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Instr # 2024-3142

ATTEST: Stacy L Grant, Waldo Co Registry of Deeds

CLERK'S CERTIFICATE

BELFAST CITY COUNCIL

CITY OF BELFAST, MAINE

I, Andrew Legacy, duly appointed Deputy City Clerk for the **City of Belfast, Waldo County, Maine**, hereby Certify pursuant to 23 M.R.S. § 3024 that attached hereto is an Order Repealing the Condemnation Order Dated August 12, 2021. Said Order was approved by the Municipal Officers of the City of Belfast by unanimous vote (5-0) of the Belfast City Council, Belfast, Maine at a duly noticed meeting on May 7, 2024. The attached Order, which is incorporated herein, describes the action taken by said Municipal Officers as well as the property interests affected thereby.

The attached Order REPEALS and VACATES the Order of Condemnation approved by the City Council of the City of Belfast, Maine on August 12, 2021 which is recorded in the Waldo County Registry of Deeds at **Book 4693, Page 304**.

This Certificate is made pursuant to the requirements of 23 M.R.S. § 3023 and 3024.

WITNESS

ANDREW LEGACY, BELFAST DEPUTY CLERK

STATE OF MAINE
COUNTY OF WALDO, ss

May 14, 2024

Then personally appeared the above-named Andrew Legacy, in his capacity as the duly appointed Deputy City Clerk for the City of Belfast, Maine, and acknowledged the foregoing instrument to be his free act in deed, in his said capacity.

Before me,

Notary Public

Brittany Harris
Printed Name

My commission expires:

BRITTANY HARRIS
Notary Public
Maine
My Commission Expires April 12, 2029

21794785.1

ORDER REPEALING CONDEMNATION ORDER DATED AUGUST 12, 2021

**CITY OF BELFAST, MAINE
(23 M.R.S. § 3021 et. seq. and 30-A M.R.S. § 3101)**

WHEREAS, the City Council of the City of Belfast on August 12, 2021 adopted an Order of Condemnation (“the Condemnation Order”) which condemned and took, pursuant to 30-A M.R.S. § 3101 and 23 M.R.S. § 3021, certain real property rights described in Schedules A and B attached to said Condemnation Order;

WHEREAS, the Condemnation Order is recorded in the Waldo County Registry of Deeds at **Book 4693, Page 304**;

WHEREAS, the Condemnation Order affected (1) title to a certain intertidal area described in Schedule A of the Condemnation Order and depicted on Exhibit 1 to said Schedule A; and (2) a so-called “Residential Purposes Understanding” affecting the property located at 282 Northport Avenue and depicted on the City’s tax maps as Map 29, Lot 36 (described in Schedule B of the Condemnation Order);

WHEREAS, at the time of enactment of the Condemnation Order, there was litigation pending in Waldo County Superior Court under Docket No. RE-2019-0018 regarding ownership of the intertidal area described in Schedule A of the Condemnation Order (“the Intertidal Area”), and the City Council believed the City of Belfast had a valid claim of ownership of the Intertidal Area as owner of the upland property at Map 29, Lot 36;

WHEREAS, the Condemnation Order includes a finding that the property taken subject to that order is located within the municipal boundaries of the City of Belfast;

WHEREAS, following adoption of the Condemnation Order, Maine’s Supreme Judicial Court issued a decision dated February 16, 2023 and reported at *Mabee v. Nordic Aquafarms, Inc.*, 2023 ME 15, 290 A.3d 79, which addressed several issues relevant to the findings of fact set forth in the Condemnation Order;

WHEREAS, in other litigation filed in the Waldo County Superior Court under Docket No. RE-2021-07 which challenged the Condemnation Order, the Court in an order dated September 28, 2023 noted that the findings within the Supreme Judicial Court’s ruling “have generated or revealed, a number of inconsistencies and errors in the City’s condemnation order,” which the Court listed as including:

- (1) The Supreme Judicial Court held the Intertidal Area is owned by Jeffrey R. Mabee and Judith B. Grace, and not owned by the City of Belfast subject to “alleged title defects,” as set forth in the Condemnation Order;
- (2) The “Residential Purposes Understanding” is enforceable by Mabee, Grace, and Friends of the Harriet L. Hartley Conservation Area; and
- (3) The Condemnation Order relies upon a survey plan attached to Schedule A as Exhibit 1, which may have erroneously depicted the boundary between the Town of

Northport and City of Belfast based upon a misunderstanding about the location of the “mouth” of the Little River as described in the 1813 Massachusetts legislative act establishing the boundaries of the City of Belfast;

WHEREAS, in light of these issues the Superior Court, by its September 28, 2023 order, remanded the Condemnation Order to the Belfast City Council and directed the City Council to “consider the new clarifications and determinations provided by the Law Court’s resolution of *Mabee I* [the February 16, 2023 Judgment of the Supreme Judicial Court] and decide whether to alter, amend, or vacate its condemnation decision in light of the new circumstances.”;

WHEREAS, the property owners in Docket No. RE-2021-07 generally have sought relief in the form of an order vacating the Condemnation Order;

