979 | $0.36072 | $43,278 | $0.28342 | $34,004 | $0.00000 | $0.28342 | $0 | $34,004 | $43,278 | | $43,278 | $673,086 | $43,278 | $653,924 |
| 36 | 119,379 | $0.37154 | $44,354 | $0.28980 | $34,595 | $0.00000 | $0.28980 | $0 | $34,595 | $44,354 | | $44,354 | $717,440 | $44,354 | $698,278 |
| 37 | 118,782 | $0.38269 | $45,456 | $0.29632 | $35,197 | $0.00000 | $0.29632 | $0 | $35,197 | $45,456 | | $45,456 | $762,896 | $45,456 | $743,734 |
| 38 | 118,188 | $0.39417 | $46,586 | $0.30298 | $35,809 | $0.00000 | $0.30298 | $0 | $35,809 | $46,586 | | $46,586 | $809,482 | $46,586 | $790,320 |
| 39 | 117,597 | $0.40599 | $47,743 | $0.30980 | $36,432 | $0.00000 | $0.30980 | $0 | $36,432 | $47,743 | | $47,743 | $857,225 | $47,743 | $838,063 |
| 40 | 117,009 | $0.41817 | $48,930 | $0.31677 | $37,065 | $0.00000 | $0.31677 | $0 | $37,065 | $48,930 | | $48,930 | $906,155 | $48,930 | $886,993 |

# AGENDA TOPIC 10.

TO: MAYOR & CITY COUNCIL

FROM: WAYNE MARSHALL, CITY PLANNER

DATE: JULY 17, 2015

RE: UPDATE - DOWNTOWN REVITALIZATION PROJECT

## ACTION REQUESTED

City staff is not requesting any specific action from the Council at this meeting, however, we want to provide the Council ongoing updates regarding this project. In addition, when more specific information soon becomes available, we will be returning to the Council at your meeting of August 4 to request additional funds for the Downtown Revitalization Project to address at least one unexpected cost.

## BACKGROUND INFORMATION

As I reported to the Council at your meeting of July 7, Maine Earth, the City's main contractor for the Downtown Revitalization project, started project work on their scheduled start date of July 6. In addition, the City has independently engaged the services of Jeff Butterworth, mason, to do most masonry work in Belfast Commons, and Reynolds Electric to install the lighted bollards for Belfast Common. The Council approved this project approach in its review and award of the construction bids as a way to try and reduce total project costs.

Some unexpected problems and accompanying costs have occurred. To date, all of the concerns are in the Belfast Common - Miller Street area. And, with the Celtic Festival occurring on July 17 - 19, City staff decided that it had to move forward to authorize work to address concerns so that the Common would be usable for Festival activities. I will separately address the main issues.

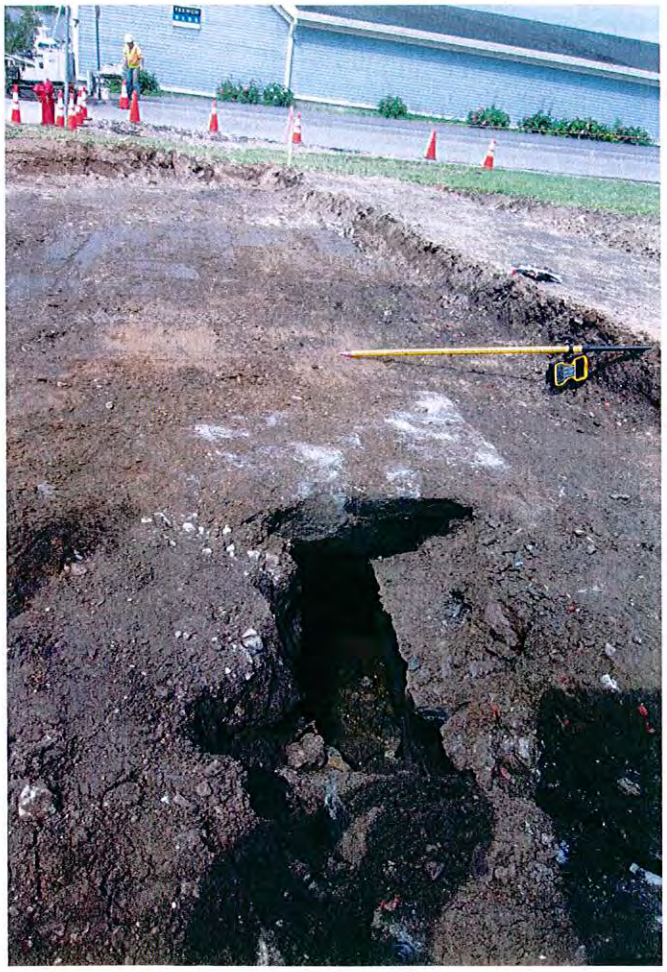
1) **Rock Box Drain on Miller Street**. The project involves constructing new parking spaces on both sides of Miller Street between Front Street and Cross Street. This work involved removing an existing sidewalk, some of the road, and ground materials to a depth of at least 24 inches so a good quality base could be created for the new parking spaces. Unfortunately, Maine Earth encountered a large rock box drain (see photos) on the Belfast Common side of Miller Street when it had excavated about 18 inches of material. After considerable exploratory work, we determined that this drain no longer carried stormwater, but because we dug it up, we had to fill this considerable void with good gravel to ensure we had a good base for the parking areas. This is unanticipated work and cost. As noted above, we authorized Maine Earth to further excavate and fill the rock drain, which also allowed them

to continue with project work. We are still working to identify all costs associated with this work, but we believe the additional cost will range between $16,500 and $22,000. Council action will be needed on this issue at your August 4 meeting.

