

***CITY OF ROCKLAND, MAINE***



***270 Pleasant Street  
Rockland, Maine 04841***

**CITY CLERK'S OFFICE**

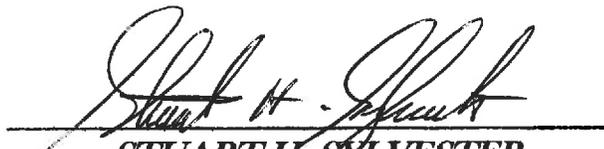
September 4, 2015

***YOU ARE HEREBY NOTIFIED THAT A SPECIAL MEETING OF THE  
ROCKLAND CITY COUNCIL WILL BE HELD IN CITY COUNCIL  
CHAMBERS AT ROCKLAND CITY HALL, 270 PLEASANT STREET,  
ROCKLAND, MAINE ON WEDNESDAY, SEPTEMBER 9, 2015 AT 5:30 P.M.  
FOR THE FOLLOWING PURPOSE(S):***

*[Please Note Starting Time and Date]*

- 5:30 p.m. Executive Session pursuant to 1 M.R.S. §405(6)(A) which allows for the discussion of personnel matters, for a discussion of personnel reviews.
  
- 6:30 p.m. Discussion: Parking Committee Request  
Discussion: Goal Setting Procedure  
Set Agenda for September 14, 2015 Regular Meeting  
Executive Session pursuant to 1 M.R.S. §405(6)(A) which allows for the discussion of personnel matters, for review of the City Attorney.

***YOUR PUNCTUAL ATTENDANCE IS REQUESTED  
PER ORDER OF THE MAYOR OF THE CITY OF ROCKLAND***

  
**STUART H. SYLVESTER  
CITY CLERK**

## **ITEMS FOR 09/14/15 REGULAR MEETING:**

**September 9, 2015**

### **Communications:**

- a. Letter from Rob Milliken – Offer for 99 West Meadow Road
- b. Letter from Rob Milliken – Offer for 328 Limerock Street
- c. Letter from John Sargent – Request for ROW License – Rock Wall

### **Licenses and Permits:**

- a. License to Operate a Taxi Company – Joe’s Taxi (8 cabs)
- b. Liquor License – Pho Sizzle Restaurant

### **Resolves:**

- #38 Accepting Donation – 1891-92 City of Rockland Annual Report

### **Ordinances in Final Reading and Public Hearing:**

- #21 Zoning Map Amendment – Farwell Drive Vicinity
- #23 Ch. 17, Sec. 17-801 Parking Prohibition – Gordon Drive
- #24 Ch. 12, Sec. 12-107 Parking Ordinance – Shuffling
- #25 Authorizing Lease to Own Contract – CIP Equipment
- #26 Authorizing Quit Claim Deed – Sale of 328 Limerock Street
- #27 Ch. 12, Sec. 12-107 Curfew Violation; Notifications
- #28 Authorizing Lease of Community Building – YMCA
- #30 Authorizing Quit Claim Deed – Sale of 44 Old County Road
- #31 Authorizing Quit Claim Deed – Sale of 319 Broadway

### **Ordinances in First Reading:**

- #32 Zoning Map Amendment – “B” to “I” Thomaston Street
- #33 Authorizing Quit Claim Deed – Sale of 35 Broadway
- #34 Ch. 2, Sec. 2-212 Rules of Procedure – Regular Meetings Starting Time

### **Orders:**

- #67 Authorizing Cost of Living Salary Adjustments (Postponed from 8/10/15)
- #69 Public Hearing/Acceptance of Petition – RSU #13 Withdrawal
- #70 Calling Election and Placing Referendum Question on Ballot
- #71 Authorizing License Agreement – Rockland Motor Company Use of ROW
- #72 Authorizing Expenditure – Technical Support on REC Proposal
- #73 Authorizing Reserve Funds – Elm/Museum St. Project
- #74 Authorizing Sale of Duplicative Books – Historical Society
- #75 Authorizing License and Operations Agreement – YMCA



SRB  
Real Estate Investors  
SRB Homes LLC  
Union, Me  
04862

8/26/2015

We would like to put a bid of \$16,500.00 on  
99 West Meadow Rd.

Our plan for that would be to take it back  
to studs with all windows replaced, restore  
what floors we can, new heat system and any  
necessary wiring & plumbing updates needed.

We may (not sure yet) leave it with an in law  
apartment.

We will either rent it or sell it at that  
point of completion, deciding what the market  
needs.

Rob Milliken  
785-6777  
02  
691-0660



SRB  
Real Estate Investors  
SRB Homes LLC  
Union, Me  
04802

8/26/2015

We would like to put in a bid on 328 Limerock  
St Rockland of \$9000.00

Our plan with the property would ultimately  
restoring the property. With initially taking  
it back to the studs, repairing the foundation  
and roof and making apartments. Then at a  
later date bringing it back to what it use  
to be

Rob Milliken  
785-6777  
or  
691-0660

I have recently had a bit of landscaping preformed at my 7 Warren Street property.

7/29/15

A small dry-fit stone wall has been erected along the edge of the lawn in an attempt to prevent more property damage caused by customers and delivery trucks of the Good Tern Co-Op, who are wont to drive on and over my lawn and also to improve the appearance of my property and the entry to the street.

In building this wall I have unintentionally encroached on the town's set back.

I understand the concerns the City of Rockland has as far as damage to the wall that may occur as a result of snow removal from the street and I am willing to accept responsibility for damage to City equipment or to the wall.

I hope by signing a release form we can put any concerns to rest.

Sincerely  
John Sargent  
738 Main St  
Rockland ME

A handwritten signature in black ink, appearing to be 'John Sargent', written over the typed name and address.

APPLICATION FOR TAXICAB LICENSE

City of Rockland, Maine  
270 Pleasant Street  
Rockland, Maine 04841

Office Use Only

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

Police Chief \_\_\_\_\_

City Clerk \_\_\_\_\_

License # \_\_\_\_\_

Name of Applicant Joe Schiarone Phone 975-3560

Address of Applicant P.O. Box 32  
South Thomaston, ME 04858

Name of Taxi Company Joe's Taxi Phone 975-3560

Address of Taxi Company P.O. Box 32  
South Thomaston, ME 04858

Other persons or entities having an interest in the company:

Name	Address
<u>N/A</u>	

(Use Separate Sheet, if necessary)

Has Applicant, or any interested party, been convicted of any of the following offenses in the last 5 years: Criminal homicide; rape; aggravated assault; child molestation; sale or distribution of narcotic drugs, barbituric acid derivatives, and/or central nervous system stimulants; criminal solicitation or criminal attempt to commit any of the above; or any felony in the commission of which a motor vehicle was used. YES  NO

If Yes, specify: \_\_\_\_\_  
(Use Separate Sheet, if necessary)

Experience in Transportation of Passengers: Has the Applicant operated a mode of public conveyance previously?  YES  NO If YES, specify: Joe's Taxi

(Use Separate Sheet, if necessary)

Number of Taxicabs Owned By Applicant: 8 Number of Taxicabs to be Operated in City: 8

Fee: (\$50 per taxicab) \$ \_\_\_\_\_ Description: \_\_\_\_\_

Make	Model	Year	VIN Number	Seating
<u>See Attached</u>				

(Use Separate Sheet, if necessary)

Certificate of Insurance: A certificate of insurance covering the business and all vehicles registered to the business must be submitted with this application. Certificate Submitted

The applicant hereby swears that the information contained in this application is true and correct to the best of his or her knowledge, and agrees to conform with the provisions of the Ordinance regulating the operation of taxicabs within the City of Rockland and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature [Signature] Date 8/15/15

JOE'S TAXI LIST OF CARS FOR RENEWAL SEPTEMBER 2015

MAKE/YEAR	MODEL	SERIAL#	PLATE#	TAXI CAPACITY
FORD/2009	CROWN VIC	2FAHP71V59X141555	JOES-1	5
FORD/2010	CROWN VIC	2FABP7BVAX144031	JOES-2	5
FORD/2008	CROWN VIC	2FAHP71V28X175175	JOES-3	5
FORD/2009	CROWN VIC	2FAHP71V79X141587	JOES-4	5
FORD/2010	CROWN VIC	2FABP7BV7AX144028	JOES-5	5
FORD/2009	CROWN VIC	2FAHP71V29X141576	JOES-6	5
FORD/2010	CROWN VIC	2FABP7BV2AX144020	JOES-7	5
FORD/2010	CROWN VIC	2FABP7BV1AX144042	JOES-8	5

POLICY NUMBER: BAPBZ0227714

IL DS 00 09 08

### COMMON POLICY DECLARATIONS

<b>PRESERVER INSURANCE COMPANY</b> 120 BROADWAY, 31ST FLOOR NEW YORK, NY 10271-3199	<b>TOWER RISK MANAGEMENT CORPORATION A MEMBER OF TOWER GROUP COMPANIES</b> 500 WEST CYPRESS CREEK ROAD, SUITE 500 FORT LAUDERDALE, FL 33309
NAMED INSURED: <u>JOSEPH SCHIAVONE DBA JOE'S TAXI</u>	
MAILING ADDRESS: <u>P. O. BOX 32</u> <u>SOUTH THOMASTON, ME 04858</u>	
POLICY PERIOD: FROM <u>9/17/2014</u> TO <u>9/17/2015</u> AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE	

BUSINESS DESCRIPTION	<u>TAXI</u>
----------------------	-------------

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.	
	PREMIUM
CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART	\$ <u>0.00</u>
COMMERCIAL AUTOMOBILE COVERAGE PART	\$ <u>17,262.00</u>
COMMERCIAL GENERAL LIABILITY COVERAGE PART	\$ <u>0.00</u>
COMMERCIAL INLAND MARINE COVERAGE PART	\$ <u>0.00</u>
COMMERCIAL LIABILITY UMBRELLA	\$ <u>0.00</u>
COMMERCIAL PROPERTY COVERAGE PART	\$ <u>0.00</u>
CRIME AND FIDELITY COVERAGE PART	\$ <u>0.00</u>
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART	\$ <u>0.00</u>
EQUIPMENT BREAKDOWN COVERAGE PART	\$ <u>0.00</u>
FARM COVERAGE PART	\$ <u>0.00</u>
LIQUOR LIABILITY COVERAGE PART	\$ <u>0.00</u>
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART	\$ <u>0.00</u>
POLLUTION LIABILITY COVERAGE PART	\$ <u>0.00</u>
<u>Install Fee: 20.00</u>	\$ <u>20.00</u>
<b>TOTAL:</b>	<b>\$ <u>17,282.00</u></b>
Premium shown is payable: \$ <u>17,262.00</u> at inception. \$ _____	

APPLICATION FOR CITY LICENSE  
CITY OF ROCKLAND, MAINE

270 Pleasant Street  
Rockland, Maine 04841

Name of Applicant Thong Pham Phone 323-1548

Address of Applicant 10 Leland St  
Rockland, ME 04841

Name of Business Pho Sizzle Phone 323-1548

Address of Business 10 Leland St  
Rockland ME 04841

Name of Property Owner (if different) Lewis Rohrbach

Type of License(s):  Liquor  Victualer  Entertainment  
 Lodging House  Commercial Hauler  Landscape Contractor  
 Billiard Room  Second Hand Dealer  Other (Specify) \_\_\_\_\_

Type of Business Restaurant

Expiration of Current License New

Fee(s) Paid \$ 150.00 Date 9/1/15

The applicant herein agrees to conform with the provisions of the Ordinances of the City of Rockland relating to business licenses and such reasonable rules and regulations as may hereafter be adopted. The applicant hereby gives all persons and governmental agencies having information relevant to the above items permission to release the same to the City Clerk, Chief of Police, or other person(s) authorized to receive the same, and releases any claim that may be alleged to have arisen as a result of such release or disclosure.

Applicant's Signature Thong Pham Date 9/1/15

Approved By: \_\_\_\_\_ License # \_\_\_\_\_

\_\_\_\_\_  
Approved \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ Code Officer \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Approved \_\_\_\_\_ Inspected; See Report \_\_\_\_\_ Fire Inspector \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Police Chief \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
City Clerk \_\_\_\_\_ Date \_\_\_\_\_

**BUREAU OF ALCOHOLIC BEVERAGES  
DIVISION OF LIQUOR LICENSING & ENFORCEMENT  
8 STATE HOUSE STATION  
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.  
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY	
LICENSE NUMBER:	CLASS:
DEPOSIT DATE	
AMT. DEPOSITED:	BY:
CK/MO/CASH:	

PRESENT LICENSE EXPIRES New

INDICATE TYPE OF PRIVILEGE:  MALT  SPIRITUOUS  VINOUS

**INDICATE TYPE OF LICENSE:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV) | <input type="checkbox"/> RESTAURANT/LOUNGE (Class XI)       |
| <input type="checkbox"/> HOTEL-OPTINONAL FOOD (Class I-A)          | <input type="checkbox"/> HOTEL (Class I,II,III,IV)          |
| <input type="checkbox"/> CLASS A LOUNGE (Class X)                  | <input type="checkbox"/> CLUB-ON PREMISE CATERING (Class I) |
| <input type="checkbox"/> CLUB (Class V)                            | <input type="checkbox"/> GOLF CLUB (Class I,II,III,IV)      |
| <input type="checkbox"/> TAVERN (Class IV)                         | <input type="checkbox"/> OTHER: _____                       |

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

<b>1. APPLICANT(S) --(Sole Proprietor, Corporation, Limited Liability Co., etc.)</b>			<b>2. Business Name (D/B/A)</b>		
DOB: _____			Pho Sizzle		
Thang V. Pham			10 Leland St		
DOB: 9/15/70			Location (Street Address)		
DOB: _____			Rockland ME 04841		
Address 10 Leland St			City/Town State Zip Code		
Rockland ME 04841			Mailing Address		
City/Town State Zip Code			City/Town State Zip Code		
Telephone Number 207-323-1548			Business Telephone Number 207-323-1548		
Fax Number _____			Fax Number _____		
Federal I.D. # _____			Seller Certificate # _____		

3. If premises is a hotel, indicate number of rooms available for transient guests: 0
4. State amount of gross income from period of last license: ROOMS \$ 0 FOOD \$ NA LIQUOR \$ NA - new restaurant
5. Is applicant a corporation, limited liability company or limited partnership? YES  NO
- If YES, complete Supplementary Questionnaire
6. Do you permit dancing or entertainment on the licensed premises? YES  NO

7. If manager is to be employed, give name: None - Owner = Phan, Thong
8. If business is NEW or under new ownership, indicate starting date: 10/15/15  
 Requested inspection date: \_\_\_\_\_ Business hours: Mon, FR 11-8 / Tue - 11-3 / Wed 11-
9. Business records are located at: 10 Leland St
10. Is/are applicants(s) citizens of the United States? YES  NO
11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:  
 Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Thong Vu Phan	9/15/70	Vietnam

Residence address on all of the above for previous 5 years (Limit answer to city & state)  
5702 N Cherokee Ave, Tampa, FL → left FL in 2013

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO
- Name: Thong V Phan Date of Conviction: Nov ~~2012~~ 2013  
 Offense: Operating under Influence (Alcohol) Location: Belfast, ME  
 Disposition: Completed Sentence - Cleared

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?  
 Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: Lewis Rohrbach

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required)  
Three Exits, 20-24 seats, Asian Market

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?  
 YES  NO  Applied for: \_\_\_\_\_

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.5 miles Which of the above is nearest? School - Ocean St

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO   
 If YES, give details: \_\_\_\_\_

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Rockland, ME on 9/2, 2015  
Town/City, State Date

Thong V Pham  
Signature of Applicant or Corporate Officer(s)  
Thong V Pham  
Print Name

Please sign in blue ink

\_\_\_\_\_  
Signature of Applicant or Corporate Officer(s)  
\_\_\_\_\_  
Print Name

**NOTICE – SPECIAL ATTENTION**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

**THIS APPROVAL EXPIRES IN 60 DAYS.**

**FEE SCHEDULE**

- Class I** Spirituous, Vinous and Malt ..... \$ 900.00  
**CLASS I:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.
- Class I-A** Spirituous, Vinous and Malt, Optional Food (Hotels Only) ..... \$1,100.00  
**CLASS I-A:** Hotels only that do not serve three meals a day.
- Class II** Spirituous Only ..... \$ 550.00  
**CLASS II:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.
- Class III** Vinous Only ..... \$ 220.00  
**CLASS III:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.
- Class IV** Malt Liquor Only ..... \$ 220.00  
**CLASS IV:** Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.
- Class V** Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) ..... \$ 495.00  
**CLASS V:** Clubs without catering privileges.
- Class X** Spirituous, Vinous and Malt – Class A Lounge ..... \$2,200.00  
**CLASS X:** Class A Lounge
- Class XI** Spirituous, Vinous and Malt – Restaurant Lounge ..... \$1,500.00  
**CLASS XI:** Restaurant/Lounge; and OTB.

**FILING FEE**..... \$ 10.00

**UNORGANIZED TERRITORIES** \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

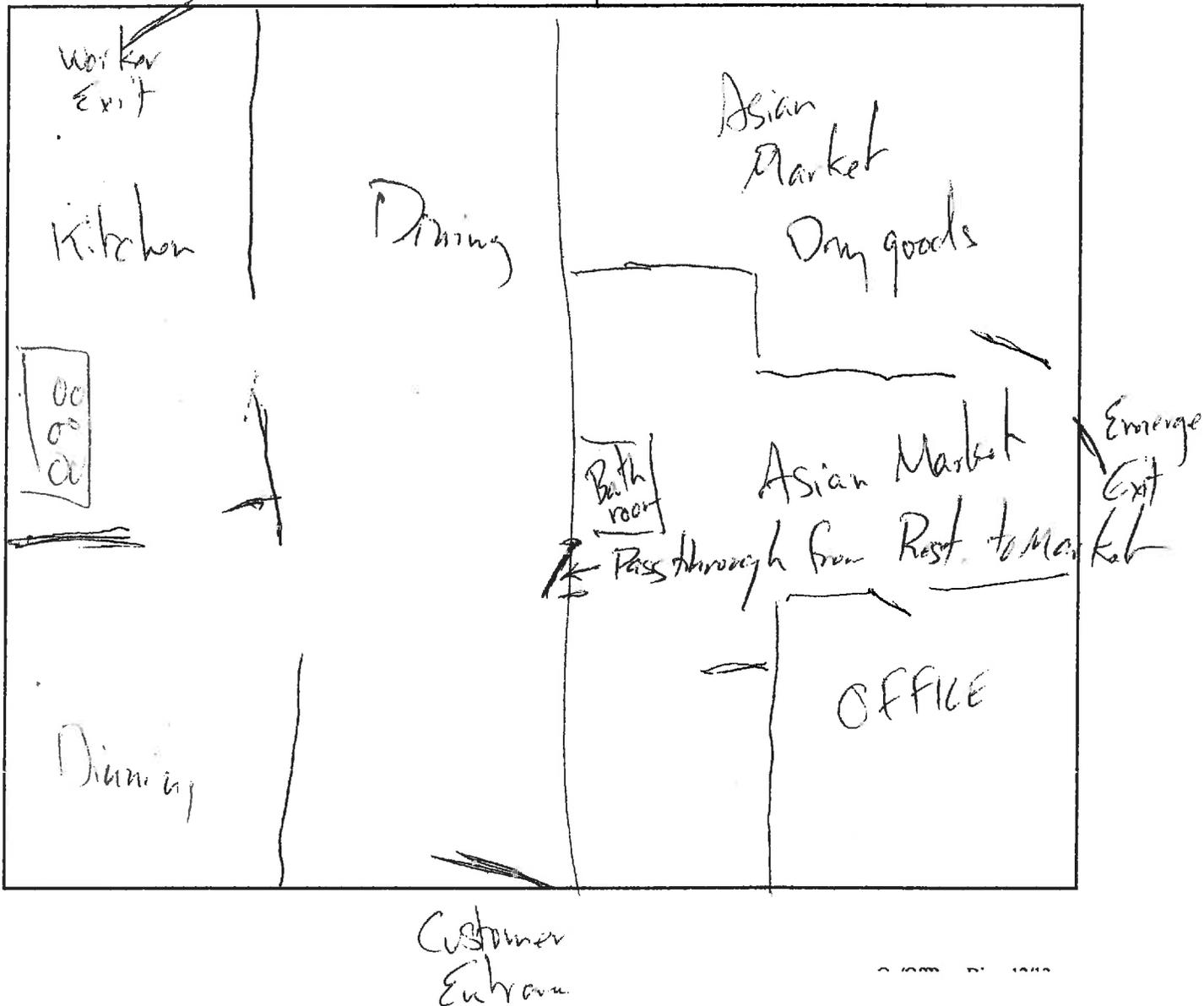


Bureau of Alcoholic Beverages  
Division of Liquor Licensing & Enforcement  
8 State House Station  
Augusta, ME 04333-0008  
Tel: (207) 624-7220 Fax: (207) 287-3434

## SUPPLEMENTAL APPLICATION FORM ON-PREMISE DIAGRAM

In an effort to clearly define your license premise and the areas that consumption and storage of liquor is allowed, The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, decks and all areas that you are requesting approval from the Division for liquor consumption.