WHEREAS, on April 16, 2024, the City Council held a public hearing on the question of whether to alter, amend or vacate the Condemnation Order;

WHEREAS the City caused notice of the April 16, 2024 hearing to be published as well as to be provided by certified mail to the individuals named in Exhibit A to this Order;

WHEREAS, on May 7, 2024, the City Council considered and voted to adopt this Order and the legislative findings contained herein, waiving the second reading as provided by the Belfast City Charter; and

WHEREAS, the City has neither taken possession of the Intertidal Area, nor taken actions or made improvements of the property at Map 29, Lot 36 that would violate the “Residential Purposes Understanding,” since enactment of the Condemnation Order;

NOW, THEREFORE, the Belfast City Council hereby **ORDERS** as follows:

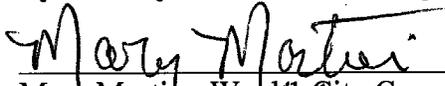
1. Following the City Council’s adoption of the Condemnation Order, the above-referenced decision of the Maine Supreme Judicial Court affected the validity of several findings upon which the Condemnation Order was premised.
2. It is unclear as of the date of this Order whether or to what extent the Intertidal Area described within Schedule A of the Condemnation Order and taken by the City of Belfast pursuant to said Order in fact lies within the municipal boundary of the City of Belfast and is therefore subject to eminent domain taking by the City.
3. Due to these newly understood circumstances, which have direct bearing on the City Council’s legislative findings supporting the Condemnation Order, the City Council finds that the Condemnation Order should not be sustained.
4. The City Council of the City of Belfast therefore **ORDERS** that the Order of Condemnation adopted by the City Council on August 12, 2021 be and hereby is **REPEALED AND VACATED** and the City releases to the persons from whom the

interests were taken any property interests the City derived under said Order of Condemnation.

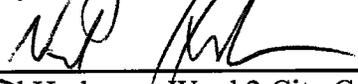
5. The City of Belfast hereby waives and releases any claim that damage payments made pursuant to the Condemnation Order and deposited by the payee should be returned to the City.
6. The City Council hereby directs the City Clerk to record this Order in the Waldo County Registry of Deeds and in the City's records, and to provide a certified copy of the Order by mail to each individual and entity listed on Exhibit A attached hereto.
7. The City Council authorizes the City Attorney to file a copy of this Order with the Superior Court having jurisdiction over pending claims against the City and to secure such further Court orders as may be consistent with this Order.
8. This Order shall be effective as of May 7, 2024, the City Council's April 16, 2024 vote having been advisory only.

SO ORDERED, this 7th day of May, 2024.

By the City Council of the City of Belfast, Maine:



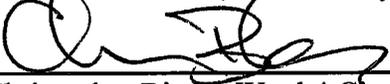
Mary Mortier, Ward 1 City Councilor



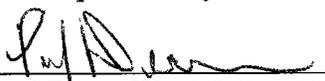
Neal Harkness, Ward 2 City Councilor



Brenda Bonneville, Ward 3 City Councilor



Christopher Bitely, Ward 4 City Councilor



Paul Dean, Ward 5 City Councilor

EXHIBIT A

The City of Belfast, by certified mail to the following named persons and entities, provided notice of its intent to consider the repeal of an Order of Condemnation dated August 12, 2021:

REGARDING THE INTERTIDAL ZONE AS DEPICTED AND DESCRIBED IN SCHEDULE A OF THE ORDER OF CONDEMNATION:

Jeffrey R. Mabee
Judith B. Grace
c/o Kimberly Ervin Tucker, Attorney
48 Harbour Pointe Drive
Lincolntonville, ME 04849

Friends of the Harriet L. Hartley Conservation Area
c/o Kimberly Ervin Tucker, Attorney
48 Harbour Pointe Drive
Lincolntonville, ME 04849

Elizabeth Cooper Rankin
320 Dash Avenue
Media, PA 19063-1308

REGARDING THE RESIDENTIAL PURPOSES UNDERSTANDING AS DESCRIBED IN SCHEDULE B OF THE ORDER OF CONDEMNATION:

Peter A. Rasmussen
Adrienne R. Boissy
46001 Mather Lane
Chagrin Falls, OH 44022

Jeffrey R. Mabee
Judith B. Grace
c/o Kimberly Ervin Tucker, Attorney
48 Harbour Pointe Drive
Lincolntonville, ME 04849

Michael H. Giles
Jayne C. Giles
15 Tozier Street
Belfast, ME 04915

J. Thomas Kent, Jr.
Joan L. Kent
11 Tozier Street
Belfast, ME 04915

Gary Roughead Revocable Living Trust
8105 Great Run Lane
Warrenton, VA 20186

Lyndon W. Morgan
1 Tozier Street
Belfast, ME 04915

Friends of the Harriet L. Hartley Conservation Area
c/o Kimberly Ervin Tucker, Attorney
48 Harbour Pointe Drive
Lincolnton, ME 04849