2) **Parking Spaces & Trees at Belfast Common located above the entrance to the Common.** The approved plans identified constructing 3 new parking spaces on Miller Street between the entrance to the Common and Union Street, as well as the construction of a new 7' wide sidewalk, new street light lamps, and relocating 4 existing trees. The City relocated 2 of the 4 trees several months ago, however, the installation of a new hydrant by the Water District and ledge made it impractical to relocate 2 of the existing oaks, and although the City relocated the 2 existing maples, they actually needed to be moved an additional 5 feet or so into the Common to eliminate any conflicts with the sidewalk and accompanying grading. The Downtown Revitalization Committee viewed the problem in the field, and made the decision to eliminate the 3 parking spaces and to retain the 4 existing trees. This decision likely will result in a minor reduction in project costs (mostly less granite curbing and a small amount of excavation), but it also eliminated an uncertain cost associated with the need to excavate and refill a non-functioning culvert pipe. We also determined that moving the trees this time of the summer was impractical. No Council decision is needed regarding this issue.

3) **Pavers in Belfast Common**. This project involves laying more than 2,500 square feet of new pavers in Belfast Common. The intent is to continue the existing walkway built using pavers through-out the width of the Common (former Cross Street). Public Works removed the existing asphalt road and our mason started work to install the pavers. In inspecting the pavers that our mason chose, it was the decision of all that they were not a good match. As such, our mason has removed the pavers that were installed and they have been returned to the supplier. We have diligently been working to find a good match to the existing pavers. I am now in discussions with a supplier that carries the same brand of concrete paver that we used in 2005 in the Common to try and best match the color. It appears that the company (Belgard) that makes the pavers may be willing to make a special production of pavers for Belfast to better match the original color, shape and size of the pavers. I should have more information regarding this possibility and the cost of such by your July 21 meeting.

Clearly there have been some unexpected problems. But, any time we chose to dig into the ground, we may encounter issues such as this rock box culvert, ledge or even an old sewer line that could lead to problems. I will do my best to answer any questions at the July 21 Council meeting.



# AGENDA TOPIC 10.

TO: MAYOR & CITY COUNCIL

FROM: WAYNE MARSHALL, CITY PLANNER

DATE: JULY 30, 2015

RE: PROPOSED AMENDMENTS TO CHAPTER 78, FLOODS

**REQUESTED ACTIONS**:

I request that the Council conduct the scheduled public hearing and Second Reading of the proposed revisions to the City Code of Ordinances, Chapter 78, Floods, at your meeting of August 4, 2015. I recommend that you adopt the proposed revisions as presented in the accompanying Ordinance amendments.

**BACKGROUND INFORMATION**

The Belfast City Council, at its meeting of June 16, 2015, adopted amendments to the City Code of Ordinances, Chapter 78, Floods. The main purpose of the amendments was to adopt the new Flood Maps prepared by the Federal Emergency Management Agency (FEMA) and to make accompanying changes to the Ordinance. The new Flood Maps took effect on July 6, 2015.

FEMA and the State Flood Management Office have reviewed the Ordinance amendments that the City adopted at its June 16 meeting, and sent the City a letter dated July 6, 2015 stating that our Ordinance is compliant with federal requirements; reference attached letter. In this same letter, the State Floodplain Office identified additional amendments needed to the City Ordinance so it is fully consistent with current FEMA requirements. Most revisions requested by FEMA are minor changes in specific citations, or the addition of several words in a specific section. The changes presented in the attached Ordinance amendment address the additional revisions requested by FEMA.

I have no comments regarding the changes requested. All are minor and are technical changes to a complex Ordinance. I recommend their adoption. You conducted the First Reading of the amendments at your meeting of July 21, and you have the authority to adopt the revisions at this meeting after conducting the posted public hearing.

I would be happy to answer any questions.

CITY OF BELFAST CITY COUNCIL
NOTICE OF PUBLIC HEARING

The City Council of the City of Belfast, at its meeting of Tuesday, August 4, 2015, beginning at 7:00 pm or as soon as practical thereafter, in the Council Chambers of Belfast City Hall, shall conduct a public hearing regarding proposed amendments to the City Code of Ordinances, Chapter 78, Floods. The City Council, at its meeting of June 16, adopted amendments to this same Chapter, including adoption of the new Flood maps. The amendments the Council will consider at its meeting of August 4 involve relatively minor clarifications to the City Ordinance that have been requested by the Federal Emergency Management Agency.

The public is invited to attend the August 4 public hearing and to offer comment. Comment also can be submitted in writing or via email by the date of the hearing. Written comment should be sent to Wayne Marshall, City Planner, City of Belfast, 131 Church St, Belfast, ME, 04915, and email comment to wmarshall@cityofbelfast.org. The proposed amendments can be inspected at the Code and Planning offices in Belfast City Hall between the hours of 8:00 am - 5:00 pm, Monday - Friday, and on the City website; cityofbelfast.org. Questions regarding the Ordinance amendments should be directed to Wayne Marshall, City Planner, at 338-1417 x 25, or at wmarshall@cityofbelfast.org.