**CITY OF ROCKLAND, MAINE**

**RESOLVE #38**

**IN CITY COUNCIL**

September 14, 2015

**RESOLVE** Accepting Donation – 1891-1892 Rockland Annual Report

**BE IT HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City gratefully accept the donation from Bill Guyton, of Lewiston, Maine, of an inscribed copy of the 1891-1892 Rockland Annual Report, inscribed by then-Mayor Edward Butler.

**AND**, be it further Resolved that a letter of thanks be sent to Mr. Guyton in recognition of his generous donation.

Sponsor: City Council

Originator: City Council

**CITY OF ROCKLAND, MAINE**

**ORDINANCE AMENDMENT #21**

**(As Amended 08/10/15)**

**IN CITY COUNCIL**

July 13, 2015

**ORDINANCE AMENDMENT: Amending Zoning Map in the Vicinity of Farwell Drive**

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT**, the Official Zoning Map of the City of Rockland, Maine, be and hereby is amended as follows:

1. By rezoning that portion of a parcel owned by Malcolm H. von Saltza having no address but described as Tax Map #95-A-2 that is currently located in the Commercial-3 Zone, to Woodland/Wildlife - G Zone; and

2. By rezoning that portion of a parcel owned by Joseph L. Soley having no address but described as Tax Map 95-A-10 that is currently located in the Commercial-3 Zone, to Woodland/Wildlife - G Zone; and

3. By rezoning that portion of the parcel owned by Malcolm H. von Saltza located at 1 Farwell Drive Rear (Tax Map #95-A-4) lying between 600 feet and 1,000 feet southerly of Farwell Drive from the Woodland/Wildlife - G Zone to the Commercial-3 Zone; and

4. By rezoning that portion of a parcel owned by Malcolm H. von Saltza having no address but described at Tax Map #95-A-2 lying between 600 feet and 1,000 feet southerly of Farwell Drive and westerly of an imaginary line extending the easterly property line of a parcel of land owned by Peter C. and Mary E. Johanson located at 11 Farwell Drive (Tax Map #95-A-2-9) from the Woodland/Wildlife-G Zone to the Commercial-3 Zone,

all as shown on the map attached as Exhibit A.

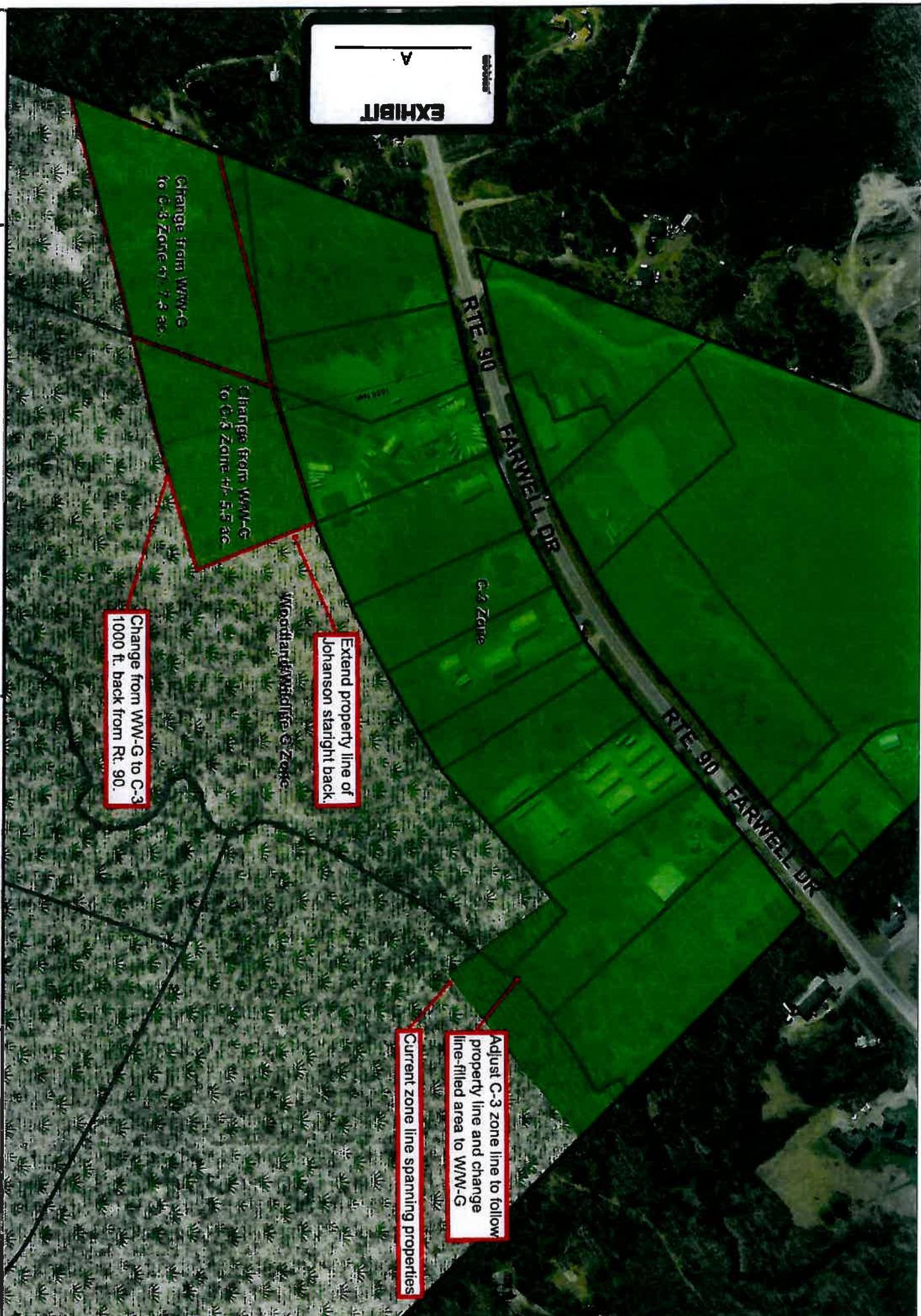
Sponsor: Mayor Isganitis  
Originator: Code Enforcement Officer

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_



CITY OF  
ROCKLAND  
KNOX COUNTY  
MAINE

EXHIBIT  
A



Printed: 8/3/2015

1 inch = 400 feet



**DISCLAIMER**

The maps are compiled from aerial photography, existing surveys, deeds, and landowner's descriptions. They are to be used for assessment purposes only, and not for conveyance.

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #23  
IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT Parking Prohibition – Gordon Drive**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 17, Traffic & Vehicles, ARTICLE VII, Schedules, SECTION 17-801, Schedule I, Parking Prohibition, BE AMENDED AS FOLLOWS:**

**Sec. 17-801 Schedule I. Parking Prohibition**

Parking is prohibited at all times upon the following streets or parts thereof:

<b>Street</b>	<b>Area Affected</b>
<u>12A. Gordon Drive</u>	<u>A. South side for a distance of one hundred (100) feet in an Easterly direction starting from one hundred twenty (120) feet East of the entrance at 38 Gordon Drive (Tax Map #62-A-17).</u>  <u>B. North side for a distance of sixty (60) feet in an Easterly direction starting from a point ninety (90) feet East of the entrance at 50 Gordon Drive (Tax Map #62-A-14).</u>

Sponsor: Councilor MacLellan-Ruf  
Originator: Parking Committee

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #24  
IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT Violations of Parking Ordinance – Shuffling or Relocating**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 17, Traffic & Vehicles, SECTION 17-403 & 17-420 Violations of Parking Ordinance; Schedule of Fines & Waiver Fees, BE AMENDED AS FOLLOWS:**

**Sec. 17-403 Violations of Parking Ordinance**

Overtime Parking and Shuffling, Relocating Vehicles, or Removing Chalk to Avoid Penalties. When signs are erected in each block giving notice thereof, no person shall park a vehicle upon any of the streets or parts of the streets described in Section 17-802 for a longer period than so specified in that Section. No person shall relocate or move a vehicle in order to avoid a violation of the parking time limit. The following action shall be considered prima facie evidence of such prohibited conduct when observed by a law, or parking enforcement officer: when a person removes or obscures chalk marks placed by an officer, or moves or relocates a vehicle which has been parked less than the posted time limit from a time limited parking space and then returns to the same parking space or moves to a parking space within 500 feet of that same parking space, as measured along the street, within five twenty minutes of the time that the initial parking space was vacated. Such shuffling or relocating shall constitute overtime parking for the purposes of this section with the higher shuffling fines and waiver fees. Overtime parking is a violation of this Article, and shall be subject to the fines set forth in this Section. Each two hours of overtime parking shall constitute a separate offense.

\* \* \* \*

**Sec. 17-420 Violations of Parking Ordinance**

4. Schedule of Fines and Waiver Fees:

Sec.	Parking Violation	Fines Pursuant to Sec. 17-420(1)		Initial Waiver Fee if Paid w/in 30 Days of Violation	Waiver Fee after 30 day Initial Waiver Fee but before Summons Issued
		Min.	Max.		
17-401	Stopping, Standing or Parking Prohibited in Specific Places	\$50	\$100	\$20	\$40
17-402	Parking Prohibited At All Times on Certain Streets or Lots	\$50	\$100	\$20	\$40
17-403	Overtime Parking (NOTE: Each 2 hrs. of over time parking constitutes a separate offense) <u>Shuffling or Relocating</u>	\$50	\$100	\$10	\$20
		\$50	\$100	\$25	\$50
[Remainder of schedule is unchanged]					

First Reading 8/10/15  
 First Publication 8/20/15  
 Public Hearing 9/14/15  
 Final Passage \_\_\_\_\_  
 Second Publication \_\_\_\_\_  
 Effective Date \_\_\_\_\_

Sponsor: Councilor Pritchett  
 Originator: Parking Committee

**CITY OF ROCKLAND, MAINE**

**ORDINANCE AMENDMENT #25**

**IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT Authorizing Lease to Own Contract – Capital Equipment**

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

THAT, pursuant to Charter Section 702 (c), Chapter 2, Section 2-105 of the City Code, the City Manager is hereby authorized to solicit competitive bids and to enter into a lease to own contract, having a term of no more than five years, in a total principal amount not to exceed \$400,000, for the acquisition of the following, approved capital equipment:

- Video Equipment - Council Chambers
- Police Cruiser
- Dump Truck with plow and sander - Public Works
- Ambulance - EMS

AND, THAT the City Manager is authorized to execute on behalf of the City of Rockland such documentation as may reasonably be necessary to secure such funding, including a lease agreement for and a grant of a security interest in the property and equipment thus financed.

Sponsor: City Council  
Originator: City Manager

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

**2016 Lease to Own Contract**

<b>Department</b>	<b>Equipment</b>	<b>Amount</b>
City Hall	Video Equipment - Council Chambers	\$30,000
Police	Police Cruiser	\$30,000
Public Works	Dump Truck with Plow & Sander	\$150,000
EMS	Ambulance	\$190,000
	<b>TOTAL</b>	<b>\$400,000</b>

**CITY OF ROCKLAND, MAINE**  
**ORDINANCE AMENDMENT #26**  
**IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT** Authorizing Sale of City Property – 328 Limerock Street

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

THAT the City Manager is hereby authorized to issue a municipal quitclaim deed to Jake Barbour, of Owls Head, Maine, for property located at 328 Limerock Street, as shown on Rockland Tax Map #66-B-8, for \$5,000, said sale being subject to the execution and substantial compliance with the terms and conditions set forth in a purchase and sale agreement incorporated herein by reference.

Sponsor: City Council  
Originator: City Manager

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

**PURCHASE AND SALE AGREEMENT FOR  
MUNICIPAL LIEN-ACQUIRED PROPERTY**

1. **PARTIES:** This Agreement is made between the **CITY OF ROCKLAND, MAINE** ("Seller") and **JAKE BARBOUR** ("Buyer").

2. **DESCRIPTION:** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy, BY QUITCLAIM DEED, [ X ] all of / [ ] part of (if "part of," explain below) the property situated in the City of Rockland, County of Knox, and State of Maine, located at **328 LIMEROCK STREET, ROCKLAND, MAINE (TAX MAP 66-B-8)** and described in deed(s) recorded on the Knox County Registry of Deeds in Book 2632, Page 45 (the "Property"). Seller shall not and is not required to warrant title to the premises, intending only to release its interest in the Property to Buyer, subject to any encumbrances, encroachments, or other matters that may now exist, or hereafter appear to exist.

3. **FIXTURES; PERSONAL PROPERTY:** The Buyer and Seller agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, sump pumps, and electrical fixtures are included with the sale except for the following:     N/A    

\_\_\_\_\_. Seller makes no representation or warranty as to the condition, capacity, or suitability of any mechanical components of fixtures at the time of closing, and shall the convey the same "as is," and without any warranty as to their condition, fitness for particular purpose, or otherwise.

4. **PURCHASE PRICE:** For such Quitclaim Deed and conveyance Buyer agrees to pay the total purchase price of **\$5,000**.

5. **DEPOSIT.** Upon execution hereof, Buyer shall deliver to the Buyer a deposit of earnest money in the amount of **\$500**. The remainder of the purchase price shall be paid by a certified or cashier's check upon delivery of the Deed. In the event Buyer fails to purchase the property as provided herein, for any reason other than the termination of this Agreement by the Seller, such earnest money shall be non-refundable and shall be retained by Seller.

6. **CLOSING DATE:** The Closing Date shall be **October 14, 2015**, or on another date thereafter upon mutual agreement of the parties.

7. **TITLE:** Seller shall deliver a quitclaim deed for the Property to Buyer. Seller is not required to warrant title to the Property, intending only to release its interest in the Property to Buyer, subject to any encumbrances, encroachments, or other matters that may now exist, or hereafter appear to exist. Seller makes no representation to Buyer that the Seller will have marketable title following the conveyance contemplated herein.

8. **POSSESSION, OCCUPANCY, AND CONDITION:** Unless otherwise agreed in writing, possession and occupancy of the Property, free of tenants and occupants, shall be given to Buyer immediately at closing. Buyer has inspected the Property; acknowledges that the structure(s) on the Property previously were damaged; require demolition or repair; and may contain mold and other potentially-hazardous conditions; and accepts and assumes the cost and risk of loss and liability arising from the condition of the Property. Seller makes no representation about and accepts no responsibility or liability for the condition of the Property or its fitness for any use contemplated by Buyer.

9. **RISK OF LOSS, DAMAGE, DESTRUCTION AND INSURANCE:** Prior to closing, risk of loss, damage, or destruction of structures at the Property shall be assumed solely by the Seller. Seller shall keep the principal structure(s) insured against fire and other extended casualty risks prior to closing. If any structure is damaged or destroyed prior to closing, Buyer may either terminate this Agreement and be refunded the earnest money, or close this transaction and accept the Property "as-is" together with an assignment of the insurance proceeds relating thereto.

10. **FUEL / UTILITIES; PRORATIONS:** Any fuel in operable fuel tanks at the Property shall be purchased by

the Buyer at the cash price as of the date of the closing of the supplier that last delivered fuel at the Property. Metered utilities such as electricity, water, and sewer will be paid through the date of closing by Seller. The following items, where applicable, shall be prorated as of the date of closing: collected rent, association fees, (other) payment in lieu of tax. The day of closing is counted as a Seller day for purposes of pro-rating expenses and income. Real estate taxes due and owing in the current municipal fiscal year (or payment in lieu of taxes if the municipality owned the Property on April 1) shall be prorated as of the date of closing; Seller is responsible for any unpaid taxes for prior years. If the amount of said taxes is not known at the time of closing, they shall be apportioned on the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained. Buyer agrees to make pro-rated payment in lieu of tax for Fiscal Year 2016 (July 1, 2015, through June 30, 2016) at the closing, calculated from the amount of tax that would have been assessed on the Property had the Buyer held title to the property on April 1, 2015. Such payment in lieu of tax shall be based upon the assessment of the property as of April 1, 2015, which was \$91,500. Buyer and Seller will each pay their transfer tax if and as required by the State of Maine, if applicable. The payment and other requirements of the parties set forth in this paragraph are contractual, and shall survive closing and remain in full force and effect until performed.

11. DUE DILIGENCE: Neither Seller nor Agency makes any warranties regarding the condition, permitted use, or value of Seller's real or personal property, or any representations as to compliance with any federal, state, or municipal codes, including, but not limited to, fire, life safety, electrical, plumbing, and property maintenance. Buyer is encouraged to seek information from professionals regarding any specific issue or concern.

12. FINANCING: This Agreement is not subject to Financing.

13. BROKERAGE DISCLOSURE. Buyer and Seller acknowledge they have been advised of the following relationships:

Licensee:                      Agency:                       Seller's Agent:                       Buyer's Agent:

None.

14. PROPERTY DISCLOSURE FORM: Buyer waives notice and receipt of property disclosure, lead paint, private water supply, arsenic, and any other form or information regarding the condition of the Property.

15. DEFAULT: In the event of default by the Buyer, Seller may employ all legal and equitable remedies, including without limitation, termination of this Agreement and forfeiture by Buyer of the deposit. In the event of a default by Seller, Buyer may employ all legal and equitable remedies, including without limitation, termination of this Agreement and return to Buyer of the earnest money. Agency acting as escrow agent has the option to require written releases from both parties prior to disbursing the earnest money to either Buyer or Seller.

16. PRIOR STATEMENTS: This Agreement sets forth all of the obligations of the parties, and replaces any prior agreement between the parties, either written or oral, relating to the Property. Any prior representations or statements by a party not also set forth herein are not valid or binding upon such party.

17. HEIRS / ASSIGNS: This Agreement shall extend to and be obligatory upon the successors and/or assigns of the parties.

18. COUNTERPARTS: This Agreement may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

19. ADDENDA:  No;  Yes – List, and Attach. \_\_\_\_\_

20. EFFECTIVE DATE; NOTICE; MISCELLANEOUS: Any notice, communication or document delivery requirements hereunder may be satisfied by providing the required notice, communication or documentation to the party or their licensee. Withdrawals of offers and counteroffers will be effective upon communication, whether oral

or in writing. This Agreement is a binding contract when signed by the Buyer and approved, in first reading, by the City Council. Licensee is authorized to fill in the Effective Date on Page 1 hereof, once ascertained. Except as expressly set forth to the contrary, the use of the term "days" in this Agreement, including all addenda made a part hereof, shall include all days of the week, and not be limited to "business days."

21. **CONFIDENTIALITY:** Buyer and Seller authorize the disclosure of the information herein to the real estate licensees, attorneys, lenders, appraisers, inspectors, investigators and others involved in the transaction necessary for the purpose of closing this transaction. Buyer and Seller authorize the lender and/or closing agent preparing the closing statement to release a copy of the closing statement to the parties and their licensees prior to, at and after the closing. Buyer acknowledges with its signature that Seller is a municipality and that this Agreement is a public record that Seller may be required by the Maine Freedom of Access Act to disclose it, upon request.

22. **OTHER CONDITIONS:** Seller shall apply Buyer's deposit to purchase price at closing.

23. **ACKNOWLEDGMENTS; APPLICABLE LAW.** A copy of this Agreement is available to each of the parties and, by signature, receipt of a copy is hereby acknowledged by each party. Each party acknowledges that it has had full opportunity to consult legal counsel regarding any and all matters in this Agreement not fully understood by the party. Seller acknowledges that State of Maine law requires buyers of property owned by non-resident sellers to withhold a prepayment of capital gains tax unless a waiver has been obtained by Seller from the State of Maine Revenue Services. This is a Maine contract and shall be construed according to the laws of Maine.

Buyer's Mailing address is: 170 Ash Point Drive, Owls Head, ME 04854

Date: September \_\_, 2015

BUYER: Jake Barbour

Subject to approval by the Rockland City Council, Seller agrees to deliver the Property at the price and upon the terms and conditions set forth herein.

Seller's Mailing address is: City Manager; Rockland City Hall; 270 Pleasant St.; Rockland, ME 04841.

Dated: September \_\_, 2015

SELLER: City of Rockland, Maine  
by: James D. Chaousis II  
its: City Manager

**CITY OF ROCKLAND, MAINE**  
**ORDINANCE AMENDMENT #27**  
**(As Amended 08/10/15)**  
**IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT: Facilitating Service of Notice of Curfew Violations**

**THE CITY OF ROCKLAND HEREBY ORDAINS THAT CHAPTER 12, Miscellaneous Offenses, ARTICLE I, Curfew Ordinance, SECTION 12-107, Police Procedures, BE AMENDED AS FOLLOWS:**

**Sec. 12-107 Police Procedures**

1. General. A policeman of the City, upon finding or have attention called to any minor on the streets in *prima facie* violation of the Curfew Ordinance, normally shall take the minor to the City Police Station, where a parent shall immediately be notified to come for such minor, whereupon they shall be interrogated. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the sergeant there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus making available experienced supervisory personnel, the best of facilities and access to information and records. In the absence of convincing evidence such as a birth certificate, a policeman on the street shall in the first instance use his best judgement in determining age.

2. Refinement. Police procedures shall constantly be refined in the light of experience and may provide, inter alia, that the policeman may deliver to a parent or guardian thereof a minor under appropriate circumstances, for example a minor of tender age near home whose identity and address may readily be ascertained or are known.

3. Written Report. In any event such policeman shall within twenty-four (24) hours file a written report with the Chief of Police, or the Juvenile Officer his/her designee.

4. Release of Minor. When a parent or guardian, immediately called, has come to take charge of the minor, and the appropriate information has been recorded, the minor shall be released to the custody of such parent or guardian. If the parent or guardian cannot be located, or fails to take charge of the minor, then the minor shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor or other person who will on behalf of the parent or guardian assume responsibility of caring for the minor pending the availability or arrival of a parent.

5. First Violation. In the case of a first violation by a minor the Chief of Police or his/her designee shall send by certified mail to, or cause in-hand service by any Police Officer on, send to a parent or guardian written notice of the violation with a warning that any subsequent violation will result in full enforcement of the Curfew Ordinance, including enforcement of parental responsibility and of applicable penalties.

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

Sponsor: Councilor MacLellan-Ruf  
Originator: Police Chief

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #28  
IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT** Authorizing Lease of Community Building

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT** the City Manager is authorized to enter into an agreement with the Penobscot Bay YMCA for the lease of the City's Community Building at 61 Limerock Street to the Penobscot Bay YMCA, in substantial conformance with the attached form of lease. Such lease shall exclude the offices of the Rockland District Nursing Association, shall permit the continued conduct of programs serving the community at the Community Building, and shall be integrated with an Operating Agreement between the City and the Penobscot Bay YMCA subject to approval of said Operating Agreement by the Rockland City Council and Penobscot Bay YMCA Board of Directors.

Sponsor: City Council  
Originator: City Manager

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

## ROCKLAND COMMUNITY BUILDING LEASE AGREEMENT

This Rockland Community Building Lease Agreement (the "Lease") by and between the **City of Rockland, Maine** (the "Lessor") a municipal corporation duly organized and existing under the laws of the State of Maine, and situated in Knox County, and the **Penobscot Bay YMCA** ("Lessee"), a Maine non-profit corporation in with its principal place of business in Rockport, Maine, is effective this 1st day of October 2015.

**WHEREAS**, Lessor owns and operates a 25,700 sq. ft. multi-purpose brick building at 61 Limerock Street in Rockland, Maine (the "Community Building"); and

**WHEREAS**, Lessor, among other programs, provides recreational activities throughout the school year at the Community Building, which programs are currently operated by the Rockland Recreation Department; and

**WHEREAS**, Lessor seeks to reduce its expenses incurred in providing such recreational activities by privatizing and terminating the public's operation of recreational programs in Rockland; and

**WHEREAS**, of even date herewith, Lessor and Lessee have entered into an Operating Agreement establishing the terms and conditions for Lessee's operation of recreational activities in the Community Building and at other locations owned by the Lessor in Rockland, which Operating Agreement together with this Lease are intended by the Lessor and Lessee to constitute an integrated agreement as to Lessee's occupancy of the Community Building and operation of recreational activities for the City of Rockland,

NOW, THEREFORE, Lessor and Lessee agree as follows:

1. **Lease of Community Building.** Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, in consideration for the services and programs to be provided by Lessee as described herein and in the Operating Agreement and without monetary payment of rent, the interior of the Community Building except as hereinafter described (the "Leasehold"), subject to the terms and conditions set forth in this Lease and the Operating Agreement. The area included in the Leasehold is limited as follows:

A. **RDNA.** The Leasehold shall not include the offices of Rockland District Nursing Association ("RDNA") located in the east wing of the first floor of the Community Building;

B. **Shared Space.** The Leasehold includes, but shares with RDNA, the entrance and entrance corridor on the east side of the first floor of the Community Building;

C. **Lessor's Use.** Lessor reserves the right to utilize the Leasehold to host

existing programs as further detailed in the Operating Agreement, and new programs serving the community that shall be scheduled at locations and times so as not to conflict with Lessee's recreational programs.

The Leasehold, Community Building, and property located at 61 Limerock Street in Rockland, Maine may sometimes be collectively referred to herein as the "premises."

**2. Term.**

A. Initial Term. The Initial Term shall be two (2) years and nine months, commencing on October 1, 2015, and terminating at midnight on June 30, 2018, as follows:

Year One: 10/01/15 – 06/30/16;  
Year Two: 07/01/16 – 06/30/17; and  
Year Three: 07/01/17 – 06/30/18 (the "Expiration Date").

B. Renewal. The Rockland City Council and YMCA Board of Directors may authorize the renewal of this Lease for a two year Renewal Term, as follows:

Year Four: 07/01/18 – 06/30/19; and  
Year Five: 07/01/19 – 06/30/20.

Such Renewal Term shall be subject to the other terms and conditions set forth in this Lease, and in the Operating Agreement.

C. Holding Over. If Lessee shall continue its occupancy of the Leasehold after the Expiration Date, the occupancy shall not be deemed to extend or renew the Term, and the tenancy shall constitute a tenancy from month to month on all of the terms of this Lease.

D. Memorandum of Lease. This Lease shall not be recorded, but upon Lessee's request, Lessor shall execute a memorandum of this Lease and shall record the same in the Knox County Registry of Deeds.

**3. Use.** Lessee shall use the Leasehold to operate youth and adult recreational programs for Rockland and area residents. Lessee shall make such programs available to all persons complying with Lessee's Member Policy, irrespective of financial capacity, in conformance with Lessee's Financial Assistance Policy. Lessee may utilize the existing designated parking areas outside the Community Building at 61 Limerock Street, in conjunction with other users of the Community Building, Library, and playground. Lessee may not proselytize on behalf of any religion, other than asking participants to comply with Lessee's Code of Conduct, which Lessee is in the practice of, and may, describe as being derived from Christian values. In Year One of the Lease, between October 1, 2015, and December 31, 2015, Lessee, in its sole discretion, may limit its Rockland recreational programs to youth soccer and basketball,

and may choose not to open and staff the Leasehold at all times between the proposed regular program hours of 12:00 noon to 8:00 p.m., and/or not to operate an after school program.

**4. Operating Subsidy.** Lessor's lease of the Community Building and operation of recreational activities as outlined in the Operating Agreement shall be conditioned upon Lessor's appropriation and payment to Lessee of an annual Operating Subsidy, as more fully characterized in the Operating Agreement, in at least the following amounts:

Year One:	\$ 84,000
Year Two:	\$130,000

The Operating Subsidy for Years Three through Five shall be set forth in the Operating Agreement, and shall include a yearly increment derived from the Consumer Price Index ("CPI"). The Operating Subsidy shall be paid as follows:

<u>Year:</u>	<u>Due Dates:</u>	<u>% Amount:</u>
Year One:	October 1	75
	April 1	25
Years Two – Five:	October 1	50
	April 1	50

For Years Two through Five, the appropriation and payment of the Operating Subsidy is conditioned upon annual approval of such subsidy by the Rockland City Council. In the event that such appropriation and payment is not approved and paid, Lessee may terminate this Agreement as set forth in Section 16(B).

**5. Rent.** Lessee shall not owe Lessor rent for Lessee's lease and occupancy of the Community Building.

**6. Utilities.** Lessor shall be responsible for providing and paying all costs associated with all utilities used at the Community Building including but not limited to potable water, sewerage disposal, electricity, and heating, ventilation, and air conditioning fuel(s), to the extent such utilities serve the Leasehold as of the effective date of this Lease. Phone and internet connections will also continue to be provided by Lessor. If any utility service to the Community Building should become unavailable for a continuous period in excess of twenty-four (24) hours and such unavailability is not directly caused by Lessee, Lessor shall use reasonable efforts to cause the cessation of any such interruption and to the extent reasonably possible to effect repairs during non-business hours. Lessee shall not use any equipment or devices that utilize excessive electrical energy or which may, in Lessor's reasonable opinion, overload the wiring or interfere with electrical services to other tenants. Lessor shall not be required, without its written agreement, to provide expanded or additional utility services or other amenity

to the Leasehold not in existence as of the effective date of this Lease.

**7. Maintenance; Alterations; Repairs.** Lessor shall be responsible for maintaining the Leasehold, including the building structure, heating, ventilation, plumbing, electrical, and fire suppression systems, equipment and fixtures, and for performing any repairs Lessor determines are reasonably necessary for the Lessee's purposes. Lessor shall also be responsible for maintenance of exterior grounds and landscaping, snow plowing and sanding of entrances and parking areas, and trash removal. Lessee shall provide interior custodial services to keep the Leasehold in a neat and clean condition. Alterations or repairs requested by Lessee shall be subject to approval by the Lessor, and available funding. Lessee shall not make any alterations to the Leasehold without the prior, written approval of Lessor. No such alteration may be made that impairs the safety or changes the character or limits the utility of the Community Building for the Lessor, its other occupants and users, or the public. Lessee shall have the right to place and install personal property, equipment, and temporary installations in and upon the Leasehold, and to fasten the same to the premises, so long as such installations do not impair the safety or change the character or utility of the premises. All personal property, equipment, machinery, trade fixtures and temporary installations installed by Lessee in the Leasehold shall remain Lessee's property free and clear of any claim by Lessor, and Lessor shall have the right to remove the same at any time during the term of this Lease provided that all damage to the premises caused by such removal shall be repaired by Lessee at Lessee's expense. Other alterations and improvements to the premises shall be considered to be part of the premises. Lessee shall not permit any mechanic's or materialman's lien to be filed against the Leasehold, the Community Building, or the Lessee's property for any work performed, materials furnished, or obligation incurred, by or at the request of Lessee.

**8. Delivery of Possession.** Delivery of Possession shall be deemed to have occurred on October 1, 2015.

**9. Personal Property Taxes.** Lessee shall be responsible for paying all personal property taxes with respect to Lessee's personal property with a tax situs at the Leasehold, if any.

**10. Insurance.** The parties shall carry the following insurance policies:

A. Lessor's Insurance.

(1) Lessor shall maintain a policy or policies of comprehensive general liability insurance in an amount at least equal to Lessee's municipal statutory limits of liability, insuring Lessor in respect to bodily injury or death and property damage arising or alleged to have arisen from any act or omission of the Lessor, its agent(s), employee(s), or invitee(s) on or in the vicinity of the premises.

(2) Lessor shall maintain a policy or policies insuring the Community Building

against damage or destruction by fire and the perils commonly covered under extended coverage policies in an amount equal to the full replacement cost of said building. The proceeds of such insurance, in the event of loss or damage to the building, shall be applied on account of the obligation of the Lessor to maintain and repair the Leasehold, as herein provided, to the extent that such proceeds are required; provided, however, that the Lessor may determine, in its sole discretion, that the building is a total loss and shall not be rebuilt, in which instance this Lease shall be deemed terminated effective as of the date of such loss.

**B. Lessee's Insurance.**

- (1) Lessee shall maintain a policy or policies of comprehensive general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) in respect to injury or death to any one person and Two Million Dollars (\$2,000,000.00) in respect to each occurrence of bodily injury or death to any number of persons or property damage arising or alleged to have arisen from any act or omission of the Lessee, its agent(s), employee(s), or invitee(s) on or in the vicinity of the premises.
- (2) Lessee shall cause Lessor to be listed as an additional insured on Lessee's policy or policies of comprehensive general liability insurance, and Lessee shall provide Lessor with current Certificates of Insurance evidencing Lessee's compliance with this paragraph. Lessee shall obtain the agreement of Lessee's insurers to notify Lessor that a policy is due to expire at least (10) days prior to such expiration.
- (3) If the Community Building or any part thereof is damaged by fire or other casualty resulting from any act or negligence of Lessee or any of Lessee's agents, employees, or invitees, Lessee shall be responsible for the costs of repair not covered by insurance. Lessee shall add such additional coverages to its comprehensive general liability insurance as may be necessary to afford such coverage.

**C. General Policy Requirements.**

- (1) Insurance required by this Lease may be included in general coverage under policies which also include the coverage of other property in which Lessor or Lessee has, or Lessor's or Lessee's affiliates have, an insurable interest.
- (2) Each insurance policy and certificate shall provide, in effect, that the policy may not go unrenewed, or may not be cancelled, reduced in amount, or modified by the insurer until at least thirty (30) days after the insurer shall have notified Lessor and Lessee in writing by certified mail, return receipt requested.

- (3) Each insurance policy and certificate shall name as additional insureds, as the case may be, Lessor, Lessee, and any Mortgagee, as their interests shall appear.
- (4) Upon execution of this Lease, each party shall deliver to the other a certificate reflecting the coverage(s) required by this Lease.

#### **11. Indemnification.**

A. **By Lessee.** Lessee hereby agrees to indemnify and hold Lessor harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from or in connection with (a) any injury to, or the death of, any person, or loss or damage to property, occurring on or about the Premises during the term hereof, due to the negligence or intentional act of Lessee and/or Lessee's agent(s), employee(s), guest(s), or invitee(s), or (b) arising from or connected with the use of the Premises by Lessee, or any action or inaction by Lessee and/or Lessee's agent(s), employee(s), guest(s), or invitee(s) (other than injuries or damages caused directly and proximately by the negligence or intentional act of Lessor), or (c) arising from the performance of any labor or services, or the furnishing of materials, at or to the Premises by or at the request of Lessee. Lessee shall, within 30 days after notice from Lessor, obtain a discharge of any mechanic's lien for materials or labor claimed to have been furnished to the Premises for or on behalf of the Lessee.

B. **By Lessor.** Lessor hereby agrees to indemnify and hold Lessee harmless from and against any and all liabilities, losses, claims, demands, judgments, costs, and expenses (including reasonable attorney's fees) of any nature arising from or in connection with (a) any injury to, or the death of, any person, or loss or damage to property, occurring on or about the Premises during the term hereof, due to the negligence or intentional act of Lessor and/or Lessor's agent(s), employee(s), guest(s), or invitee(s), or (b) arising from or connected with the use of the Premises by Lessor, or any action or inaction by Lessor and/or Lessor's agent(s), employee(s), guest(s), or invitee(s) (other than injuries or damages caused directly and proximately by the negligence or intentional act of Lessee), or (c) arising from the performance of any labor or services, or the furnishing of materials, at or to the Premises by or at the request of Lessor.

**12. Signs.** Subject to Lessor's pre-approval as to size, materials, and compliance with the Rockland Sign Ordinance, Ch. 19, Art. III, Sec. 19-315, Lessee shall have the right to place up to two signs on the exterior of the Community Building, as follows

- A. One sign on the Limerock Street / south side of the Community Building, and
- B. One sign on the Union Street / east side of the Community Building.

Lessor shall have the right to review and pre-approve each sign with respect to its size, placement, materials, and content, and applicable zoning ordinances and private restrictions. Lessor may refuse consent to any proposed signage that is in Lessor's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate for the premises or use of any other tenant. Lessee shall repair all damage to the premises resulting from the removal of signs installed by Lessee. Lessor reserves the right also to place signs on the exterior of the Community Building advertising other users of the building or for other municipal purposes.

**13. Storage.** Lessee shall not store any goods or belongings of any kind outside the Community Building without the prior written approval of Lessor, which approval shall not unreasonably be withheld.

**14. Quiet Possession.** Lessor covenants and warrants that upon performance by Lessee of its obligations hereunder, Lessor will keep and maintain Lessee in quiet, peaceable and undisturbed and uninterrupted possession of the Leasehold during the term of this Lease, subject to the limitations and other terms and conditions set forth in this Lease and/or the Operating Agreement.

**15. Right of Entry.** Lessor shall have the right to enter upon the Leasehold at reasonable hours to inspect the same, provided Lessor shall not thereby unreasonably interfere with Lessee's business on the premises.

**16. Default.**

A. **By Lessee.** Lessee shall be in default if Lessee breaches any term or condition of this Lease or of the Operating Agreement, and fails to reach agreement with the Lessor as to an appropriate correction of such default within fourteen (14) days of written notice thereof by Lessor. In the event of Lessee's default, this Lease and the Operating Agreement shall be deemed terminated, and Lessor shall be authorized to enter into full possession of the Leasehold and to cause the removal, at Lessee's expense, of any personal property, equipment, or fixtures of Lessee in or affixed to the Leasehold premises.

B. **By Lessor.** Lessor shall be in default if Lessor breaches any term or condition of this Lease or of the Operating Agreement, and fails to reach agreement with the Lessee as to an appropriate correction of such default with fourteen (14) days of written notice thereof by Lessee. In the event of Lessor's default, Lessee may terminate this Lease and the Operating Agreement by providing Lessor with sixty (60) days' written notice of Lessee' proposed cessation of recreational activities at the Community Building and other locations owned by Lessor. Lessee may not discontinue such recreational activities prior to the expiration of the sixty day notice period, except for activities already scheduled to terminate within that period, such as seasonal sports programs.

**17. Sublease and Assignment.** Lessee shall have the right, with Lessor's prior,

written consent which shall not be unreasonably withheld, to assign this Lease to a corporation with which Lessee may merge or consolidate, to any subsidiary of Lessee, to any corporation under common control with Lessee, or to a purchaser or other assignee of substantially all of Lessee's assets. Except as set forth above, Lessee shall not sublease all or any part of the Leasehold, or assign this Lease in whole or in part.