**STATE OF MAINE**
**DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY**

**93 STATE HOUSE STATION**
**AUGUSTA, MAINE 04333-0093**

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

July 6, 2015

Mr. Joseph Slocum, City Manager
City of Belfast
131 Church Street
Belfast, Maine 04815

RE: Floodplain Management Ordinance

Dear Mr. Slocum,

I have completed the review checklist for the Floodplain Management Ordinance for the City of Belfast and find the ordinance to be compliant with the requirements of the National Flood Insurance Program (NFIP). The ordinance that the town adopted on June 16, 2015 contains all the significant changes that have occurred in the Federal regulations since you previously updated your ordinance. I am pleased that your community has taken the necessary steps to assure continued participation in the NFIP, which affords flood insurance and disaster assistance to your constituents. Future development that may take place in Belfast's floodplains will also benefit from the improved development standards contained in the updated ordinance.

However, there are some concerns with the ordinance. The language is missing some key terms and some citations are incorrect. A copy has been enclosed with the edits marked with a strike-through for deletions and an underline for additions. An electronic version will be emailed to the town. When these corrections have been made, please send us a copy of the ordinance.

I am forwarding a copy of the ordinance and the review checklist to the Federal Emergency Management Agency (FEMA) Regional Office in Boston and a copy of the ordinance to the Mid-Coast Regional Planning Commission (MCRPC). The final copy will be retained here in your community file. If you have any questions or need additional floodplain management assistance, please feel free to call me directly at 287-9981 or e-mail me at janet.parker@maine.gov, or you can call this office at 287-2801. Additional floodplain assistance is available at MCRPC.

Sincerely,

Janet Parker

MAINE FLOODPLAIN MANAGEMENT PROGRAM
17 ELKINS LANE, WILLIAMS PAVILION
SUE BAKER, NFIP COORDINATOR
PHONE: (207) 287-2801 www.maine.gov/acf FAX: (207) 287-2353

# BELFAST CITY COUNCIL
# SECOND READING & PUBLIC HEARING - AUGUST 4, 2015
# PROPOSED AMENDMENTS to CITY CODE of ORDINANCES
# CHAPTER 78, FLOODS

**NOTE TO THE PUBLIC # 1:** The Belfast City Council, at its meeting of June 16, 2015, adopted amendments to the City Code of Ordinances, Chapter 78, Floods. The main purpose of the amendments was to adopt the new Flood Maps prepared by the Federal Emergency Management Agency (FEMA) and to make accompanying changes to the Ordinance. The new Flood Maps took effect on July 6, 2015.

FEMA and the State Flood Management Office have reviewed the amendments that the City made to its Ordinance on June 16, and sent the City a letter dated July 6, 2015 stating that our Ordinance is compliant with federal requirements. In this same letter, the State Floodplain Office identified additional amendments needed to the City Ordinance so it is fully consistent with current FEMA requirements. Most revisions requested by FEMA are minor changes in specific citations, or the addition of several words in a specific section. The amendments presented in this Ordinance amendment address the additional revisions requested by FEMA.

**NOTE TO THE PUBLIC #2:** The First Reading of the proposed amendments occurred at the Council meeting of July 21, 2015, and the Council accepted the proposed language as presented. The Second Reading and public hearing of these same amendments is scheduled for the Council meeting of August 4, 2015. The Council, at its August 4 meeting, has the authority to approve, amend or reject the proposed amendments.

**NOTE TO THE PUBLIC #3:** All language in black font is language identified in the amended Ordinance that was adopted by the City Council at its meeting of June 16, 2015. All language in **red and bold font** is language proposed to be added to the Ordinance. All language in **~~bolded blue strike-through font~~** is language proposed to be deleted from this Ordinance.

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## TEXT OF PROPOSED AMENDMENTS

### ARTICLE II. FLOOD HAZARD REDUCTION*

***State law references:** Floodplain management, 30-A M.R.S.A. §§ 3001--3007, 4352, 4401--4497; ordinances generally; 38 M.R.S.A. § 440

### DIVISION 1. GENERALLY

**Sec. 78-31. Purpose of article**.

The City is aware that certain areas of Belfast are subject to periodic flooding, and that such flooding may cause damage to properties in these areas. The City also is aware that relief to such flooding is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

The city has chosen to become a participating community in the National Flood Insurance program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (PL 90-488, as amended) as delineated in this article.

Further, it is the intent of the City to require the recognition and evaluation of flood hazards in all official actions relating to land use in floodplain areas having special flood hazards. The City also has the legal authority to adopt land use and regulatory control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid act, provides that areas o
f the city having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This article establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the city.
(Ord. of 4-17-1990, art. I)

**Sec. 78-32. Basis for establishing areas of special flood hazard.**

The areas of special flood hazard, Zones A, AE, and VE for the City, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study~~,~~ - Waldo County," dated July 6, 2015 with accompanying "Flood Insurance Rate Map" (FIRM) dated July 6, 2015 with panels: 430E, 433E, 434E, 435E, 440E, 442E, 445E, 455E, 461E, 462E, 463E, 464E, and 610E derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Waldo County, are hereby adopted by reference and declared to be a part of this article.
(Ord. of 4-17-1990, art. I)

**Sec. 78-33. Definitions**.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words and phrases used in this article shall have the same meaning as they have at common law and to give this article it’s most reasonable application. Also see definitions for all Ordinances at Chapter 66 and Shoreland Zoning definitions at Chapter 82. Definitions for Accessory Structure, Basement, Code Enforcement Officer, and Riverine are in Chapter 66.

*Adjacent grade* means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Area of shallow flooding* means a designated AO Zone on a community's Flood Insurance Rate Map with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of special flood hazard* means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in section 78-32.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

*Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

*Building.* See *Structure*

*Certificate of compliance* means a document signed by the code enforcement officer stating that a structure is in compliance with all of the provisions of this article.