**18. Subordination.** Lessee accepts this Lease and possession of the Leasehold subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leasehold, the Community Building, and/or the property located at 61 Limerock Street, Rockland, Maine, and to any renewal, refinancing and extensions thereof, and Lessee agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Lessor is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leasehold, the Community Building, and/or the property located at 61 Limerock Street, Rockland, Maine, and Lessee agrees upon demand to execute such further instruments subordinating this Lease or to the holder of any such liens as Lessor may request. In the event that Lessee should fail to execute any instrument of subordination herein required to be executed by Lessee promptly as requested, Lessee hereby irrevocably constitutes Lessor as its attorney-in-fact to execute such instrument in Lessee's name, place and stead, it being agreed that such power is one coupled with an interest. Lessee agrees that it will from time to time upon request by Lessor execute and deliver to such persons as Lessor shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Lessor is not in default hereunder (or if Lessee alleges a default stating the nature of such alleged default) and further stating such other matters as Lessor shall reasonably require.

**19. Representations and Warranties.**

A. Lessor's Representations and Warranties. Lessor agrees, represents and warrants that:

- (1) Title. Lessor has good title to the Leasehold in fee simple absolute. In the event that this representation is discovered to be false, Lessee shall have the option to immediately terminate this Lease. In the event of such termination, the parties shall thereupon be released from any further liability under this Lease (except for obligations existing on the effective date of such termination).
- (2) Authority to Lease. Lessor represents and warrants that it is authorized to enter into this Lease by and through its City Manager, and deliver the Leasehold to Lessee. The Rockland City Council has approved this Lease

and authorized its City Manager to sign and deliver this Lease on behalf of Lessor.

- (3) **Hazardous Materials.** To the best of Lessor's knowledge, no Hazardous Materials are located within the Leasehold or elsewhere in the Community Building, nor are Hazardous Materials located within real property abutting the premises. In the event that this representation is discovered to be false, Lessee shall have the option to immediately terminate this Lease. In the event of such termination, the parties shall thereupon be released from any further liability under this Lease (except for obligations existing on the effective date of such termination).

**B. Lessee's Representations and Warranties.**

- (1) **Corporate Existence.** Lessee represents that it is in good standing with the Maine Secretary of State, and is authorized to do business in Maine.
- (2) **Authority to Lease.** Lessee represents and warrants that it is authorized to enter into this Lease by and through its Chief Executive Officer, accept the Leasehold from Lessor, and perform the obligations imposed by this Lease and the Operating Agreement. The Penobscot Bay YMCA Board of Directors have approved this lease and authorized its Chief Executive Officer to sign and deliver this Lease on behalf of Lessee.
- (3) **Financial Capacity.** Lessee represents and warrants that it has sufficient financial capacity and credit worthiness to complete its undertakings in this Lease.

**20. Hazardous Material.** Lessee shall not cause or permit any Hazardous Material to be brought upon, kept at or in, or used in or about the premises by Lessee, its agents, employees, contractors, or invitees. Lessee shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any material into the atmosphere, ground, sewer system, or any body of water, if that material (as is reasonably determined by Lessor, or any other governmental authority) does or may pollute or contaminate the same, or may adversely affect the health, welfare, or safety of persons, whether located on the premises, or elsewhere, or the condition, use, or enjoyment of the premises or any other real or personal property.

**21. Termination.** Lessor or Lessee may terminate this Lease at any time by giving 120 days' prior written notice to the other party.

**22. Surrender.** On the Expiration Date, Lessee shall surrender the Leasehold in as good clean order, condition, and repair as at commencement of the Term, except for ordinary wear and tear, damage by fire or catastrophe and repairs to be made by Lessor.

**23. Administration.** Where approval of the Lessor is required by this Lease, the City of Rockland City Manager is authorized to act on Lessor's behalf and provide such approval, except when approval of the Rockland City Council is required hereunder or under applicable law or ordinance. Where approval of the Lessee is required by this Lease, the Penobscot Bay YMCA's Chief Executive Officer is authorized to act on Lessee's behalf and provide such approval, except when approval of the Lessee's Board of Directors is required hereunder or under applicable law.

**24. Notice.** Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Lessor to:

**City Manager  
City of Rockland, Maine  
270 Pleasant Street  
Rockland, ME 04841**

If to Lessee to:

**Chief Executive Officer  
Penobscot Bay YMCA  
P.O. Box 840  
Rockport, ME 04856**

Lessor and Lessee shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

**25. Brokers.** Lessee represents that Lessee was not shown the Leasehold by any real estate broker or agent and that Lessee has not otherwise engaged in any activity which could form the basis for a claim for any real estate commission, brokerage fee, finder's fee, or other similar charge in connection with this Lease. Lessor represents that Lessor has not engaged in any activity which could form the basis for a claim for any real estate commission, brokerage fee, finder's fee, or other similar charge in connection with this Lease.

**26. Waiver.** No waiver of any default of Lessor or Lessee hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Lessor or Lessee shall not be construed as a waiver of a subsequent breach of the same covenant, term, or condition.

**27. Memorandum of Lease.** The parties hereto contemplate that this Lease should not and shall not be filed for record, but in lieu thereof, at the request of either

party, Lessor and Lessee shall execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the existence of this Lease.

**28. Final Agreement.** This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof, except the Operating Agreement. This Lease may be modified only by a further writing that is duly executed by both parties.

**29. No Joint Venture.** Neither this Lease, the Operating Agreement, nor Lessor and Lessee's co-use of the Leasehold shall be deemed or construed by any party to establish the relationship of principal and agent, nor of a partnership or joint venture between the parties hereto; rather, the parties intend and this Lease and the Operating Agreement shall be construed as establishing, a landlord/tenant relationship between the parties.

**30. Miscellaneous.**

**A. Headings.** The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

**B. Successors.** The provisions of this Lease shall extend to and be binding upon Lessor and Lessee and their respective legal representatives, successors and assigns.

**C. Consent.** Lessor shall not unreasonably withhold or delay its consent with respect to any matter for which Lessor's consent is required or desirable under this Lease.

**D. Compliance with Law.** Lessee shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Lessee's use of the premises. Lessor shall comply with all laws, orders, ordinances, and other public requirements now or hereafter affecting the premises.

**E. Governing Law.** This Agreement shall be governed, construed, and interpreted by, through, and under the Laws of the State of Maine.

**F. Invalidity and Severability.** If any term or provision of this Lease is found by a court of competent jurisdiction to be invalid, void, and/or unenforceable, the remaining terms and provisions of this Lease shall be unaffected thereby, and shall remain in full force and effect to the fullest extent permitted by law.

IN WITNESS WHEREOF, the City of Rockland, Maine and the Penobscot Bay YMCA have executed this Lease as of the day and year first above written.

Attest:

CITY OF ROCKLAND ("LESSOR"):

\_\_\_\_\_  
Stuart H. Sylvester, City Clerk

\_\_\_\_\_  
by: James D. Chaousis II  
its: City Manager

As to Form:

\_\_\_\_\_  
Kevin J. Beal, City Attorney

Attest:

PENOBSCOT BAY YMCA ("LESSEE"):

\_\_\_\_\_  
by: \_\_\_\_\_

\_\_\_\_\_  
by: Troy Curtis  
its: Chief Executive Officer

**CITY OF ROCKLAND, MAINE**  
**ORDINANCE AMENDMENT #30**  
**IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT** Authorizing Sale of City Property – 44 Old County Road

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

THAT the City Manager is hereby authorized to issue a municipal quitclaim deed to Joy Rodrigue, of Rockland, Maine, for property located at 44 Old County Road (Rockland Tax Map #83-A-9), for \$1,000, said sale being subject to the execution and substantial compliance with the terms and conditions set forth in a purchase and sale agreement incorporated herein by reference.

Sponsor: City Council  
Originator: City Manager

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

**PURCHASE AND SALE AGREEMENT FOR  
MUNICIPAL LIEN-ACQUIRED PROPERTY**

1. **PARTIES:** This Agreement is made between the **CITY OF ROCKLAND, MAINE** ("Seller") and **JOY RODRIGUE** ("Buyer").

2. **DESCRIPTION:** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy, **BY QUITCLAIM DEED**, [ X ] all of / [ ] part of (if "part of," explain below) the property situated in the City of Rockland, County of Knox, and State of Maine, located at **44 OLD COUNTY ROAD, ROCKLAND, MAINE (TAX MAP 83-A-9)** and described in deed(s) recorded on the Knox County Registry of Deeds in Book 406, Page 115 (the "Property"). Seller shall not and is not required to warrant title to the premises, intending only to release its interest in the Property to Buyer, subject to any encumbrances, encroachments, or other matters that may now exist, or hereafter appear to exist.

3. **FIXTURES; PERSONAL PROPERTY:** The Buyer and Seller agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, sump pumps, and electrical fixtures are included with the sale except for the following:           N/A          . Seller makes no representation or warranty as to the condition, capacity, or suitability of any mechanical components of fixtures at the time of closing, and shall convey the same "as is," and without any warranty as to their condition, fitness for particular purpose, or otherwise.

4. **PURCHASE PRICE:** For such Quitclaim Deed and conveyance Buyer agrees to pay the total purchase price of \$1,000.

5. **DEPOSIT.** Buyer has delivered to the Buyer a deposit of earnest money in the amount of \$250. The remainder of the purchase price shall be paid by a certified or cashier's check upon delivery of the Deed. In the event Buyer fails to purchase the property as provided herein, for any reason other than the termination of this Agreement by the Seller, such earnest money shall be non-refundable and shall be retained by Seller.

6. **CLOSING DATE:** The Closing Date shall be October 14, 2015, or on another date thereafter upon mutual agreement of the parties.

7. **TITLE:** Seller shall deliver a quitclaim deed for the Property to Buyer. Seller is not required to warrant title to the Property, intending only to release its interest in the Property to Buyer, subject to any encumbrances, encroachments, or other matters that may now exist, or hereafter appear to exist. Seller makes no representation to Buyer that the Seller will have marketable title following the conveyance contemplated herein.

8. **POSSESSION, OCCUPANCY, AND CONDITION:** Unless otherwise agreed in writing, possession and occupancy of the Property, free of tenants and occupants, shall be given to Buyer immediately at closing. Buyer has inspected the Property; acknowledges that the structure(s) on the Property previously were damaged; require demolition or repair; and may contain mold and other potentially-hazardous conditions; and accepts and assumes the cost and risk of loss and liability arising from the condition of the Property. Seller makes no representation about and accepts no responsibility or liability for the condition of the Property or its fitness for any use contemplated by Buyer.

9. **RISK OF LOSS, DAMAGE, DESTRUCTION AND INSURANCE:** Prior to closing, risk of loss, damage, or destruction of structures at the Property shall be assumed solely by the Seller. Seller shall

keep the principal structure(s) insured against fire and other extended casualty risks prior to closing. If any structure is damaged or destroyed prior to closing, Buyer may either terminate this Agreement and be refunded the earnest money, or close this transaction and accept the Property "as-is" together with an assignment of the insurance proceeds relating thereto.

10. FUEL / UTILITIES; PRORATIONS: Any fuel in operable fuel tanks at the Property shall be purchased by the Buyer at the cash price as of the date of the closing of the supplier that last delivered fuel at the Property. Metered utilities such as electricity, water, and sewer will be paid through the date of closing by Seller. The following items, where applicable, shall be prorated as of the date of closing: collected rent, association fees, (other) payment in lieu of tax. The day of closing is counted as a Seller day for purposes of pro-rating expenses and income. Real estate taxes due and owing in the current municipal fiscal year (or payment in lieu of taxes if the municipality owned the Property on April 1) shall be prorated as of the date of closing; Seller is responsible for any unpaid taxes for prior years. If the amount of said taxes is not known at the time of closing, they shall be apportioned on the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained. Buyer agrees to make pro-rated payment in lieu of tax for Fiscal Year 2016 (July 1, 2015, through June 30, 2016) at the closing, calculated from the amount of tax that would have been assessed on the Property had the Buyer held title to the property on April 1, 2015. Such payment in lieu of tax shall be based upon the assessment of the property as of April 1, 2015, which was \$5,200. Buyer and Seller will each pay their transfer tax if and as required by the State of Maine, if applicable. The payment and other requirements of the parties set forth in this paragraph are contractual, and shall survive closing and remain in full force and effect until performed.

11. DUE DILIGENCE: Neither Seller nor Agency makes any warranties regarding the condition, permitted use, or value of Seller's real or personal property, or any representations as to compliance with any federal, state, or municipal codes, including, but not limited to, fire, life safety, electrical, plumbing, and property maintenance. Buyer is encouraged to seek information from professionals regarding any specific issue or concern.

12. FINANCING: This Agreement is not subject to Financing.

13. BROKERAGE DISCLOSURE. Buyer and Seller acknowledge they have been advised of the following relationships:

Licensee:                      Agency:                       Seller's Agent:                       Buyer's Agent:

None.

14. PROPERTY DISCLOSURE FORM: Buyer waives notice and receipt of property disclosure, lead paint, private water supply, arsenic, and any other form or information regarding the condition of the Property.

15. DEFAULT: In the event of default by the Buyer, Seller may employ all legal and equitable remedies, including without limitation, termination of this Agreement and forfeiture by Buyer of the deposit. In the event of a default by Seller, Buyer may employ all legal and equitable remedies, including without limitation, termination of this Agreement and return to Buyer of the earnest money. Agency acting as escrow agent has the option to require written releases from both parties prior to disbursing the earnest money to either Buyer or Seller.

16. PRIOR STATEMENTS: This Agreement sets forth sets forth all of the obligations of the parties, and replaces any prior agreement between the parties, either written or oral, relating to the Property. Any prior representations or statements by a party not also set forth herein are not valid or binding upon such

party.

17. HEIRS / ASSIGNS: This Agreement shall extend to and be obligatory upon the successors and/or assigns of the parties.

18. COUNTERPARTS: This Agreement may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

19. ADDENDA:  No;  Yes – List, and Attach. \_\_\_\_\_

20. EFFECTIVE DATE; NOTICE; MISCELLANEOUS: Any notice, communication or document delivery requirements hereunder may be satisfied by providing the required notice, communication or documentation to the party or their licensee. Withdrawals of offers and counteroffers will be effective upon communication, whether oral or in writing. This Agreement is a binding contract when signed by the Buyer and approved, in first reading, by the City Council. Licensee is authorized to fill in the Effective Date on Page 1 hereof, once ascertained. Except as expressly set forth to the contrary, the use of the term “days” in this Agreement, including all addenda made a part hereof, shall include all days of the week, and not be limited to “business days.”

21. CONFIDENTIALITY: Buyer and Seller authorize the disclosure of the information herein to the real estate licensees, attorneys, lenders, appraisers, inspectors, investigators and others involved in the transaction necessary for the purpose of closing this transaction. Buyer and Seller authorize the lender and/or closing agent preparing the closing statement to release a copy of the closing statement to the parties and their licensees prior to, at and after the closing. Buyer acknowledges with its signature that Seller is a municipality and that this Agreement is a public record that Seller may be required by the Maine Freedom of Access Act to disclose it, upon request.

22. OTHER CONDITIONS: Seller shall return to Buyer Buyer’s bid bond or equivalent at the closing.

23. ACKNOWLEDGMENTS; APPLICABLE LAW. A copy of this Agreement is available to each of the parties and, by signature, receipt of a copy is hereby acknowledged by each party. Each party acknowledges that it has had full opportunity to consult legal counsel regarding any and all matters in this Agreement not fully understood by the party. Seller acknowledges that State of Maine law requires buyers of property owned by non-resident sellers to withhold a prepayment of capital gains tax unless a waiver has been obtained by Seller from the State of Maine Revenue Services. This is a Maine contract and shall be construed according to the laws of Maine.

Buyer’s Mailing address is: 34 Old County Road; Rockland, ME 04841

Date: August \_\_, 2015

\_\_\_\_\_  
BUYER: Joy Rodrigue

Subject to approval by the Rockland City Council, Seller agrees to deliver the Property at the price and upon the terms and conditions set forth herein.

Seller's Mailing address is: City Manager; Rockland City Hall; 270 Pleasant St.; Rockland, ME 04841.

Dated: September \_\_, 2015

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SELLER: City of Rockland, Maine  
by: James D. Chaousis II  
its: City Manager

**CITY OF ROCKLAND, MAINE**  
**ORDINANCE AMENDMENT #31**  
**IN CITY COUNCIL**

August 10, 2015

**ORDINANCE AMENDMENT** Authorizing Sale of City Property – 319 Broadway

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to issue a municipal quitclaim deed to Roula Giannos, of Rockland, Maine, for property located at 319 Broadway (Rockland Tax Map #23-A-3), for \$10,000, said sale being subject to the execution and substantial compliance with the terms and conditions set forth in a purchase and sale agreement incorporated herein by reference.

Sponsor: City Council  
Originator: City Manager

First Reading 8/10/15  
First Publication 8/20/15  
Public Hearing 9/14/15  
Final Passage \_\_\_\_\_  
Second Publication \_\_\_\_\_  
Effective Date \_\_\_\_\_

**PURCHASE AND SALE AGREEMENT FOR  
MUNICIPAL LIEN-ACQUIRED PROPERTY**

1. **PARTIES:** This Agreement is made between the **CITY OF ROCKLAND, MAINE** ("Seller") and **ROULA GIANNOS** ("Buyer").

2. **DESCRIPTION:** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy, BY QUITCLAIM DEED, [ X ] all of / [ ] part of (if "part of," explain below) the property situated in the City of Rockland, County of Knox, and State of Maine, located at **319 BROADWAY, ROCKLAND, MAINE (TAX MAP 23-A-3)** and described in deed(s) recorded on the Knox County Registry of Deeds in Book 3550, Page 158 (the "Property"). Seller shall not and is not required to warrant title to the premises, intending only to release its interest in the Property to Buyer, subject to any encumbrances, encroachments, or other matters that may now exist, or hereafter appear to exist.

3. **FIXTURES; PERSONAL PROPERTY:** The Buyer and Seller agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, sump pumps, and electrical fixtures are included with the sale except for the following:           N/A          . Seller makes no representation or warranty as to the condition, capacity, or suitability of any mechanical components of fixtures at the time of closing, and shall convey the same "as is," and without any warranty as to their condition, fitness for particular purpose, or otherwise.

4. **PURCHASE PRICE:** For such Quitclaim Deed and conveyance Buyer agrees to pay the total purchase price of \$10,000.

5. **DEPOSIT.** Buyer has delivered to the Buyer a deposit of earnest money in the amount of \$2,500. The remainder of the purchase price shall be paid by a certified or cashier's check upon delivery of the Deed. In the event Buyer fails to purchase the property as provided herein, for any reason other than the termination of this Agreement by the Seller, such earnest money shall be non-refundable and shall be retained by Seller.

6. **CLOSING DATE:** The Closing Date shall be October 14, 2015, or on another date thereafter upon mutual agreement of the parties.

7. **TITLE:** Seller shall deliver a quitclaim deed for the Property to Buyer. Seller is not required to warrant title to the Property, intending only to release its interest in the Property to Buyer, subject to any encumbrances, encroachments, or other matters that may now exist, or hereafter appear to exist. Seller makes no representation to Buyer that the Seller will have marketable title following the conveyance contemplated herein.

8. **POSSESSION, OCCUPANCY, AND CONDITION:** Unless otherwise agreed in writing, possession and occupancy of the Property, free of tenants and occupants, shall be given to Buyer immediately at closing. Buyer has inspected the Property; acknowledges that the structure(s) on the Property previously were damaged; require demolition or repair; and may contain mold and other potentially-hazardous conditions; and accepts and assumes the cost and risk of loss and liability arising from the condition of the Property. Seller makes no representation about and accepts no responsibility or liability for the condition of the Property or its fitness for any use contemplated by Buyer.

9. **RISK OF LOSS, DAMAGE, DESTRUCTION AND INSURANCE:** Prior to closing, risk of loss, damage, or destruction of structures at the Property shall be assumed solely by the Seller. Seller shall keep the principal structure(s) insured against fire and other extended casualty risks prior to closing. If any structure is damaged or destroyed prior to closing, Buyer may either terminate this Agreement and be refunded the earnest money, or close this transaction and accept the Property "as-is" together with an assignment of the insurance proceeds relating thereto.

10. **FUEL / UTILITIES; PRORATIONS:** Any fuel in operable fuel tanks at the Property shall be purchased by the Buyer at the cash price as of the date of the closing of the supplier that last delivered fuel at the Property. Metered utilities such as electricity, water, and sewer will be paid through the date of closing by Seller. The following items, where applicable, shall be prorated as of the date of closing: collected rent, association fees, (other) payment in lieu of tax. The day of closing is counted as a Seller day for purposes of pro-rating expenses and income. Real estate taxes due and owing in the current municipal fiscal year (or payment in lieu of taxes if the municipality owned the Property on April 1) shall be prorated as of the date of closing; Seller is responsible for any unpaid taxes for prior years. If the amount of said taxes is not known at the time of closing, they shall be apportioned on the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained. Buyer agrees to make pro-rated payment in lieu of tax for Fiscal Year 2016 (July 1, 2015, through June 30, 2016) at the closing, calculated from the amount of tax that would have been assessed on the Property had the Buyer held title to the property on April 1, 2015. Such payment in lieu of tax shall be based upon the assessment of the property as of April 1, 2015, which was \$71,800. Buyer and Seller will each pay their transfer tax if and as required by the State of Maine, if applicable. The payment and other requirements of the parties set forth in this paragraph are contractual, and shall survive closing and remain in full force and effect until performed.

11. **DUE DILIGENCE:** Neither Seller nor Agency makes any warranties regarding the condition, permitted use, or value of Seller's real or personal property, or any representations as to compliance with any federal, state, or municipal codes, including, but not limited to, fire, life safety, electrical, plumbing, and property maintenance. Buyer is encouraged to seek information from professionals regarding any specific issue or concern.

12. **FINANCING:** This Agreement is not subject to Financing.

13. **BROKERAGE DISCLOSURE.** Buyer and Seller acknowledge they have been advised of the following relationships:

Licensee:                      Agency:                       Seller's Agent:                       Buyer's Agent:

None.

14. **PROPERTY DISCLOSURE FORM:** Buyer waives notice and receipt of property disclosure, lead paint, private water supply, arsenic, and any other form or information regarding the condition of the Property.

15. **DEFAULT:** In the event of default by the Buyer, Seller may employ all legal and equitable remedies, including without limitation, termination of this Agreement and forfeiture by Buyer of the deposit. In the event of a default by Seller, Buyer may employ all legal and equitable remedies, including without limitation, termination of this Agreement and return to Buyer of the earnest money. Agency acting as escrow agent has the option to require written releases from both parties prior to disbursing the earnest money to either Buyer or Seller.

16. **PRIOR STATEMENTS:** This Agreement sets forth all of the obligations of the parties, and replaces any prior agreement between the parties, either written or oral, relating to the Property. Any prior representations or statements by a party not also set forth herein are not valid or binding upon such party.

17. **HEIRS / ASSIGNS:** This Agreement shall extend to and be obligatory upon the successors and/or assigns of the parties.

18. **COUNTERPARTS:** This Agreement may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

19. **ADDENDA:**  No;  Yes – List, and Attach. \_\_\_\_\_

20. **EFFECTIVE DATE; NOTICE; MISCELLANEOUS:** Any notice, communication or document delivery requirements hereunder may be satisfied by providing the required notice, communication or documentation to the party or their licensee. Withdrawals of offers and counteroffers will be effective upon communication, whether oral or in writing. This Agreement is a binding contract when signed by the Buyer and approved, in first reading, by the City Council. Licensee is authorized to fill in the Effective Date on Page 1 hereof, once ascertained. Except as expressly set forth to the contrary, the use of the term “days” in this Agreement, including all addenda made a part hereof, shall include all days of the week, and not be limited to “business days.”

21. **CONFIDENTIALITY:** Buyer and Seller authorize the disclosure of the information herein to the real estate licensees, attorneys, lenders, appraisers, inspectors, investigators and others involved in the transaction necessary for the purpose of closing this transaction. Buyer and Seller authorize the lender and/or closing agent preparing the closing statement to release a copy of the closing statement to the parties and their licensees prior to, at and after the closing. Buyer acknowledges with its signature that Seller is a municipality and that this Agreement is a public record that Seller may be required by the Maine Freedom of Access Act to disclose it, upon request.

22. **OTHER CONDITIONS:** Seller shall return to Buyer Buyer’s bid bond or equivalent at the closing, or apply same to the purchase price.

23. **ACKNOWLEDGMENTS; APPLICABLE LAW.** A copy of this Agreement is available to each of the parties and, by signature, receipt of a copy is hereby acknowledged by each party. Each party acknowledges that it has had full opportunity to consult legal counsel regarding any and all matters in this Agreement not fully understood by the party. Seller acknowledges that State of Maine law requires buyers of property owned by non-resident sellers to withhold a prepayment of capital gains tax unless a waiver has been obtained by Seller from the State of Maine Revenue Services. This is a Maine contract and shall be construed according to the laws of Maine.

Buyer’s Mailing address is: 80 Pleasant Street; Rockland, ME 04841

Date: September \_\_\_\_, 2015

\_\_\_\_\_  
BUYER: Roula Giannos

Subject to approval by the Rockland City Council, Seller agrees to deliver the Property at the price and upon the terms and conditions set forth herein.

Seller's Mailing address is: City Manager; Rockland City Hall; 270 Pleasant St.; Rockland, ME 04841.

Dated: September \_\_, 2015

---

**SELLER: City of Rockland, Maine**  
**by: James D. Chaousis II**  
**its: City Manager**

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #32  
IN CITY COUNCIL**

September 14, 2015

**ORDINANCE AMENDMENT** Amending Zoning Map – Thomaston Street

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT**, the Official Zoning Map of the City of Rockland, Maine, be and hereby is amended as follows:

The zone classification of the parcels located at 160 Thomaston Street (Tax Map #62-A-3) and 162 Thomaston Street (Tax Map #62-A-4) is hereby changed from Residential Zone “B” to Industrial Zone “I”. The zone boundaries are intended to follow the lot lines of said parcels.

Sponsor:

Originator: Community Development Director



CITY OF  
ROCKLAND  
KNOX COUNTY  
MAINE



Change 2 parcels from  
Residential B to Industrial

7.5 foot setback

Printed: 8/27/2015



**DISCLAIMER**  
Tax maps are compiled from aerial photography,  
existing surveys, deeds, and landowner's descriptions.  
They are to be used for assessment purposes only,  
and not for conveyance

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #33  
IN CITY COUNCIL**

September 14, 2015

**ORDINANCE AMENDMENT** Authorizing Sale of City Property – 35 Broadway

**THE CITY OF ROCKLAND HEREBY ORDAINS AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to issue a municipal quitclaim deed to Jamie F. Levenseler, Esq., of Spruce Head, Maine, for property located at 35 Broadway (Rockland Tax Map #18-A-8), for \$22,000, said sale being subject to the execution and substantial compliance with the terms and conditions set forth in a purchase and sale agreement incorporated herein by reference.

Sponsor:  
Originator: City Manager

## Jim Chaousis

---

**From:** Kevin Beal <kbeal@ci.rockland.me.us>  
**Sent:** Tuesday, August 18, 2015 10:19 AM  
**To:** 'Frank Isganitis - Council Business'; 'Larry Pritchett - City Business'; 'Louise MacLellan-Ruf'; Valli Geiger - City Council; Will Clayton  
**Cc:** 'Jim Chaousis'  
**Subject:** City Property - 35 Broadway

Councilors:

We are whittling away at our large inventory of lien-acquired property. Regrettably, a couple of former owners have not signed and complied with their reconveyance agreements authorized by the Council, and I am working with Jim on next steps for those properties (19 Franklin Street and mobile home at 7 Second Street).

I feel remiss in not providing you with more detailed information regarding the condition of the house at 35 Broadway. Though the building itself is assessed at \$117,000, it is a very modest dwelling in poor condition. I met with a neighbor after the City acquired the property, who stated it had been vacant for 7 or 8 years, and thus not heated or maintained during that period. USDA/RD has the mortgage, and is not forward in foreclosing and taking possession.

When the City took possession, the basement was flooded with ground water, which was so high it had floated, knocked over and spilled the oil tank. Public works installed a sump pump, which runs regularly, 24/7. DEP looked at the spilled oil, and decided not to take enforcement action; nonetheless, there is a strong residual oil odor that will have to be addressed. A buyer will need to stem the very substantial ground water issues at the property. And, essentially abandoned, the water in the cellar and lack of heat have spawned mold throughout the interior. The bidder's father – who built the house for FHA – inspected the house with the bidder and feels that substantial interior mold remediation will be needed, likely including replacing drywall and other coverings. It stinks of mold, and after one quick walk through I chose not to go back in with interested bidders.

In addition, John Root inspected and found that the roof needs work, and the furnace is likely shot, with the water damage, among other issues.

The Assessor only visits properties when asked to do so by an owner or mortgagee, or for revaluation purposes, and Dennis has never been inside this property. So, the assessment likely does not reflect the current value. Dennis offered to re-assess, if that is of interest to the City.

I would echo the Mayor's reminder that because the City can't warrant title, and simply releases – via a quitclaim deed – its interest in the property arising from statutory lien foreclosure, we really can't expect anything like fair market value for these properties. Instead, the City's practice has been to attempt to recover its unpaid tax, sewer, and maintenance costs upon reconveyance or bid sale. The City got the property on a \$130.74 sewer lien, and taxes were current, so aside from the sump pump and mowing, we don't have a lot into the property.

Anyway, I probably should have put pen to paper BEFORE your August meeting, but we were pretty busy with Stuart out. I'd recommend giving Jamie Levenseler's bid of \$22,000 another look, by way of reconsideration, if you're of a mind to. That's solid money, for a modest Cape in this physical and legal condition. Michelle Gifford, a realtor on the Comps Comm'n, agreed with that assessment and kindly offered to get you comparables from other foreclosed properties, if that would be of assistance.

-k

**CITY OF ROCKLAND, MAINE  
ORDINANCE AMENDMENT #34  
IN CITY COUNCIL**

September 14, 2015

**ORDINANCE AMENDMENT Regular Meeting Starting Time**

**THE CITY OF ROCKLAND HEREBY ORDAINS CHAPTER 2, Administration, SECTION 2-212, Rules of Procedure (9) Meeting; Regular, BE AMEDED AS FOLLOWS:**

**Sec. 2-212 Rules of Procedure**

9. Meetings: Regular. The date and time of the regular monthly meeting of the City Council shall be the second Monday of each month at ~~7:00~~ 6:00 P.M. If the second Monday is a legal holiday as defined in Chapter 2, Section 2-1211 of the Rockland Code, then the stated meeting shall be held on the following Wednesday at the same time. The place of such meetings shall be the City Council Chamber in the City Hall in Rockland, hereby designated to be the regular meeting place. All meeting of the City Council shall be open to the public, and may be continued to another location.

Sponsor: Councilor Clayton  
Originator: Councilor Clayton

**CITY OF ROCKLAND, MAINE**

**ORDER #67**

**IN CITY COUNCIL**

August 10, 2015

**ORDER Authorizing Salary Adjustments – City Attorney & City Clerk**

**WHEREAS**, the cost of living salary adjustments for all City employees were allocated in the FY 2016 Municipal Budget adopted by the City Council on June 24, 2015; and

**WHERE**, the cost of living salary adjustments were granted as of July 1, 2015 for all City employees for FY 2016 with the exception of the City Attorney and the City Clerk, even though the funds were budgeted and available for distribution;

**NOW THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to make the following cost of living salary adjustments for the City Attorney and the City Clerk, retroactive to July 1, 2015.

City Attorney Full-Time Payroll:	\$1,594.00
City Clerk Full-Time Payroll:	\$1,091.00

Sponsor: Mayor Isganitis  
Originator: Mayor Isganitis

*Postponed 8/10/15 to 9/14/15*

**CITY OF ROCKLAND, MAINE**

**ORDER #69**

**IN CITY COUNCIL**

September 14, 2015

**ORDER** Public Hearing/Acceptance of Petition – RSU #13 Withdrawal

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT**, pursuant to 20-A M.R.S. §1466, and after due notice and hearing being held on September 14, 2015, the City Council hereby accepts the Petition to Withdraw from RSU #13 as complete and sufficient to put the questions to the voters of the City of Rockland at the Annual Municipal Election to be held November 3, 2015.

Sponsor: City Council

Originator: City Council

**Petition to the Rockland City Council  
For Referendum**

For the Submission to the People of the Question:

Do you favor filing a petition for withdrawal with the Board of Directors of Regional School Unit #13 and with the Commissioner of Education, authorizing the withdrawal committee to expend \$ \_\_\_\_\_ and authorizing the Municipal Officers of the City of Rockland to issue notes in the name of the City of Rockland or otherwise pledge the credit of the City of Rockland in an amount not to exceed \$ \_\_\_\_\_ for this purpose?"

We, the undersigned registered voters of the City of Rockland, Maine, qualified to vote in City affairs, hereby petition the Rockland City Council, to initiate the process to withdraw from RSU #13 in accordance with Maine Revised Statutes, Title 20-A: EDUCATION §1466. Withdrawal of a single municipality from a regional school unit.

**Registrar's Certification**

Pursuant to Title 20-A M.R.S. §1466, petitioners were required to collect at least 272 signatures of registered Rockland voters to place the above question on the ballot for the November 3, 2015 Municipal Election. The petitioners having met such requirements, I, Kara M. Cushman, Registrar of Voters for the City of Rockland, Maine, do hereby certify that 272 names attached to the above petition and filed with the City Clerk's Office, appear on the voting list and have been verified as registered voters of the City of Rockland.

8-28-15

Date

Kara M. Cushman

Kara M. Cushman, Registrar of Voters

**CITY OF ROCKLAND, MAINE**

**ORDER #70**

**IN CITY COUNCIL**

**September 14, 2015**

**ORDER** Calling Election and Placing Referendum Question on Ballot – November 3, 2015  
Municipal Election

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the Annual Municipal Election shall be held in conjunction with the State Referendum Election on November 3, 2015; and

**THAT**, the polls at the Rockland Recreation Center/Community Building, 61 Limerock Street, Rockland, Maine, shall be opened at 8:00 a.m. and closed at 8:00 p.m. on November 3, 2015 for said Election; and

**THAT**, after notice and hearing on a citizen's petition for the same, held on September 14, 2015, the City Clerk is authorized and directed to submit the following question to the voters of the City of Rockland at the Regular Municipal Election schedule for November 3, 2015:

**QUESTION #1 WITHDRAWAL FROM RSU#13**

“Do you favor filing a petition for withdrawal with the Board of Directors of Regional School Unit #13 and with the Commissioner of Education, authorizing the withdrawal committee to expend \$ \_\_\_\_\_ and authorizing the Municipal Officers of the City of Rockland to issue notes in the name of the City of Rockland or otherwise pledge the credit of the City of Rockland in an amount not to exceed \$ \_\_\_\_\_ for this purpose?”

(A **YES** vote would allow the withdrawal process to proceed.)

(A **NO** vote would stop the withdrawal process.)

Sponsor: City Council

Originator: City Council

**CITY OF ROCKLAND, MAINE  
IN CITY COUNCIL**

**ORDER #71**

September 14, 2015

**ORDER** Authorizing License Agreement – Use of Right-of-Way

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to enter into a license agreement with Rockland Motor Company LLC to allow use of a portion of the right-of-way adjacent to the property located at 140 Park Street (Tax Map #46-F-1) at the intersection with New County Road, substantially in conformance with the license agreement attached hereto.

Sponsor:  
Originator: City Manager

# **SEARSPORT MOTOR COMPANY**

**315 East Main Street  
Searsport, Maine 04974  
207-548-2851  
Fax 207-548-6051  
www.searsportmotorco.com**

08/17/2015

Rockland City Council  
Rockland City Hall  
270 Pleasant Street  
Rockland, ME 04841

Dear City Council Members:

My wife and I are extremely excited to join your city's business community. We looked at several locations in other areas and with great interest chose 140 Park Street in Rockland as our future site for a used vehicle dealership. We currently have a used vehicles dealership in Searsport, Searsport Motor Company, which we started in 2001. We have grown considerable in the past 14 years and are excited to open another location in Rockland.

We recently met with the Mayor, City Manager and Code Enforcement Officer and they had the Public Works Director look over the property. The Public Works Director recommended that we take snow removal into consideration. The buffer I am proposing would allow for snow removal

I am requesting a license to use a portion of the right of way which is adjacent to New County Road and 140 Park Street for our new facility, Rockland Motor Company, LLC. If allowed, we would put a 4 foot curb with a vegetation buffer on the property to eliminate thru traffic.

We appreciate your consideration of this proposal and we look forward to our future relationship with you and the city of Rockland.

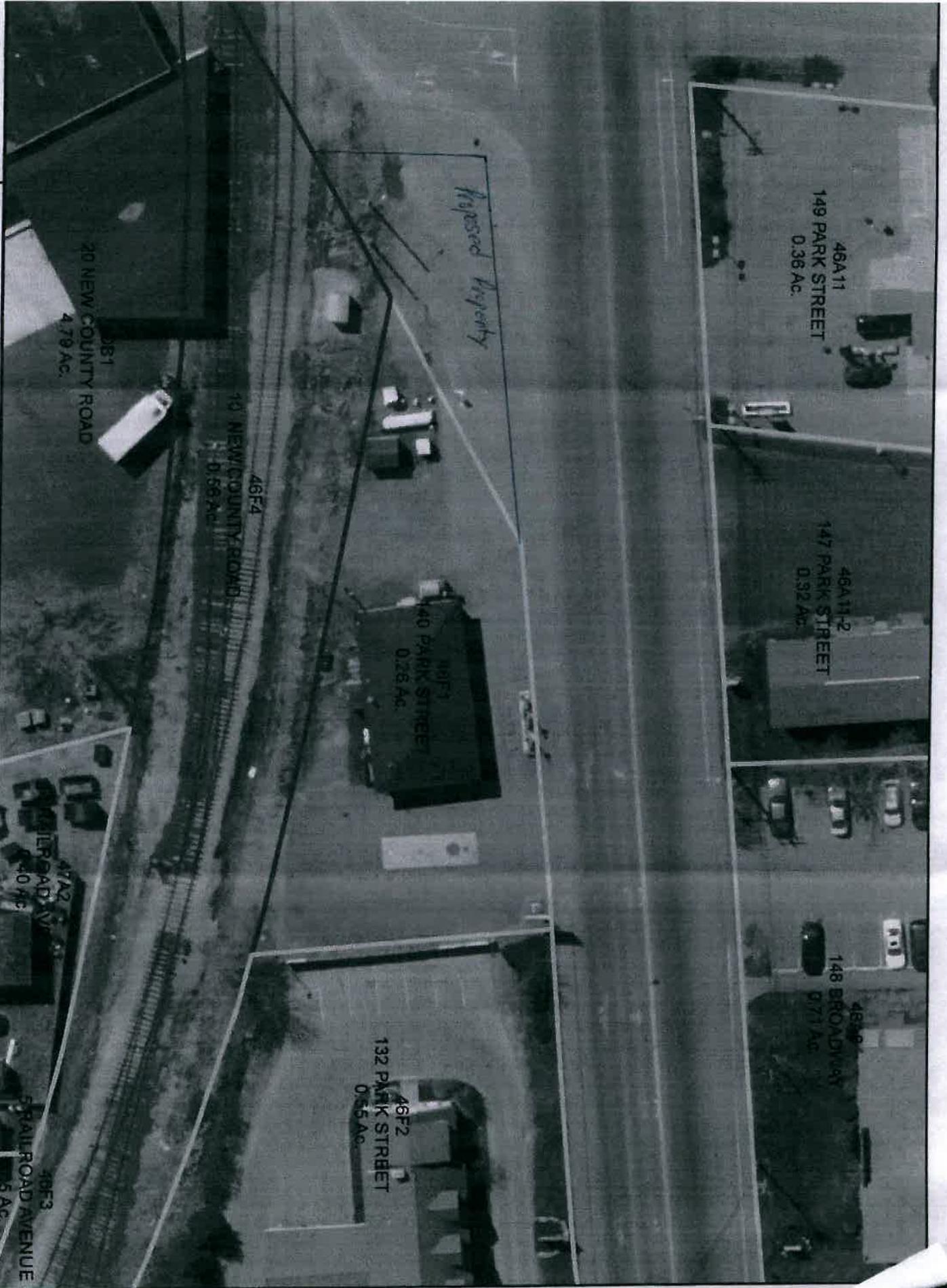
Respectfully Submitted,



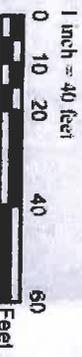
Christopher C. Colby, Owner  
Rockland Motor Company, LLC  
Cell (207) 272-4551



CITY OF  
ROCKLAND  
KNOX COUNTY  
MAINE



Printed: 7/21/2015



**DISCLAIMER**

This map is compiled from aerial photography, existing surveys, deeds, and landowner's descriptions. They are to be used for assessment purposes only, and not for conveyance.