*Coastal AE Zone* means the portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet and bounded by a line labeled the "Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction and substantial improvements in the Coastal AE Zone.

*Coastal high-hazard area* means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources Coastal High Hazard Areas are designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action (LiMWA)" on a Flood Insurance Rate Map (FIRM).

Conditional Use means a use, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Sec 78-94.

*Development* means any man-made change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

*Elevated building* means a non-basement building

(i) built, in the case of a building in **Z**ones AE or A, to have the top of the elevated floor, or, in the case of a building in Zone VE or Coastal AE zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or stilts; and

(ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone AE or A, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwater. In the case of Zone VE and Coastal AE Zone, the term "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of section 78-92(b)(~~3~~**2**)c.

*Elevation certificate* means an official form (FEMA Form 81-31, ~~**February 2006,**~~ as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program, and is required as a condition for purchasing flood insurance.

*Flood* and flooding mean:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
   a. The overflow of inland or tidal waters.
   b. The unusual and rapid accumulation or runoff of surface water from any source.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a of this definition.

*Flood elevation study* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

*Flood Insurance Rate Map (FIRM)* means an official map of a community on which the administrator of the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

*Flood insurance study.* See *Flood elevation study.*

*Floodplain* and *flood-prone area* mean any land area susceptible to being inundated by water from any source (see definition of "flooding").

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, or erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

*Floodway*. See *Regulatory floodway*.

*Floodway encroachment lines* means the lines marking the limits of floodways on federal, state, and local floodplain maps.

*Freeboard* is a factor of safety, usually expressed in feet above a flood level, for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

*Functionally dependent use,* as used in this chapter, means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Historic structure* means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the Secretary of the Interior; or
    b. Directly by the Secretary of the Interior in states without approved programs

*Limit of Moderate Wave Action (LiMWA)* means the landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

*Locally established datum* means an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Division 3 Section 78-91.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for longer than 180 consecutive days.

*Manufactured Home Park or subdivision* means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

*Minor Development*, as used in this chapter, means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to accessory structures as provided for in Sec. 78-89.6, mining, dredging, filing , grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not require structures; and non-structural projects such as bridges, dams towers, fencing, pipelines, wharves, and piers.

*National Geodetic Vertical Datum (NGVD)* means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon the mean sea level in 1929 and is as been called the "1929 Mean Sea Level (MSL)".

*New construction* means structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

*North American Vertical Datum (NAVD)* means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

*100-year flood.* See *Base flood*

*Recreational Vehicle (RV)*, as used in this chapter, means a vehicle which is (a) built on a single chassis;~~,~~ (b) 400 square feet or less when measured at the largest horizontal projection, not including slideouts;~~,~~ (c) designed to be self-propelled or permanently towable by a motor vehicle; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

*Regulatory floodway.*

(1) Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
(2) In Zone A the regulatory floodway is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high-water mark to the upland limit of the floodplain.

*Start of construction* means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling or floor, or other structural part of the building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

*Structure* means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any repair, reconstruction, **rehabilitation, addition** or improvement of a structure, the value of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. In determining whether a development project constitutes a substantial improvement, the total cost (value) of all reconstructions, repairs, rehabilitations, additions, or other improvements that have accrued over a five year period, prior to the time of the current application shall be considered. For purposes of this definition, substantial improvement is considered to occur at the time the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or
(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Variance* (as it applies to the flood plain) for purposes of the flood plain ordinance chaptered 78, Art. II, a variance means a grant of relief by the Zoning Board of Appeals:

(1) From the terms of a floodplain management regulation; or
(2) From any dimensional requirement of the floodplain ordinance, in accordance with 30-A MRSA § 4353(4).

*Violation* means the failure of a structure or other development to fully comply with a community's floodplain management regulations or ordinance.
(Ord.. of 4-17-1990, art. XIII)
**Cross references:** Definitions generally, Chapter 66§ 1-2.

**Sec. 78-34. Violations; enforcement; penalties.**

(a) *Responsibility for enforcement.* It shall be the duty of the code enforcement officer to enforce the provisions of this article pursuant to 30-A M.R.S.A. §§ 4452.
(b) *Penalties.* The penalties contained in 30-A M.R.S.A. §§ 4452 shall apply to any violation of this article.
(c) *Declaration requesting denial of flood insurance.* In addition to any other actions, the code enforcement officer, upon determination that a violation exists, shall submit a declaration to the administrator of the Federal Emergency Management Agency requesting a denial of flood insurance. The valid declaration shall consist of:
    (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location (map and lot number);
    (2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
    (3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
    (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
    (5) A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

(Ord. of 4-17-1990, art.X

**Sec. 78-35. Repeal of previous ordinances.**

This article repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (PL 90-488, as amended).
(Ord. of 4-17-1990, art. XIV)

**Sec. 78-36. Certificate of compliance**.

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the code enforcement officer, subject to the following provisions:

(1) For New Construction or Substantial Improvement of any elevated structure, the applicant shall submit an elevation certificate completed by:
    a. a professional land surveyor, registered professional engineer or architect for compliance with section 78-87, 78-88, 78-89, or 78-92; and
    b. for structures in Zones VE and Coastal AE Zone (as defined), certification by a registered professional engineer or architect for compliance with Section 78-92(~~c~~**b**).
(2) The applicant shall submit written notification that the development is complete and complies with the provisions of this section.
(3) The code enforcement officer shall review the application within ten working days of receipt of the application, and shall issue a certificate of compliance, provided the development conforms to the provisions of this section.