**CITY OF ROCKLAND, MAINE**

**ORDER #72**

**IN CITY COUNCIL**

**September 14, 2015**

**ORDER Authorizing Expenditure – Technical Support on Rockland Energy Center Proposal**

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to expend the \$1,000 per month option payments from Rockland Energy Center LLC, as per the Non-Binding Option Agreement authorized by the Council pursuant to Order #30-15 passed May 1, 2015, for legal, technical and fiscal review of any and all aspects of the Rockland Energy Center proposed natural gas fired co-generation energy facility.

**Sponsor: City Manager  
Originator: City Manager**

**CITY OF ROCKLAND, MAINE**

**ORDER #73**

**IN CITY COUNCIL**

September 14, 2015

**ORDER** Authorizing Reserve Funds – Elm/Museum Street Project

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to transfer the following reserve funds to the Elm/Museum Street Sidewalk Project Account (#40142-03710) to cover addition expenses for this project that will result in an increase of the gallons of water per inch of rain collected by Elm Street's drainage improvements from an estimated 37,378 gallons to 41,891 gallons:

\$16,813 from Sewer CIP Project Reserve Account (#20000-01896)

\$ \_\_\_\_\_ from Sewer Reserve Capacity Fee Account (#20000-01679)

Sponsor: City Manager

Originator: Water Pollution Control Director

13-272 VOLUME OF STORMWATER PER INCH OF RAIN ESTIMATE

July 27, 2015



WITHOUT BID ALTERNATE

GALLONS OF WATER PER INCH OF RAIN COLLECTED BY ELM STREET'S DRAINAGE IMPROVEMENTS RAINFALL AMOUNT: 1 INCHES

DRAINAGE AREA ESTIMATES:

ESTIMATED AREA 75,767 FT<sup>2</sup> 1.739 ACRES

COMBINED LOSS MODEL:

SCS METHOD

District:

Urban

Use:

Commercial

S<sub>b</sub>

0.204

RUNOFF

0.79

VOLUME OF WATER

37,378

INCHES

GALLONS



WITH BID ALTERNATE

GALLONS OF WATER PER INCH OF RAIN COLLECTED BY ELM STREET'S DRAINAGE IMPROVEMENTS WITH BID ALTERNATE RAINFALL AMOUNT: 1 INCHES

DRAINAGE AREA ESTIMATES:

ESTIMATED AREA 84,916 FT<sup>2</sup> 1.949 ACRES  
 BID ALTERNATE AREA 9,149 0.210  
 TOTAL AREA 91,065 2.159

COMBINED LOSS MODEL:

SCS METHOD

District:

Urban

Use:

Commercial

S<sub>b</sub>

0.204

RUNOFF

0.79

VOLUME OF WATER

41,891

INCHES

GALLONS

**CITY OF ROCKLAND, MAINE  
IN CITY COUNCIL**

**ORDER #74**

September 14, 2015

**ORDER** Authorizing Sale of City-Owned Items

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the Rockland Historical Society is hereby authorized to sell the following duplicative collections and books, with the proceeds to be deposited into the Due From Library Reserve Account (#10000-01650):

*The War of the Rebellion Official Record of the Union and Confederate Armies*  
*The Medical and Surgical Record of the War of the Rebellion, by Joseph Barnes*  
*Messages and Documents from the President of the United States, 1866-1867*  
*Messages and Documents from the President of the United States, 1895-1896*  
*Annual Reports of the Department of the Interior, 1897*  
*Annual Reports of the Department of the Interior, 1898*  
*Report of the Secretary of the Interior, 1894-1895*  
*Report of the Secretary of the Interior, 1895-1896*  
*Report of the Secretary of the Interior, 1896-1897*  
*Report of the War Department, 1899. Vol I, Parts 1-6 (includes 2 copies of Part 1)*  
*Report of the War Department, 1900. Vol. I, Parts 1-9*  
*Report of the War Department, 1901, Parts 1-7 (2 copies of each, except for 1 & 2)*  
*Shakespeare, by Alex Chambers*  
*Complete History of World War II (1 of 2 copies)*

Sponsor: City Manager  
Originator: Historical Society



**ROCKLAND HISTORICAL SOCIETY**  
P.O. Box 1331 • Rockland, Maine 04841-1331 • 207 594-6193

---

July 21, 2015

James D Chaousis , City Manager  
Rockland City Hall  
270 Pleasant Street  
Rockland, Maine 04841

Dear Jim,

The Rockland Historical Society is badly in need of more space to store some exciting new collections of books, manuscripts, business records, and photographs that have been donated to the society. We would like permission from the City of Rockland to sell the large collection of books entitled *The War of the Rebellion Official Records of the Union and Confederate Armies* which was donated to the City by the GAR in 1977. The collection includes 128 volumes and will give us 35 linear feet of shelf space. The Rockland Public Library has two complete sets of these books, they are quite common, and their contents are available on line for free. We believe we can sell them on line to an enthusiastic Civil War buff for several hundred dollars.

We would also like to sell:

*The Medical and Surgical Record of the War of the Rebellion*, by Joseph Barnes  
*Messages and Documents from the President of the United States, 1866-1867*  
*Messages and Documents from the President of the United States, 1895-1896*  
*Annual Reports of the Department of the Interior, 1897*  
*Annual Report of the Department of the Interior, 1898*  
*Report of the Secretary of the Interior, 1894-1895*  
*Report of the Secretary of the Interior, 1895-1896*  
*Report of the Secretary of the Interior, 1896-1897*  
*Report of the War Department, 1899, Vol. I, Parts 1,2,3,4,5,6* (7 books, including  
2 copies of Part 1)  
*Report of the War Department, 1900, Vol. I, Parts 1,2,3,4,5,6,7,8,9* (9 books)  
*Report of the War Department, 1901, Parts 1,2,3,4,5,6,7* (2 copies each, except 1&2)  
*Shakespeare* by Alex Chalmers  
*Complete History of World War II* (1 of 2 copies)

We will see that the money goes to the City of Rockland, and the historical society will gain much needed space.

Sincerely,

*Brian R. Haden*

President, Rockland Historical Society

**CITY OF ROCKLAND, MAINE**

**ORDER #75**

**IN CITY COUNCIL**

September 14, 2015

**ORDER** Authorizing License and Operating Agreement with the YMCA – Community Building

**IT IS HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:**

**THAT** the City Manager is hereby authorized to enter into a License and Operating Agreement with the Penobscot Bay YMCA, for the YMCA's operation of exercise, recreational, and sports programs and activities in the Community Building and at other locations owned by the City, in substantial conformance with the agreement attached hereto and incorporated herein by reference.

Sponsor:  
Originator: City Manager

**LICENSE & OPERATING AGREEMENT**

**for the**

**ROCKLAND COMMUNITY BUILDING**

**between the**

**CITY OF ROCKLAND, MAINE**

**and the**

**PENOBSCOT BAY YMCA**

**Dated: September \_\_\_, 2015**

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## **LICENSE & OPERATING AGREEMENT**

### **for the ROCKLAND COMMUNITY BUILDING**

**THIS LICENSE & OPERATING AGREEMENT for the ROCKLAND COMMUNITY BUILDING** (the "Agreement"), by and between the CITY OF ROCKLAND, MAINE (the "City"), a municipal corporation duly organized and existing under the laws of the State of Maine and situated in the County of Knox and State of Maine, and the PENOBSCOT BAY YMCA (the "YMCA"), a Maine non-profit corporation with its principal place of business in Rockport, Maine, is made and effective this \_\_\_ day of September 2015.

**WHEREAS**, the City owns and operates a 25,700 sq. ft. multi-purpose brick building at 61 Limerock Street in Rockland, Maine (the "Community Building"); and

**WHEREAS**, the City, among other programs, provides recreational activities throughout the year at the Community Building, which programs are currently operated by the City's Recreation Department; and

**WHEREAS**, the City seeks to reduce its expenses incurred in providing such recreational activities by privatizing and terminating the public's operation of recreational programs in Rockland; and

**WHEREAS**, the parties wish to enter into this License & Operating Agreement to establish the terms and conditions for the YMCA's operation of exercise, recreational, and sports programs and activities in the Community Building and at other locations owned by the City in Rockland,

**NOW, THEREFORE**, the City and the YMCA agree as follows:

### **ARTICLE 1 – LICENSE**

The City hereby grants to the YMCA a non-exclusive license to enter, occupy, use, and operate the Community Building, for the purpose of conducting youth and adult exercise, recreation, sports, and other programs for Rockland residents and other YMCA members and program participants, subject to the terms, conditions, limitations, and requirements set forth in this Agreement (the "YMCA License"). The YMCA License includes all interior portions of the Community Building, excluding the offices of the Rockland District Nursing Association on the east side of the first floor of the Community Building (the "Premises"). The YMCA License is subject to the City's right to continue its current and to commence new programs and activities in the Community Building, including elections, as set forth in Article 5. The YMCA may use, on a non-exclusive basis, certain recreational equipment identified in and subject to the limitations set forth in Article 6.

The YMCA License does not include, but the YMCA may schedule the use of and/or conduct programs at:

- \* Playground at 61 Limerock Street;
- \* Johnson Memorial Park on Chickawaukie Pond at 151 Lake View Drive;
- \* Kenniston Field in Jaycee Park at 435 Old County Road; and
- \* Snow Marine Park playing field(s) at 51 Mechanic Street

(collectively referred to in conjunction with the Premises as the “Rockland Recreational Facilities”). The YMCA’s use of these additional recreational facilities is intended to be in conjunction with, and not exclusive of, other public uses of the facilities. The City currently does not charge for the use of the playground, Johnson Memorial Park, Kenniston Field, or Snow Marine Park, and they are offered to the YMCA at no charge. In the event the YMCA’s use of Rockland Recreational Facilities other than the Community Building grows to such an extent as to risk overburdening the facilities or unduly restrict public access to them, the City may propose solutions for preserving the condition and purpose of, and public access to, such facilities.

The YMCA and its employees and program participants may also utilize, on a first-come first-served basis, existing public parking at 61 Limerock Street, which parking is also available for use by visitors to the playground and public library, Rockland District Nursing Association staff, directors, and volunteers, voters, and the general public.

## **ARTICLE 2 – DEFINITIONS**

In addition to other terms defined and set out elsewhere in this Agreement, for purposes of this Agreement, the following terms shall have the meanings specified below:

A. **City.** The “City” is the City of Rockland, Maine, the owner of the Community Building and other Rockland Recreational Facilities that are the subject of this Agreement.

B. **Community Building.** The “Community Building” is the approximately 25,700 sq. ft. multi-purpose brick building located at 61 Limerock Street, Rockland, Maine owned and operated by the City as a Recreation Center and community building.

C. **Facility Budget.** The “Facility Budget” is the annual operating budget required of the YMCA pursuant to Article 13 of this Agreement.

D. **Operating Subsidy.** The “Operating Subsidy” is funding appropriated and paid to the YMCA by the City for the operation of YMCA Programs at Rockland Recreational Facilities pursuant to Article 12 of this Agreement.

E. **Premises.** The “Premises” are those interior portions of the Community Building that this Agreement authorizes the YMCA to occupy and use for exercise, recreational, sports, and other programs and activities.

F. **Program Revenue.** “Program Revenue” is money paid to the YMCA by YMCA members and others participating in one or more of the YMCA Programs offered at one or more of the Rockland Recreational Facilities.

G. Rockland Recreational Facilities. The “Rockland Recreational Facilities” are those properties owned by the City where the YMCA has permission to operate exercise, recreational, sports, and/or other programs and activities, as identified in Article 3 of this Agreement or other authorization by the City.

H. YMCA. The “YMCA” is the Penobscot Bay YMCA, having its principal place of business in the Town of Rockport, County of Knox, and State of Maine.

I. YMCA License. The “YMCA License” is the permission granted by the City to the Penobscot Bay YMCA to utilize portions of the interior of the Community Building.

J. YMCA Programs. The “YMCA Programs” are those exercise, recreational, sports, and other programs and activities the YMCA is authorized to operate at one or more of the Rockland Recreational Facilities.

### **ARTICLE 3 – USE OF THE PREMISES**

The YMCA covenants and agrees, during the term(s) of this Agreement, to use the Premises, other specified Rockland facilities, and the Equipment to operate youth and adult exercise, recreation, sports, and other programs for Rockland residents (the “YMCA Programs”), subject to the terms and conditions of this Agreement. Such programs are intended to be in addition to, and not to replace or subsume, programs the YMCA currently operates at other locations. The YMCA Programs shall include at least the following:

Summer Camp at Chickawaukie Pond for children aged \_\_\_ to \_\_\_;

Youth Soccer for children aged \_\_\_ to \_\_\_;

Youth and Adult Basketball Leagues for Rockland and other Midcoast communities;

After-School Program, for school children aged \_\_\_ to \_\_\_;

---

---

The City invites and encourages the YMCA to expand its recreational and community programs at the Premises, as the resources and demand therefor permit, and asks only that the YMCA keep the City informed as to such programmatic changes.

The YMCA shall make such programs available to all persons complying with the YMCA’s Member Policy (Exhibit A), as from it may from time to time be amended by the YMCA, irrespective of financial capacity, in conformance with the YMCA’s Financial Assistance Policy (Exhibit B), as amended. In Year One of the License, between October 1, 2015, and December 31, 2015, the YMCA, in its sole discretion, may limit its programs to youth

soccer and basketball, and may choose not to open and staff the Premises at all times between the proposed regular program hours of 12:00 noon to 8:00 p.m., and/or not to operate an after school program. YMCA staff may keep locked desks and secure files at the Premises.

The YMCA shall not use or allow the Premises or other Rockland Recreational Facility when occupied by the YMCA to be used in any manner which establishes or promotes any religion or otherwise violates the principles of separation of church and state under the First Amendment to the United States Constitution, the Constitution of Maine, or any similar Laws.

The YMCA shall not knowingly permit any criminal or other unlawful conduct on the Premises or other Rockland Recreational Facility, whether by a YMCA officer, employee, or agent; contractor; program participant; or other person. The YMCA shall not employ any person who has been convicted of any offense relating to a scheduled drug under the Federal Controlled Substances Act, or any sexual misconduct offense, nor any person who is a registered sex offender. The YMCA shall take all reasonable steps to assure that participants in YMCA Programs, are not subjected to bullying, harassment, and unwanted physical contact.

The YMCA shall not cause or permit any hazardous substance as defined under 38 M.R.S. § 1362(1) to be brought upon, kept at or in, or used in or about the Premises or any City property by the YMCA, its agents, employees, contractors, or invitees. The YMCA shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any material into the atmosphere, ground, sewer system, or any body of water, if that material (as is reasonably determined by the City, or any other governmental authority) does or may pollute or contaminate the same, or may adversely affect the health, welfare, or safety of persons, whether located on the Premises, or elsewhere, or the condition, use, or enjoyment of the Premises or any other real or personal property.

The YMCA, at its sole cost and expense, shall comply with all Laws applicable to the YMCA which affect the carrying on of the YMCA's particular functions and particular business in and about the Premises and other Rockland Recreational Facilities.

#### **ARTICLE 4 – TERM; HOURS**

A. Initial Term. The Initial Term shall be two (2) years and nine months, commencing on October 1, 2015, and terminating at midnight on June 30, 2018, as follows:

Year One: 10/01/15 – 06/30/16;  
Year Two: 07/01/16 – 06/30/17; and  
Year Three: 07/01/17 – 06/30/18 (the “Expiration Date”).

B. Renewal. The Rockland City Council and YMCA Board of Directors may authorize the renewal of this Agreement for a two year Renewal Term, as follows:

Year Four: 07/01/18 – 06/30/19; and  
Year Five: 07/01/19 – 06/30/20.

Such Renewal Term shall be subject to the other terms and conditions set forth in this Agreement.

C. Hours. The YMCA shall have primary possession and use of the Premises from 12:00 noon to 8:00 p.m., Monday through Saturday, during and including each week of the school year of Regional School Unit (“RSU”) 13 or other public school system serving Rockland (the “YMCA Hours”). The YMCA may use the Premises outside the YMCA Hours during inclement weather for Summer Camp and other YMCA Programs normally conducted at other Rockland Recreational Facilities. The YMCA Chief Executive Officer and the Rockland City Manager may agree to the alteration or enlargement, but not the reduction, of YMCA Hours and/or YMCA operations at the Premises. The YMCA Hours and manner of operations may be reasonably adjusted on a temporary basis from time-to-time by the YMCA based on weather and demand for services at the Premises, without the prior consent of the City. Any permanent reduction to the hours of operation and/or YMCA Programs shall require the approval of the Rockland City Council. The City shall obtain any necessary consents or permits which may be required to operate the Premises during the hours of operation as set forth herein.

D. Holding Over. If The YMCA shall continue its occupancy, use, or operation of the Premises after the Expiration Date, such the occupancy shall not be deemed to extend or renew the Term, or to create any right of the YMCA to continue its occupancy, use, or operation of the Premises.

## **ARTICLE 5 – ROCKLAND’S RETAINED USES**

Notwithstanding anything to the contrary herein, the City reserves the right to enter, occupy, use, and operate the Premises at any time, including for the following purposes (“Rockland’s Retained Uses”). The City shall take reasonable steps to schedule and conduct Rockland’s Retained Uses so as not to interfere with YMCA programs in the Premises.

### Rockland’s Retained Uses:

- A. Elections: the day before, of, and after all national, state, municipal and RSU 13 budget or other Rockland school elections;
- B. Knit Wits club;
- C. Zumba / Dance Classes;
- D. U.S. Coast Guard Physical Training;
- E. Seniors Walk & Lift;

The City agrees not to offer or authorize any third party to offer, without the YMCA’s prior written agreement, programs at the Premises for sports, health, and fitness programs operated by the YMCA at the Premises that are intended to serve participants in an age bracket already served by the YMCA at the Premises. The City may offer or authorize a third party to offer

sports, health, and fitness programs not offered by the YMCA at the Premises or at another Rockland Recreational Facility that the YMCA, after notice, has declined to operate.

The City shall inform the YMCA of the schedules for Rockland Retained Uses. The City shall be responsible for admitting program participants to the Premises, for monitoring participants' activities in the Premises, and, when concluded, for securing the locations in the Premises where the Rockland Retained Uses were conducted. The City shall receive and retain any rent, fee, or other charge(s) generated by any Rockland Retained Use. The City will use its reasonable best efforts in entering and using the Premises not to disrupt or interfere with any activities then being conducted by the YMCA or its permitted agents, and to coordinate maintenance activities or other work at the Facility to minimize any disturbance or interference with any YMCA Program.

## **ARTICLE 6 – EQUIPMENT AVAILABLE FOR YMCA USE**

The Premises are, as of the effective date of this Agreement, stocked with certain exercise, recreation, and sports equipment, as hereinafter identified (the "Equipment"). The YMCA may utilize the Equipment in and for youth and adult recreational programs conducted by the YMCA at the Premises and other Rockland Recreational Facilities, but not at the YMCA's facility at 12 Water Street in Rockland or other YMCA facility. The YMCA may replace damaged, deteriorated, and lost Equipment, at the YMCA's expense (the "Replacement Equipment"), which Replacement Equipment shall be property of the YMCA.

## **ARTICLE 7 – RENT**

The YMCA shall not owe the City rent for its use and occupancy of the Premises or other Rockland Recreation Facilities that is in compliance with the terms and conditions of this Agreement.

## **ARTICLE 8 – UTILITIES**

The City shall be responsible for providing and paying all costs associated with all utilities used at the Premises including but not limited to potable water, sewerage disposal, electricity, and heating, ventilation, and air conditioning fuel(s), to the extent such utilities serve the Premises as of the effective date of this Agreement. Existing phone and internet connections will also continue to be provided by the City; the YMCA shall be responsible for the costs of increased or improved phone and/or internet connections. If any utility service to the Premises should become unavailable for a continuous period in excess of twenty-four (24) hours and such unavailability is not directly caused by the YMCA, the City shall use reasonable efforts to cause the cessation of any such interruption and to the extent reasonably possible to effect repairs during non-business hours. The YMCA shall not use any equipment or devices that utilize excessive electrical energy or which may, in the City's reasonable opinion, overload the wiring or interfere with electrical services to other tenants. The City shall not be required, without its written agreement, to provide expanded or additional utility services or other amenity to the Premises not in existence as of the effective date of this Agreement.

## ARTICLE 9 – SIGNAGE

Subject to the City's pre-approval as to size, materials, placement, content, design, and compliance with the Rockland Sign Ordinance, Ch. 19, Art. III, Sec. 19-315, the YMCA shall have the right to place up to two signs on the exterior of the Community Building, as follows

- A. One sign on the Limerock Street / south side of the Community Building, and
- B. One sign on the Union Street / east side of the Community Building.

The City shall have the right to review and pre-approve each sign with respect to its size, placement, materials, and content, and applicable zoning ordinances and private restrictions. The City may refuse consent to any proposed signage that is in the City's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate for the premises or use of any other tenant. The YMCA shall repair all damage to the premises resulting from the removal of signs installed by the YMCA. The City reserves the right also to place signs on the exterior of the Community Building advertising other users of the building or for other municipal purposes.

## ARTICLE 10 – MAINTENANCE; ALTERATIONS; LIENS

A. Maintenance. The City shall be responsible for maintaining the Premises, including the building structure, heating, ventilation, plumbing, electrical, and fire suppression systems, equipment and fixtures, and for performing any repairs the City determines are reasonably necessary for the YMCA's purposes. The City shall keep the Premises in compliance with the NFPA-101 Life Safety Code, pursuant to Rockland Code, Ch. 4, Art. II, Sec. 2-402. The City shall also be responsible for maintenance of exterior grounds and landscaping, snow plowing and sanding of entrances and parking areas, and trash removal. The City Manager shall establish and share with the YMCA a protocol for notifying the City regarding maintenance issues. The City shall, within its available means, perform those repairs that are needed for the YMCA Programs within a reasonable time. The YMCA shall provide interior custodial services to keep the Premises in a neat and clean condition, and at other Rockland Recreational Facilities shall cause the prompt removal of equipment, garbage, and other things brought onto or deposited any such facility during the YMCA's use thereof.

B. Alterations. The YMCA shall not make any alterations to the Premises or other Rockland Recreational Facility without the prior, written approval of the City. No such alteration may be made that impairs the safety or changes the character or limits the utility of the Premises for the City, its other occupants and users, or the public. The YMCA shall have the right to place and install personal property, equipment, and temporary installations in and upon the Premises, and to fasten the same to the Premises, so long as such installations do not impair the safety or change the character or utility of the Premises. All personal property, Replacement Equipment, machinery, trade fixtures and temporary installations installed by the YMCA in the Premises shall remain the YMCA's property free and clear of any claim against the City, and the YMCA shall have the right to remove the same at any time during the term of this Agreement provided that all damage to the premises caused by such removal shall be repaired by the YMCA at its expense. Other alterations and improvements to the premises shall be considered to be part

of the Premises. Alterations or repairs requested by the YMCA shall be subject to approval by the City, and the availability of funding. The City at its sole cost and expense also shall have the right to make such alterations, changes, improvements and additions to the Premises as the City reasonably determines will improve the use and/or operation thereof as approved by the YMCA.

C. Liens. The YMCA shall not permit any mechanic's or materialman's lien to be filed against the Premises or other City property for any work performed, materials furnished, or obligation incurred, by or at the request of YMCA, or other purpose. If any such lien shall at any time be filed, the YMCA may contest the same in good faith but the YMCA shall, prior to any foreclosure thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise. If any mechanic's or materialman's lien is filed against the Premises and Facility, or any part thereof or interest therein, by reason of work, labor, services or materials performed by or furnished to the YMCA and the amount of such lien is greater than \$5,000, then the City may require the YMCA to provide a bond or other security reasonably acceptable to the City, indemnifying the City or such organization against loss as a result of such lien. Nothing contained in this Agreement shall be construed as a consent on the part of the City to subject its estate in the Premises and Community Building property to any lien or liability under the lien laws of Maine.

## ARTICLE 11 – CONDEMNATION

A. Whole Taking. If the whole of the Premises shall be taken or condemned for any public or quasi-public purpose, or the same shall be sold or conveyed in lieu of taking by condemnation, or such a substantial part of the Premises shall be so taken or conveyed such that the part thereof remaining cannot reasonably or economically be used by the YMCA as contemplated by this Agreement, then this Agreement shall terminate as of the date upon which title shall pass pursuant to such taking or condemnation. The YMCA shall have no interest in nor right to any portion of such condemnation award, or payment in lieu of taking or condemnation. The City shall provide the YMCA reasonable access to remove YMCA equipment and other property.

B. Partial Taking. If a portion or interest in the Facility shall be taken or condemned for any public or quasi-public purpose, or the same shall be sold or conveyed in lieu of such taking or condemnation, such that the part thereof remaining can reasonably and economically be used by the YMCA as contemplated in this Agreement, then this Agreement shall continue in full force and effect until expiration or termination according to the terms hereof. In the event such partial taking or condemnation physically impairs any portion of the improvements that are essential to the continuance of one or more of the YMCA Programs, in the sole discretion of the City, any such condemnation award or payment in lieu thereof shall be used to rebuild, repair, replace and restore the Premises. Any such rebuilding, replacement or restoration shall be carried out by the City as soon as reasonably possible in a manner similar to or consistent with, to the extent reasonably possible, the original condition for the Community Building. Provided, however, that the City, in any such rebuilding, without obtaining the YMCA's consent or approval, may elect to make material deviations from the original condition of the building. In causing such rebuilding or repairs to be made, the City shall be entitled to use, and shall use, all proceeds available from the condemnation in question.

## ARTICLE 12 – OPERATING SUBSIDY

The YMCA’s use of the Premises and other City facilities and its operation of the YMCA Programs shall be conditioned upon the City’s appropriation and payment to the YMCA of an annual “Operating Subsidy” in at least the following amounts:

Year One:	\$ 84,000
Year Two:	\$130,000

The Operating Subsidy for Years Three through Five shall be the sum of the preceding Year’s Operating Subsidy plus the quotient of such preceding Year’s Operating Subsidy divided by the numeric expression of the Consumer Price Index (“CPI”) derived by the U.S. Department of Labor’s Bureau of Labor Statistics as of March 1:

$$\text{Operating Subsidy} = \text{Preceding Operating Subsidy} + (\text{Preceding Operating Subsidy} / \text{CPI})$$

The Operating Subsidy shall be paid on or before the following dates in the applicable Year of this Agreement:

<u>Year:</u>	<u>Due Dates:</u>	<u>% Amount:</u>
Year One:	October 1	75
	April 1	25
Years Two – Five:	October 1	50
	April 1	50

For Years Two through Five, the appropriation and payment of the Operating Subsidy is conditioned upon annual approval of such subsidy by the Rockland City Council. In the event that such appropriation and payment is not approved and paid, the YMCA may terminate this Agreement as set forth in Article 18.

The Operating Subsidy is intended to support programs offered by the YMCA at the Premises and other of the City’s recreational facilities. The Operating Subsidy may be applied to equipment, staff, and other expenses reasonably-related to operating or supporting the YMCA Programs at Rockland Recreational Facilities.. Except as otherwise set forth in this Agreement, all expenses and liabilities incurred by the YMCA with respect to the Premises and other Rockland Recreational Facilities are to be paid by the YMCA.

The City is obligated only to make any payments, or to retain or allow retention of funds, under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose or authorized by the budget resolve for the City’s then current fiscal year. Provided, however, that if the City shall fail to make any payments required of the City hereunder because of any such non-appropriation, the YMCA may terminate this Agreement pursuant to Article 18.

## **ARTICLE 13 – FINANCIAL MANAGEMENT**

The YMCA will use its reasonable best efforts to operate the YMCA Programs in a fiscally sound manner during each full Year of its operation at the Premises. Prior to the commencement of each Year of this Agreement, the YMCA shall provide the City Manager with a copy of an annual budget that includes the proposed expenditure of the Operating Subsidy and funding of the YMCA Programs at Rockland Recreational Facilities. Following the conclusion of the YMCA's fiscal year in each Year of this Agreement, the YMCA shall provide to the City Manager a copy of the YMCA's audited profit and loss statement or other audited statement demonstrating the expenditure of the Operating Subsidy for staffing, equipment, and other expenses reasonably related to the YMCA's operation of the YMCA Programs at Rockland Recreational Facilities. At the City Manager's request, the YMCA shall provide existing or otherwise readily-available membership, revenue, and/or program participation information for YMCA Programs at Rockland Recreational Facilities. For ease of administration, Program Revenue generated from YMCA Programs may be commingled by the YMCA in other revenues and utilized at the YMCA's discretion.

## **ARTICLE 14 – FINANCIAL ASSISTANCE**

The YMCA has agreed to provide Rockland children through Grade 8 with a free membership for the Rockland Community Building during YMCA Hours. Consistent with its Financial Assistance Policy (Exhibit B), the YMCA will use its reasonable best efforts to provide financial aid and assistance based on need to other Rockland residents seeking membership for the Community Building during YMCA hours and to other participants in YMCA Programs who might not otherwise be able to afford the YMCA's services and programs at the Rockland Recreational Facilities.

## **ARTICLE 15 – INSURANCE**

The parties shall carry the following insurance policies:

A. The City's Insurance.

(1) The City shall maintain a policy or policies of comprehensive general liability insurance in an amount at least equal to The YMCA's municipal statutory limits of liability, insuring the City in respect to bodily injury or death and property damage arising or alleged to have arisen from any act or omission of the City, its agent(s), employee(s), or invitee(s) on or in the vicinity of the premises; and

(2) The City shall maintain a policy or policies insuring the Community Building against damage or destruction by fire and the perils commonly covered under extended coverage policies in an amount equal to the full replacement cost of said building. The proceeds of such insurance, in the event of loss or damage to the building, shall be applied on account of the obligation of the City to maintain and repair the Premises, as herein provided, to the extent that such proceeds are required; provided, however, that the City may determine, in its sole discretion, that the building

is a total loss and shall not be rebuilt, in which instance this Agreement shall be deemed terminated effective as of the date of such loss.

B. The YMCA's Insurance.

(1) The YMCA shall maintain a policy or policies of comprehensive general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) in respect to injury or death to any one person and Two Million Dollars (\$2,000,000.00) in respect to each occurrence of bodily injury or death to any number of persons or property damage arising or alleged to have arisen from any act or omission of the YMCA, its agent(s), employee(s), or invitee(s) on or in the vicinity of the premises;

(2) The YMCA shall obtain and maintain throughout the term of this Agreement employer's liability insurance protecting both the YMCA and the City and for claims made by the YMCA's employees, including claims made under applicable worker's compensation statutes, or shall provide such coverage through a program of self-insurance;

(3) The YMCA shall cause the City to be listed as an additional insured on the YMCA's policy or policies of comprehensive general liability insurance, and the YMCA shall provide the City with current Certificates of Insurance evidencing the YMCA's compliance with this paragraph. The YMCA shall obtain the agreement of its insurers to notify the City that a policy is due to expire at least (10) days prior to such expiration; and

(4) If the Community Building or any part thereof is damaged by fire or other casualty resulting from any act or negligence of the YMCA or any of its agents, employees, or invitees, the YMCA shall be responsible for the costs of repair not covered by insurance. In the event the City fails to obtain or maintain property coverage for the Premises, the YMCA shall only be responsible for the costs of repair of damage caused by fire or other casualty that would not have been covered had such coverage not lapsed. The YMCA shall add such additional coverages to its comprehensive general liability insurance as may be necessary to afford such coverage.

C. General Policy Requirements.

(1) Insurance required by this Lease may be included in general coverage under policies which also include the coverage of other property in which the City or the YMCA has, or their affiliates have, an insurable interest.

(2) Each insurance policy and certificate shall provide, in effect, that the policy may not go unrenewed, or may not be cancelled, reduced in amount, or modified by the insurer until at least thirty (30) days after the insurer shall have notified the City and the YMCA in writing by certified mail, return receipt requested.

(3) Each insurance policy and certificate shall name as additional insureds, as the case may be, the City, the YMCA, and any Mortgagee, as their interests shall appear.

(4) Upon execution of this Agreement, each party shall deliver to the other a certificate

reflecting the coverage(s) required by this Agreement.

D. Cooperation. The City and the YMCA shall cooperate fully with each other in filing any proof of loss with respect to any insurance policy or insurance pool covering the events described in this Article. In no event will the City or the YMCA voluntarily settle, or consent to the settlement of any insurance claim without the written consent of the other Party, which shall not be unreasonably withheld or delayed.

E. Indemnification. To the extent permitted by law, each party (the "Indemnifying Party") shall defend, indemnify and save the other party (the "Indemnified Party") harmless from any and all claims of third persons, and damages, costs and losses owing to third persons or suffered by Indemnified Party, including court costs, reasonable attorneys' fees and consultants' fees, arising during or after the term of this Agreement and reasonably incurred or suffered by the Indemnified Party as a result of any default or breach of any representation, warranty or covenant made by Indemnifying Party under this Article. It is a condition of this indemnification and save harmless that the Indemnifying Party shall receive written notice of any such claim against the Indemnified Party promptly after Indemnified Party first has knowledge thereof. This indemnification and save harmless includes any and all costs reasonably incurred by Indemnified Party after notice to Indemnifying Party for any cleanup, removal or restoration mandated by any governmental authority acting lawfully under law if the Indemnifying Party shall not timely perform such work.

## ARTICLE 16 – ASSIGNMENT AND SUBLEASING

A. Restrictions on YMCA. It is understood and agreed that this License & Operating Agreement neither creates nor conveys to the YMCA any property right or other interest in or to the Community Building, the City's property at 61 Limerock Street, or any other City property, including the other Rockland Recreational Facilities. The YMCA understands and agrees that it shall have no right to make or undertake to make:

- (1) any deed of trust, mortgage, security interest or other lien with respect to its license and use rights in the Premises or other Rockland Recreational Facility, except any purchase money security interests in or liens on Replacement Equipment;
- (2) any assignment of its rights under this Agreement to any third party,
- (3) any sublicense of all or any portion of any Rockland Recreational Facility to any third party,
- (4) any contract or agreement with a third party business entity which would use all or any part of any Rockland Recreational Facility for its business purposes, or
- (5) without the express written consent of the City, any contract or agreement with any third party business entity to manage the Premises for the YMCA.

Provided, however, that none of the above restrictions shall prohibit the YMCA from entering

into arrangements for so-called "Contract Services" with third parties for services/instruction for activities such as yoga, massage, nutrition, gymnastics, aerobics, other specialized training or vending services consistent with the approved YMCA Programs at the Premises. Subject to the prior reasonable approval of the City, the YMCA may also enter into service arrangements with third parties to provide incidental food and beverages to authorized users of the Premises.

B. Restrictions on City. The City shall have no right to have or allow any deed of trust, mortgage, security interest or other lien placed on the Premises, except (1) any purchase money security interests in or liens on the Premises or (2) any new financial instrument or facility utilized to fund capital improvements or repairs to the Premises. The City also agrees not to assign any of its rights under this Agreement to any person or entity except as expressly set forth herein.

## **ARTICLE 17 – REPRESENTATIONS AND WARRANTIES**

A. By the City. The City agrees, represents, and warrants as follows:

- (1) The City is a political subdivision of the State of Maine;
- (2) Title. The City has good title to the Premises in fee simple absolute. In the event that this representation is discovered to be false, the YMCA shall have the option to immediately terminate this Agreement. In the event of such termination, the parties shall thereupon be released from any further liability under this Agreement (except for obligations existing on the effective date of such termination);
- (3) Authority to Contract. The City represents and warrants that it is authorized to enter into this Agreement by and through its City Manager. The Rockland City Council has approved this License & Operating Agreement and authorized its City Manager to sign and deliver this Agreement on behalf of the City;
- (4) Hazardous Materials. To the best of the City's knowledge, no Hazardous Materials are located within the Leasehold or elsewhere in the Premises, nor are Hazardous Materials located within real property where the Premises are located. In the event that this representation is discovered to be false, the YMCA shall have the option to immediately terminate this Agreement. In the event of such termination, the parties shall thereupon be released from any further liability under this Agreement (except for obligations existing on the effective date of such termination). The City shall not cause or permit any hazardous substances to be used, stored, generated or disposed on, in, or under the Premises, the Community Building, or other Rockland Recreational Facility by the City, the City's agents, employees or contractors, except for those hazardous substances which are installed in and may lawfully be used in the ordinary course of business in the operation of the said premises or which may be reasonably required in performing the obligations of the City under this Agreement, and then only to the extent no laws are violated in so doing.

B. The YMCA's Representations and Warranties.

- (1) Corporate Existence. The YMCA represents that it is a non-profit Maine corporation in good standing with the Maine Secretary of State, and is authorized to do business in Maine.
- (2) Authority to Lease. The YMCA represents and warrants that it is authorized to enter into this Agreement by and through its Chief Executive Officer, and to perform the obligations imposed by this Agreement. The Penobscot Bay YMCA Board of Directors have approved this Agreement and authorized its Chief Executive Officer to sign and perform this Agreement on behalf of the YMCA.
- (3) Financial Capacity. The YMCA represents and warrants that it has sufficient financial capacity and credit worthiness to complete its undertakings in this Agreement.
- (4) No Environmental Violations by the YMCA. The YMCA shall not cause or permit any hazardous substances to be Used on, in or under the Premises and the Community Building property by the YMCA, the YMCA's agents, employees or contractors, except in the ordinary course of business in the operation of any activities or business by the YMCA as permitted under this Agreement, or as reasonably required in performing the obligations of the YMCA under this Agreement, and then only to the extent no Laws are violated in so doing.