(Ord. of 4-17-1990, art. VII)

**Sec 78-37 Standards for review of subdivision and development proposals**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under federal law, state law or local ordinances or regulations and all projects on five or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, ensure that:

(1) All such proposals are consistent with the need to minimize flood damage.
(2) All public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damages.
(3) Adequate drainage is provided so as to reduce exposure to flood hazards.
(4) All proposals include base flood elevation**, flood boundaries,** and, in a riverine floodplain, floodway data**.** These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

Any proposed development plan must include a condition of plan approval that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with division 3 of this article. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structures, including but not limited to a timeshare interest. The condition shall clearly articulate that the city may enforce any violation of the construction requirements, and that fact shall also be included in the deed or any other document described in this subsection. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

(Ord. of 4-17-1990, art. VIII)

**Sec. 78-38. Appeals and variances.**

(a) The Zoning Board of Appeals may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in an order, requirement, decision, or determination made by, or failure to act by the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this article.

(b) A variance issued by the Zoning Board of Appeals shall be consistent with state law and the following criteria:

(1) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall be granted only upon:

a. A showing of good and sufficient cause;

b. A determination that, should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, or public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances;

c. A showing that the existence of the variance will not cause a conflict with other state, federal or local laws or ordinances; and

d. A determination that failure to grant the variance would result in "undue hardship", which in this subsection means that:

1. The land in question cannot yield a reasonable return unless a variance is granted;

2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

3. The granting of a variance will not alter the essential character or the locality; and

4. The hardship is not the result of action taken by the applicant or a prior owner.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

(4) Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

a. Other criteria of this section and section 78-90 are met; and

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(5) Variances may be issued by a community for the **repair,** reconstruction, rehabilitation, or restoration of Historic Structures upon a determination that:

a. the development meets the criteria of paragraphs (1) through (4) of this section; and

b the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(6) Any applicant who meets the criteria of subsections (1)-(5) of this section shall be notified by the Zoning Board of Appeals in writing over the signature of the chair of the Board of Appeals that:

a. The issuance of a variance to construct a structure below the base flood~~,~~ level will result in greatly increased premium rates for flood insurance, up to amounts as high as $25.00 per $100.00 of insurance coverage;

b. Such construction below the base flood level increases risks to life and property; and

c. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the city against any claims filed against it that are related to the applicant's

decision to use land located in a floodplain and that the applicant individually releases the city from any claims the applicant may have against the city that are related to the use of land located in a floodplain.

(7) Appeal procedure for administrative and variance appeals: The process for filing and hearing an administrative appeal or variance is described in chapter 102, Zoning, Article II, Administration, division 4, Appeals and Variances. Section 102-131 et seq.

(b) (Ord. of 4-17-1990, art. IX; Ord. No. 25-2005, 12-7-2004)

**Section 78-39. Conflict with other ordinances**

The terms of this article (Ordinance) shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this article imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this article shall control.

**Secs. 78-40--78-60.** Reserved.

**DIVISION 2. PERMIT**

**Sec. 78-61. Required.**

Before any construction or other development, including the placement of manufactured homes, begins within any areas of special flood hazard established in section 78-32, a flood hazard development permit shall be obtained from the code enforcement officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the city.
(Ord. of 4-17-1990, art. II)

**Sec. 78-62. Contents of application.**

(a) The application for a flood hazard development permit shall be submitted to the code enforcement officer and shall include:
   (1) The name, address and phone number of the applicant, owner, and contractor.
   (2) An address and a map indicating the location of the construction site.
   (3) A site plan showing the location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions.
   (4) A statement of the intended use of the structure and/or development.
   (5) A statement of the cost of the development including all materials and labor.
   (6) A statement as to the type of sewage system proposed.
   (7) Specification of dimensions of the proposed structure and/or development.

   [Paragraphs (8) through 11(c) apply only to New Construction and Substantial Improvements.]

   (8) The elevation, in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of:
      a. The base flood at the proposed site of all new or substantially improved structures, which is determined:
         1. In Zones, AE, VE, and Coastal AE, from data contained in the flood insurance study for the city as described in section 78-32; or
         2. In Zone A:

(a) From any base flood elevation data from federal, state, or other technical sources, including information pursuant to sections 78-90 and 78-37(a)(4).**;**

(b) From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or in the absence of all other data,

(c) To the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed structure.

b. The highest and lowest grades at the site adjacent to the walls of the proposed building;

c. The lowest floor, including basement, and whether or not such structures contain a basement; and

d. The level, in the case of nonresidential structures only, to which the structure will be floodproofed.

(9) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Division 3.

(10) A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation~~s~~ and grade elevations shown on the application are accurate.

(11) Certification by a registered professional engineer or architect that floodproofing methods that any:

a. nonresidential structures will meet the floodproofing criteria of subsection (8)d of this section, section 78-88 and other applicable standards in division 3 of this article;

b. construction in coastal high-hazard areas, Zone~~s~~ VE, will meet the floodproofing criteria of section 78-92 and other applicable standards in division 3 of this article;

c. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of section 78-91.~~(3)a~~.**(a)(2)a**;

d. a certified statement that bridges will meet the standards of section 78-91.5; and

e. a certified statement that containment walls will meet the standards of section 78-91.6;

(12) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and a copy of notification of the state department of environmental protection of this activity.

(13) A statement of construction plans describing in detail how each applicable development standard in division 3 of this article will be met.

(Ord. of 4-17-1990, art. III)

**Sec. 78-63. Fees.**

(a) *Application fee.* A nonrefundable application fee of $ 75.00 shall be paid to the city clerk, and a copy of a receipt for payment of the fee shall accompany the application.

(b) *Expert's fee.* An additional fee may be charged if the code enforcement officer, Planning Board and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten days after the city submits a bill to the applicant. Failure to pay the bill shall constitute a violation of this article and be grounds for the issuance of a stop work order. An expert shall not be hired by the city at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the code enforcement officer or Planning Board may appeal that decision to the Board of Appeals.

(Ord. of 4-17-1990, art. IV)

**Sec. 78-64. Review of applications; duties of code enforcement officer.**

The code enforcement officer shall:

(1) Review all applications for flood hazard development permits to ensure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of division 3 of this article have or will be met;

(2) Utilize, in the review of all flood hazard development permit applications:

a. The base flood **and floodway** data contained in the flood insurance study for the city as described in section 78-32~~.~~;

b. In special flood hazard areas where base flood elevation **and floodway** data is not provided, the code enforcement officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to section 78-62(8)a.2, section 78-90, and section 78-37(a)(4), in order to administer division 3 of this article; and

c. When the city establishes a base flood elevation in a Zone A by methods outlined in section 78-62(8)a.2., the city shall submit the data to the Maine Floodplain Management Program

(3) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in section 78-32;

(4) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344;

(5) Notify adjacent municipalities, the state department of environmental protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency;

(6) If the application satisfies the requirements of this Article, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:

a. A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time, the applicant shall provide the code enforcement officer with an application for part II of the flood hazard development permit and shall include an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of section~~s~~ 78-87, 78-88, 78-89, or 78-92. Following review of the Elevation Certificate data, which review shall take place within 72 hours of receipt of the application, the code enforcement officer shall issue part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or

b. a Flood Hazard Development Permit for Floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of section 78-88(a)(1), (2), and (3). The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

c. a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as defined in Chapter 66, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage

disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

(7) Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of section 78-38, and copies of elevation certificates, floodproofing certificates, certificates of compliance, and certifications of design standards required under the provisions of section 78-36, section 78-62, and Division 3.

(Ord. of 4-17-1990, art. V)

Secs. 78-65--78-80. Reserved.

## DIVISION 3. DEVELOPMENT STANDARDS

### Sec. 78-81. Generally.

All developments in areas of special flood hazard shall meet the applicable standards in this division.
(Ord. of 4-17-1990, art. VI)

### Sec. 78-82. Standards applicable to all development.

(a) All development shall:

(1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Use construction materials that are resistant to flood damage;

(3) Use construction methods and practices that will minimize flood damage; and

(4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

(Ord. of 4-17-1990, art. VI(A))

### Sec. 78-83. Water supply systems.

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwater into the systems.
(Ord. of 4-17-1990, art. VI(B))

### Sec. 78-84. Sanitary sewage systems.

All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwater into the system and discharges from the system into flood waters.
(Ord. of 4-17-1990, art. VI(C))

### Sec. 78-85. On-site waste disposal systems.

On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
(Ord. of 4-17-1990, art. VI(D))

**Sec. 78-86. Reduction of flood-carrying capacity prohibited.**

All development associated with the altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood-carrying capacity of any watercourse.
(Ord. of 4-17-1990, art. VI(E))

**Sec. 78-87. Residential structures.**

(a) New construction or substantial improvement of any residential structure located within Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

(b) New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to section 78-62(8)a.2, section 78-64(2), or section 78-37(a)(4).

(b) New construction or substantial improvement of any residential structure located within Zones VE and Coastal AE (as defined) shall meet the requirements of section 78-92.

(Ord. of 4-17-1990, art. VI(F))

**Sec. 78-88. Nonresidential structures.**

(a) New construction or substantial improvement of any nonresidential structure located within Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

(1) Be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by section 78-62(11(a), and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

(b) New construction or substantial improvement of any nonresidential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to section 78-62(8)a.2,, section 78-64(2), or section 78-37(a)(4).

**(1) together with attendant utility and sanitary facilities meet the floodproofing standard of 78-88(a)(1) through (3).**

(c) New construction or substantial improvement of any nonresidential structure located within Zones VE and Coastal AE (as defined) shall meet the requirements of section 78-92. (Ord. of 4-17-1990, art. VI(G)).

**Sec. 78-89. Manufactured homes.**

(a) New or substantially improved manufactured homes located within Zone AE shall:

(1) Be elevated such that the lowest floor (including basement) is at least one foot above the base flood elevation; and

(2) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

(3) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

a. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by

b. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

c. All components of the anchoring system described in 78-89a.(3)(a) and (b) shall be capable of carrying a force of 4,800 pounds.

(b) New or substantially improved manufactured homes located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to subsection 78-62(8)a.2, subsection 78-64(2), or subsection 78-37(a)(4)**, and meet the anchoring requirements of 78-89(a)(3)**.

(c) New or substantially improved manufactured homes located within Zones VE and Coastal AE (as defined) shall meet the requirements of section 78-92.

(Ord. of 4-17-1990, art. VI(H))

**Sec. 78-90. Development in floodways.**

(a) In Zone AE, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in riverine areas for which a regulatory floodway is designated on the community's flood insurance rate map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(b) In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development, shall not be permitted in the floodway as determined in section 78-90(c) unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development,

(1) Will not increase the water surface elevation of the base flood more than one foot at any point within the community, and

(2) Is consistent with the technical criteria contained in ~~**Chapter 5 entitled "Hydraulic Analyses", Flood Insurance Study — Guidelines and Specifications for Study Contractors, (FEMA 37/January 1995, as amended)**~~ **FEMA's guidelines and standards for flood risk analysis and mapping**.