## **ARTICLE 18 – DEFAULT AND TERMINATION**

### **A. Default.**

(1) By The YMCA. The YMCA shall be in default if the YMCA breaches any term or condition of this Lease or of the Operating Agreement, and fails either to cure such default or reach agreement with the City as to an appropriate correction of such default within fourteen (14) days of written notice thereof by the City. In the event of the YMCA's default, this Lease and the Operating Agreement shall be deemed terminated, and the City shall be authorized to enter into full possession of the Leasehold and to cause the removal, at the YMCA's expense, of any personal property, equipment, or fixtures of the YMCA in or affixed to the Premises.

(2) By The City. The City shall be in default if the City breaches any term or condition of this Lease or of the Operating Agreement, and fails either to cure such default or reach agreement with the YMCA as to an appropriate correction of such default with fourteen (14) days of written notice thereof by the YMCA. In the event of the City's default, the YMCA may terminate this Agreement by providing the City with sixty (60) days' written notice of the YMCA' proposed cessation of recreational activities at the Rockland Recreational Facilities. The YMCA may not discontinue such recreational activities prior to the expiration of the sixty day notice period, except for activities already scheduled to terminate within that period, such as seasonal sports programs.

If upon the expiration of any cure period either party (the "Defaulting Party") fails to perform any agreement or obligation on its part giving rise to an Event of Default, the other Party (the "Curing Party") shall have the right to perform the same. The Defaulting Party shall on demand reimburse the Curing Party for the costs and expenses reasonably incurred by the Curing Party in rectifying an Event of Default as aforesaid, together with interest thereon at the

Default Rate.

Notwithstanding anything to the contrary herein, if any failure by the Defaulting Party to perform its agreements or obligations hereunder shall (i) result in any insurance required to be maintained hereunder to not be in full force and effect at any time during the term of this Agreement, (ii) result in serious injury to persons or property, or the foreclosure of any lien upon the Premises, or (iii) otherwise result in significant adverse consequences to the Curing Party if such failure to perform is not cured promptly following discovery of such failure to perform, then the Curing Party shall have the right to proceed with the cure of such failure to perform by the Defaulting Party prior to the expiration of the cure period provided for herein, within such time frames which are reasonable under the circumstances.

**B. Termination.**

Notwithstanding anything to the contrary herein, the City or the YMCA may terminate this Agreement without cause at any time by giving 120 days' prior written notice to the other party.

Upon the conclusion of the final Term of this Agreement, or its sooner termination under this Article, the YMCA shall surrender the Premises in as good clean order, condition, and repair as at commencement of the Agreement, except for ordinary wear and tear, damage by fire or catastrophe and repairs to be made by the City.

## **ARTICLE 19 – DISPUTE RESOLUTION**

The City and the YMCA each wish to attempt to reach an amicable resolution of any disputes and controversies which may arise between them under this Agreement at the earliest possible date. Therefore, except as otherwise provided herein, the City and the YMCA shall attempt to resolve any dispute or controversy between them in the following two-step "Dispute Resolution Procedure": (A) first, the senior staff of the City and the YMCA shall meet and attempt to resolve the dispute; (B) if they are unsuccessful, then, to the extent permitted by law, the matter shall go to non-binding mediation with a mediator and under a time schedule and conditions reasonably acceptable to both parties.

If the Dispute Resolution Procedure set forth above is unsuccessful to resolve the dispute or controversy, or the parties cannot agree on a mediator(s) or the terms and conditions of mediation, then either party may pursue such rights and remedies it may have at law and equity generally.

The various rights and remedies given to or reserved to the City and the YMCA by this Agreement or allowed by law shall be cumulative, irrespective of whether so expressly stated. In the event either party hereto shall be obligated to secure the assistance and service of legal counsel in an effort to enforce (or defend against) any alleged default under this Agreement, then if such party prevails in such action, such prevailing party shall be entitled to recover against the other party reasonable attorneys' fees, including those before suit is filed and all costs and fees so incurred through all appellate proceedings as may be required.

## **ARTICLE 20 – FORCE MAJEURE**

If either party shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power or other utilities, restrictive laws (except as otherwise specifically provided herein), terrorist acts, riots, insurrection, war or other reason not the fault of the Party delayed in performing the work or doing the acts required under the terms of this Agreement (collectively, "Force Majeure"), then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Article shall not (i) operate to excuse the City from timely payment of the YMCA's Operating Subsidy or any other monetary charge required to be paid by either party under the terms of this Agreement, or (ii) be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Agreement because of a lack of funds unless such funds were to be supplied by the other party to this Agreement.

## **ARTICLE 21 – ADMINISTRATION**

Where approval of the City is required by this Agreement, the City of Rockland City Manager is authorized to act on the City's behalf and provide such approval, except when approval of the Rockland City Council is required hereunder or under applicable law or ordinance. Where approval of the YMCA is required by this Lease, the Penobscot Bay YMCA's Chief Executive Officer is authorized to act on The YMCA's behalf and provide such approval, except when approval of the YMCA's Board of Directors is required hereunder or under applicable law.

Each party to this Agreement agrees to take such further actions and to execute such additional documents or instruments as may be reasonably requested by the other party to carry out the purpose and intent of this Agreement. Except where expressly stated to be in a party's sole discretion, or where it is stated that a party has the ability to act in its sole judgment or for its own uses or purposes, wherever it is provided or contemplated in this Agreement that a party must give its consent or approval to actions or inactions by the other party or a third person in connection with the transactions contemplated hereby, such consent or approval will not be unreasonably withheld or delayed nor will any other determinations which must be made by a party in the course of performing and administering this Agreement be unreasonably made. The City and the YMCA each also agree to cooperate with and reasonably assist each other in good faith in carrying out the purpose and intent of this Agreement. If no time period is set herein for a party to approve or consent to an action or inaction by the other party or a third person such approval or consent shall be given or affirmatively withheld in writing within 20 days after it is requested in writing or it shall be deemed given.

## **ARTICLE 22 – NOTICE**

Any notice required or permitted to be given pursuant to this Agreement shall be effective and valid if in writing, and delivered personally by reputable express courier or delivery service, or

sent by verifiable facsimile machine (with a copy by first class mail postage prepaid) or by certified or registered U.S. Mail postage prepaid, return receipt requested, as follows:

If to the City:

City Manager  
City of Rockland, Maine  
270 Pleasant Street  
Rockland, ME 04841

If to the YMCA:

Chief Executive Officer  
Penobscot Bay YMCA  
P.O. Box 840  
Rockport, ME 04856

Unless otherwise specified, notice shall be deemed given when received, but if delivery is not accepted, on the earlier of the date delivery is refused or the third day after the same is deposited with the United States Postal Service. Notices given by counsel to either party shall be deemed given by such party. Any person or entity may by written notice to the others change the address for such person or entity's receipt of notices.

### **ARTICLE 23 – NO JOINT VENTURE**

Neither this Agreement, nor the doing of any thing in furtherance of or in respect to this Agreement shall be deemed or construed by any party to establish the relationship of principal and agent, nor of a partnership or joint venture between the parties hereto; rather, the parties intend and this License & Operating Agreement shall be construed as establishing a Municipal Licensor / Licensee relationship between the parties.

### **ARTICLE 24 – FINAL AGREEMENT; AMENDMENT**

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This License & Operating Agreement may be modified only by a further writing that is duly authorized and executed by both parties.

### **ARTICLE 25 – GENERAL PROVISIONS**

A. Memorandum of License. Upon the execution of this Agreement, at the request of a party to this Agreement, the other party shall promptly execute and deliver for recording in the Knox County Registry of Deeds a “Memorandum of License & Operating Agreement” substantially in conformance with the form attached hereto and made a part hereof as Exhibit C. Neither Party shall record this Agreement or cause the same to be recorded without the written consent of the other Party which consent may be withheld in its sole discretion.

B. Non-Waiver of Performance. One or more waivers of any covenant, term, or condition of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other covenant, term or condition, nor shall any delay or omission by either party to seek a remedy for any breach of this Agreement or to exercise a right accruing to such party by reason of such breach be deemed a waiver by such party of its remedies or rights with respect to such breach. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any similar act.

C. Subject to Bond Requirements. The terms and provisions of this Agreement shall be subject to the terms and provisions contained in any bonds or bond documents governing the City's financing of repairs to or rehabilitation of the Premises. It is the intent of the parties that in the event of any conflict between the terms and provisions of this Agreement and the terms and provisions contained in such bond documents, the terms and provisions of the bond documents shall control.

D. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Maine with respect to contracts to be wholly performed herein.

E. Modification of Agreement; No Waiver by Prior Actions. The terms, covenants and conditions of this Agreement may not be changed orally, but only by an instrument in writing signed by the party against whom enforcement of the change, modification or discharge is sought. The failure of either party hereto to insist in any one or more cases upon the strict performance of any term, covenant or condition of this Agreement to be performed or observed by the other party shall not constitute a waiver or relinquishment for the future of any such term, covenant or condition.

F. Relationship of the Parties; No Third-Party Beneficiaries. This Agreement shall not create a partnership or a lease between the parties and is limited to the specific purposes set out herein. Neither party shall be the agent of, or have any rights to create any obligations or liabilities binding on, the other party. The parties do not intend to confer any benefit hereunder on any other person or entity other than the parties hereto.

G. Headings; Recitals. The headings used throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be deemed to explain, modify, amplify or aid in the interpretation or construction of the provisions of this Agreement. The recitals found at the beginning of this Agreement and any properly adopted amendments, supplements or replacements thereto are incorporated herein by reference and are important and material parts of this Agreement.

H. Agreement Preparation. In any interpretation, construction or determination of the meaning of any provision of this Agreement, no presumption whatsoever shall arise from the fact that the Agreement was prepared by or on behalf of any party hereto.

I. Agreement Binding on Successors and Assigns. Except as herein otherwise expressly provided, all covenants, agreements, provisions and conditions of this Agreement

shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest and assigns as well as any devisees of the City, and shall be deemed to run with the land where the Facility are located.

J. No Brokers. Each party represents and warrants to the other that it has not incurred or caused to be incurred any liability for real estate brokerage commissions or finder's or agent's fees in connection with the execution or consummation of this Agreement for which the other Party may be liable. Each of the parties agrees to defend, indemnify and hold the other harmless from and against any and all claims, liabilities or expense (including reasonable attorneys' fees) in connection with any breach of the foregoing representations and warranties.

K. Severability. In the event any section, subsection, provision, term, or conditions of this Agreement shall be found by a court of law of competent jurisdiction be found to be unlawful and/or unenforceable, the remaining sections, subsections, provisions, terms, and conditions of this Agreement shall remain in full force and effect.

L. Execution; Counterparts. Each person executing this Agreement in a representative capacity warrants and represents that he or she has authority to do so and upon request by the other party proof of such authority in customary form will be furnished to the other party. This Agreement may be executed at different times and in two or more counterparts and all counterparts so executed shall for all purposes constitute one agreement, binding on the parties hereto, notwithstanding that both parties may not have executed the same counterpart. And, in proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement is sought.

M. Survival. All provisions of this Agreement which by their terms provide for or contemplate obligations or duties of a party which are to extend beyond the expiration or termination of this Agreement (and the corresponding rights of the other party to enforce or receive the benefit of such obligations or duties), shall survive such expiration or termination.

[This space intentionally left blank.]

IN WITNESS WHEREOF, the City of Rockland, Maine and the Penobscot Bay YMCA have caused this Agreement to be duly executed as of the day and year first above written.

Attest:

CITY OF ROCKLAND ("THE CITY"):

\_\_\_\_\_  
Stuart H. Sylvester, City Clerk

\_\_\_\_\_  
by: James D. Chaousis II  
its: City Manager

As to Form:

\_\_\_\_\_  
Kevin J. Beal, City Attorney

Attest:  
YMCA"):

PENOBSCOT BAY YMCA ("THE

\_\_\_\_\_  
by: \_\_\_\_\_

\_\_\_\_\_  
by: Troy Curtis  
its: Chief Executive Officer

## EXHIBIT A – YMCA Member Policy

The Penobscot Bay YMCA is an inclusive organization open to all. We welcome employees and members regardless of race, color, creed, religion, national origin, gender, marital status, sexual orientation, status with regard to public assistance, membership or activity in a local commission, disability, age, or other legally protected status.

**The YMCA reserves the right to deny / terminate access or membership to any person who has been accused or convicted of any crime involving sexual abuse; is a registered sex offender; or who has demonstrated unlawful conduct that may be conceived as a threat to the well-being of YMCA members and guests.**

The Penobscot Bay YMCA expects persons using our facility and programs to behave in a mature and responsible way, to respect the rights and dignity of others, and to seek to treat others with empathy and understanding. The Penobscot Bay YMCA Code of Conduct does not permit language or actions that can hurt or frighten another person. Specifically this includes:

- Any demonstration of sexual activity or sexual contact with another person.
- Inappropriate attire.
- Angry or vulgar language, including swearing, name calling or shouting.
- Physical contact with another person in an angry or threatening manner.
- Harassment or intimidation by words, gestures, body language or any other menacing behavior.
- Theft or behavior that results in destruction of property.
- Carrying or concealing weapons or devices and objects that may be used as weapons.
- Using or possessing illegal chemicals, or alcohol, on YMCA property, in YMCA vehicles or at YMCA sponsored programs.
- Any other conduct of an inappropriate, threatening or offensive nature.

**Members and guests are encouraged to be responsible for their personal comfort and safety by asking any person whose behavior is in violation of the Code of Conduct listed above to stop the offensive behavior.** If a member or guest feels uncomfortable confronting the person directly, they should not hesitate to notify a staff person.

The Executive Director will review all reported incidents. If a violation of the Code of Conduct has occurred the decision to suspend or terminate YMCA membership or guest privileges will be made at the discretion of the Executive Director.

### **Penobscot Bay YMCA Commitment To Diversity**

**The PBYMCA, throughout** its history, has aimed to provide a safe, nurturing and welcoming environment for all, without exception. The PBYMCA also recognizes that individuals, families and communities are diverse. The PBYMCA values and respects this diversity and chooses to be inclusive

through its acceptance of all individuals regardless of race, age, gender, religion, ability, cultural identity or sexual orientation. The PBYMCA is committed to Judeo/Christian principles **encompassing our four core values of caring, honesty, respect and responsibility. This includes asserting that all individuals, without exception, are intrinsically valuable.**

**The PBYMCA is committed to**

- **Welcoming all individuals in its programs and facilities;**
- **Developing programs that respond to the needs of its membership, participants and community;**
- **Utilizing hiring and employment practices that are free of bias and promote inclusion;**
- **Hiring and maintaining a diverse staff and corps of volunteers; and**
- **Maintaining a safe, welcoming and nurturing environment that is free of acts of discrimination or harassment against any individual.**

**Penobscot Bay YMCCA is Equal Employment Opportunity**

**The PBYMCA provides equal opportunity in employment to all staff members and applicants for employment regardless of race, color, creed, religion, national origin, sex, marital status, sexual orientation, status with regard to public assistance, membership or activity in a local commission, disability, age, or other legally protected status. Equal employment opportunity applies to all facets of employment, pre-employment and the terms and conditions of employment, as well as discharge from employment. The PBYMCA operates in accordance with all applicable Equal Employment Opportunity and Affirmative Action laws, directives and regulations of federal, state and local governing bodies or Agencies.**

# EXHIBIT B – YMCA FINANCIAL ASSISTANCE POLICY

## FINANCIAL ASSISTANCE

## EVERYBODY WELCOME

FOR YOUTH DEVELOPMENT FOR HEALTHY  
LIVING  
FOR SOCIAL RESPONSIBILITY

PENOBSCOT BAY YMCA

PO Box 840 • 116 Union Street

Rockport, Maine 04856

207.236.3375 • [www.penbayymca.org](http://www.penbayymca.org)

Sandy Bodamer. [sbodamer@penbayymca.org](mailto:sbodamer@penbayymca.org)

**Summer Session: June 22 - August 16**

### MEMBERSHIP FOR ALL

Membership for All (MFA) is an income-based, pricing structure for membership that is designed to adjust the membership rate based on household income (details on back). This initiative fits the Penobscot Bay YMCA's mission of keeping the Y accessible to everyone regardless of financial capacity and is anchored firmly in the Y's commitment to social responsibility.

### OPEN DOOR FINANCIAL ASSISTANCE PROGRAM

For those needing assistance beyond the Membership For All pricing structure, additional steps are required. This includes a letter and a one-on-one meeting to discuss your special circumstances. If you are in need, please contact Sandy Bodamer at 207.236.3375 ext. 203.

### MILITARY FAMILIES

Families of active duty military personnel may receive a Y membership. Active duty orders and military ID must be presented when joining. For more information, please stop by our Member Service Desk or call the V, 236.3375. As a thank you, all **Retired Military personnel can now register for any yoga program at no charge!** Upon program registration, please show your valid **VA ID, DD-214** or Federal Retiree ID card. **Thank you for your service!**

### UNEMPLOYMENT

We support youth and family opportunities by offering 3-month complimentary memberships for unemployed individuals and families. Simply bring in your unemployment letter to the Member Service Desk. Should you have questions, please call us at 236.3375. Please note: We encourage those who are seasonally unemployed to apply for our Membership For **All** (MFA) program. Please speak with our Member Service Desk for details and pricing.

### YOUR MEMBERSHIP INCLUDES...

- Priority registration **for programs.**
- Over 60 free group exercise classes weekly!
- **2** free wellness consultation sessions with a personal trainer.
- Free access to Family Prime Time with a Family or Single Parent Family membership.
- 3 to 6 Guest Passes a year to share!
- Unlimited access to open times in both pools, sauna, gym, rock wall, play gym, fitness center, walk/jog track and outdoor playground.



# Penobscot Bay YMCA EVERYBODY WELCOME

MEMBERSHIP RATES	Family	Couple	Single Parent Family	Senior Couple	Senior	Adult	Young Adult
<b>Regular Rate</b>	68.00	63.00	54.00	54.00	37.00	45.00	32.00
<b>Month to Month Rate'</b>	78.00	73.00	64.00	64.00	47.00	55.00	42.00
<b>Wear and Tear Fee'</b>	50.00	50.00	50.00	50.00	50.00	50.00	30.00

Month-to-Month memberships require a commitment of at least 3-months due at the time of joining.

## MEMBERSHIP FOR ALL (MFA) - Total Household Income'

## MEMBERSHIP FOR ALL (MFA) - Total Household Income\*\*

Income Based Rates***	Discount	Family	Couple	Single Parent Family	Senior Couple	Senior	Adult	Young Adult	Youth
\$45,000 - \$54,999	10%	61.00	57.00	49.00	49.00	34.00	41.00	29.00	15.00
\$35,000 - \$44,999	20%	55.00	51.00	44.00	44.00	30.00	37.00	26.00	14.00
25,000 - 34,999	30%	48.00	45.00	38.00	38.00	27.00	32.00	23.00	12.00
15,000 - 24,999	40%	42.00	39.00	33.00	33.00	23.00	28.00	20.00	11.00
under \$15,000	50%	35.00	32.00	28.00	28.00	19.00	23.00	17.00	9.00

**If you are needing assistance beyond the 50% discount, please stop by the Member Service Desk for an Open Door Application.**

**At the Penobscot Bay YMCA, no one is ever turned away due to the inability to pay.**

## EXHIBIT C – FORM OF MEMORANDUM OF AGREEMENT

### DOCUMENT COVER SHEET

TITLE OF DOCUMENT: LICENSE & OPERATING AGREEMENT

DATE OF DOCUMENT: \_\_\_\_\_, 2015

GRANTOR: CITY OF ROCKLAND, MAINE

GRANTOR'S ADDRESS: 270 PLEASANT STREET  
ROCKLAND, MAINE 04841

GRANTEE(S): PENOBSCOT BAY YMCA

GRANTEE'S ADDRESS: P.O. BOX 840  
ROCKPORT, MAINE 04856

LEGAL DESCRIPTION:

REFERENCE BOOK & PAGE: N/A