(c) In Zones AE and A riverine areas, for which no regulatory is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain. (Ord. of 4-17-1990, art. VI(I)).

**Sec. 78-91. Enclosed areas below the lowest floor.**

(a) New construction or substantial improvement of any structure in Zones AE~~**, AO,**~~ and A that meets the development standards of this division, including the elevation requirements of Sections 78-87, 78-88, or 78-89, and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the base flood elevation provided all the following criteria are met or exceeded:

(1) Enclosed areas shall not be basements as defined in section 78-33;
(2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
  a. Be **engineered and** certified by a registered professional engineer or architect; or
  b. Meet or exceed the following minimum criteria:
    1. A minimum of two openings is required, having a total net area of not less than one square inch for every square foot of the enclosed area;
    2. The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and
    3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of floodwater automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and
(3) The enclosed area shall not be used for human habitation; and
(4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.

(Ord. of 4-17-1990, art. VI(J))

**Sec 78-91.4 Recreational Vehicles**

(a) Recreational Vehicles located within Zones AE and A shall either:
  (1) be on the site for fewer than 180 consecutive days,
  (2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  (3) Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in section 78-89(a).

(b) Zone VE and Coastal AE (as defined) shall meet the requirements of either section 78-91.4(a)(1) or (2), or section 78-92.

**Sec 78-91.5 Bridges**

New construction or substantial improvement of any bridge in Zones AE, A, VE and Coastal AE (as defined) shall be designed such that:
(1) When possible, the lowest horizontal member (excluding pilings, or columns) is elevated to or at least one foot above the base flood elevation; and;
(2) A registered professional engineer shall certify that:
  a. The structural design and methods of construction shall meet the requirements of this section and the floodway standards of Section 78-90, and
  b. the foundation or superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

**Sec 78-91.6 Containment walls**

No new construction or substantial improvement of any containment wall located within:
(1) Zones AE, A, VE and Coastal AE (as defined) shall:
  a. have the containment wall elevated to at least one foot above the base flood elevation;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood Hazard Development Permit, as required by Section 78-62(11)~~(e)~~.

**Sec. 78-91.7 Wharves, Piers and Docks**

New Construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE, A, VE and Coastal AE (as defined), in and over water and seaward of the mean high tide if the following requirements are met:

(1) Wharves, piers, and docks shall comply with all applicable local state and federal regulations, and

(2) For commercial wharves, piers and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for construction.

**Sec. 78-91.8 Accessory Structures**

Accessory Structures, as defined in Chapter 66, located within Zones AE and A, shall be exempt from the elevation criteria required in Section 78-87 & Section 78-88 above, if all other requirements of Division 3 and all the following requirements are met. Accessory Structures shall:

(1) be 500 square feet or less and have a value less than $3000;

(2) have unfinished interiors and not be used for human habitation;

(3) have hydraulic openings, as specified in Section 78-91(2), in at least two different walls of the accessory structure;

(4) be located outside the floodway;

(5) when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and placed further from the source of flooding than is the primary structure; and

(6) have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

**Sec. 78-92. Development in coastal floodplains.**

(a) All new construction located within Zones AE, VE and Coastal AE (as defined) shall be located landward of the reach of mean high tide except as provided in section 78-93.

(b) New construction or substantial improvement of any structure located within Zones VE and Coastal AE (as defined) shall:

(1) Be elevated on posts or columns such that:

a. The bottom of the lowest horizontal structural member of the lowest floor, (excluding the pilings or columns), is elevated to one foot above the base flood elevation;

b. The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and

c. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

(2) Have the space below the lowest floor:

a. Free of obstructions;

b. Constructed with open wood latticework or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or

c. Constructed **to enclose less than 300 square feet of area** with non-supporting breakaway walls that have a design safe loading resistance of not less than ten or more than 20 pounds per square foot.

(3) A registered professional engineer or architect shall:

a. develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual (FEMA-55/June, 2000) and

b. Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of sub section 78-92(b).

(c) The use of fill for structural support in Zones VE and Coastal AE (as defined) is prohibited.

(d) Human alteration of sand dunes within Zones VE and Coastal AE (as defined) is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

(e) The area~~s~~ below the lowest floor shall be used solely for parking vehicles, building access, and storage. (Ord. of 4-17-1990, art. VI(K)

**Section 78-93 Conditional Use**

Lobster sheds and fishing sheds may be located seaward of the mean high tide and shall be exempt from the elevation requirement in Section 78-88 only if permitted as a Conditional Use following review and approval by the Planning Board, as provided for in Section 78-94 and if all the .following requirements and those of sections 78-82, 78-90, and 78-91 are met:

a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less not exceeding one story.

b. The structure shall be securely anchored to the wharf or pier to resist floatation, collapse, and lateral movement due to the effect of wind or water loads acting together on all building components.

c. The structure will not adversely increase the wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either be elevated or floodproofed to one foot above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt (GFCI) type. The electrical disconnect shall be located on shore above the base flood elevation and when possible outside of the Special Flood Hazard area.

**Section 78-94 Conditional Use Review**

The Planning Board shall hear and decide upon applications for conditional uses provided for in section 78-93. The Planning Board shall hear and approve or approve with conditions **or disapprove** all applications for Conditional Uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Permit

1. The Flood Hazard Development Permit Application, with additional information attached showing how each of the conditional use criteria specified in section 78-93 will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application the Planning Board shall hold a public hearing on the application within 30 days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of section 78-93, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of section78-93 shall expire if the work or change involved is not commenced within 180 day of the approval of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Planning Bard chairman that flood insurance is not available for structures located entirely over water or seaward of the mean high tide.

**B. Expansion of Conditional Uses**

No existing building or use of the premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit, or if it is a building or use which would required a Conditional Use Permit if being newly-established or constructed under section 78-93.

**Sec 78-95. Effective date of amendments to this article.**

Notwithstanding provisions of the City Charter, the amendments to Chapter 78, Floods, which the City Council considered and adopted at its meeting of June 16, 2015, shall take effect on July 6, 2015, which is the date that FEMA has identified as the effective date of the new FIRM maps for the City; reference section 78-32 of this article.

**Amendments adopted to Chapter 78, Floods, by the City Council at its meeting of August 4, 2015 shall take effect upon the adoption of the amendments.**

10.M

# MEMORANDUM

TO: CITY COUNCIL

FROM: SADIE LLOYD, ASSISTANT PLANNER

DATE: JULY 30, 2015

RE: CITY LIGHTING AUDIT

*Actions requested:*
1) Reject the lighting audit bids received on July 27th.

2) Allow City staff to directly solicit a potential lighting auditor.

Details below:

In April the City Council gave permission for the City Energy Committee and City staff to go out to bid for a lighting auditor to audit all City buildings, facilities, and street lights in order to understand the cost of retrofitting City lighting to LEDs. The project went out to bid in July; bids were due Monday, July 27th.

Unfortunately we only received two bids. The first was from an out-of-state firm and the bid was for over $26,000. The money budgeted for this project was $7,000 (although we did not know specifically how much a project like this would cost). The second bid was submitted by Gilman Electric Supply in Newport, Maine, subcontracting with MAC Electric. Their bid did not meet the RFP. The proposed providing the audit service for each building for free provided the City contracts with them to do the retrofit work (converting lights to LED). They provided us an audit of the Police Station as a sample of their work.

I spoke with the Energy Committee as well as Joe and a number of concerns came up. The first concern is that the first bid is very expensive; much more than was anticipated. Secondly, while getting the auditing services for free is appealing, there is no way to know whether the prices Gilman would charge us would be reasonable or not. We have worked with Gilman before and have found, at times, their prices to be somewhat high and were able to get our City electrician to find similar solutions for less. It may turn out that Gilman is the right contractor to work with, however, City staff feels we need more information about cost.

While the Committee was somewhat interested in the proposal from Gilman, they were generally uncomfortable with contracting with them without an idea of how their prices compared to other recommendations.

Given that a good effort has been made to collect bids for an auditor (newspaper posting, posting on an industry listserv, direct soliciting for bids, etc.) and so few responses were received in

M.01

time, City staff is requesting permission to directly solicit quotes from contractors in the area for just the auditing work without going out to bid again. At the time that we find someone we believe to be suitable we will come to you with an update and to request permission to contract with an auditor. After the audit we will look for a contractor to do the retrofit/installation work.

10.N

Discussion of a proposal for a new Fixed Base Operator at Belfast Municipal Airport.

Belfast Municipal Airport has been without a Fixed Base Operator (FBO) since October of 2014 with the departure of Maine Scenic Airways. In an effort to attract one or more FBOs to Belfast Municipal Airport, a Request for Proposals was issued on 5/15/15, with a due date of 6/29/15. 3 proposals were received, which were initially evaluated by a 3-member group consisting of the City Manager, the Economic Development Director/Airport Manager, and a member of the aviation community. This group has a level of interest in selecting one of the submitted proposals, and wishes to discuss the elements of that proposal with the City Council. (This could be a potential action item if the City Council wishes to authorize the City Manager to begin lease discussions with the entity that submitted the proposal and/or reject the other submitted proposals.)

10.0

Request by the Economic Development Director to submit a preliminary application to the Maine Army National Guard's Innovation Readiness Training program, for assistance in moving earth as part of a future airport parallel taxiway project.

City staff and the City's aviation consultant, Airport Solutions Group, met recently with representatives from the Maine Department of Transportation and the Federal Aviation Administration (FAA) to discuss future projects at Belfast Municipal Airport, including the construction of a partial parallel taxiway, which is currently proposed to be constructed in 2017. City staff and Airport Solutions Group discussed the possibility of being able to secure additional discretionary FAA funding in order to build a fuller taxiway (extending parallel along a greater length of the runway) than what has been proposed previously.

City staff has learned that the Maine Army National Guard has a program whereby which they can provide free services and labor, called the Innovation Readiness Training program. The estimated cost of earthwork for the construction of the partial parallel taxiway is currently estimated at $500,000. City staff is interested in exploring the possibility of having that work done through this program. If this was possible, the City could extend their FAA discretionary funding further to do a fuller parallel taxiway (or at least could have greater confidence that the currently-planned partial parallel taxiway would be done within budget, by essentially providing a $500,000 contingency).

The application must be first submitted to determine if assistance under this program is a realistic option. An offer of assistance under this program does not obligate the City of Belfast to accept it if it ultimately decides it does not want to. The Maine Army National Guard unit that is based in Belfast (the 262nd Engineer Company) could be an excellent fit for this project, given their area of expertise, their proximity to Belfast Municipal Airport, and their previously-expressed interest in doing projects of this type. The City could expect a response within 2 to 3 months of application submission.