

CITY COUNCIL MEETING

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

DATE: MONDAY, MAY 21, 2018

TIME: 7:00PM

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

- V. ACCEPTANCE OF MINUTES – MAY 7, 2018

- VI. PUBLIC COMMENT SESSION

- VII. APPROVAL OF GRANTS/DONATIONS
 - A. Acceptance of Community Development Block Grant Funds (*Sample motion – move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$545,208.00 from the U.S. Department of Housing and Urban Development*)

- VIII. CONSENT AGENDA
 - (*ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA*)
 - A. Letter from Jennifer Gilbert, St. Charles Children’s Home, requesting permission to hold the 22nd Annual St. Charles 5K on Monday, September 3, 2018 (*Anticipated action – move to refer to the City Manager with power*)

- IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS
 - A. Email Correspondence (*Sample motion – move to accept and place on file*)

- X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS
 - A. CITY MANAGER**
 - City Manager’s Items Which Require Action:**
 - 1. Prescott Park License Agreements
 - a) Prescott Park Arts Festival
 - b) NH Art Association
 - c) Gundalow Company
 - 2. Pedestrian Connector - License Agreement with Rockingham House Condominium Association

3. Recreation Board Report Back – Policy Options for Recreation Fields

City Manager's Informational Items:

1. Events Listing
2. Greenland Breakfast Hill Area Waterline Study and Preliminary Design

B. MAYOR BLALOCK

1. * Appointments to be Voted:
 - Reappointment of Cyrus Beer to the Historic District Commission as an Alternate
 - Reappointment of Vincent Lombardi to the Historic District Commission

C. COUNCILOR ROBERTS

1. Proposed City Council Policy Re: Use of City Council Chambers & City Hall Conference Rooms
2. Parking and Traffic Safety Committee Action Sheet and Minutes of the April 5, 2018 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the April 5, 2018 Parking and Traffic Safety Committee meeting***)
3. Parking and Traffic Safety Committee Action Sheet and Minutes of the May 3, 2018 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the May 3, 2018 Parking and Traffic Safety Committee meeting***)

D. COUNCILOR DWYER

1. Fees for Prescott Park Licensees

E. COUNCILOR DENTON

1. “Green Your Fleet” Workshop Flyer

F. COUNCILOR PERKINS

1. *Request for Report Back Re: Fees for Right-to-Know Requests

G. COUNCILOR RAYNOLDS

1. Request for Report Back Re: Path to Silver Bicycle Friendly Community

XI. MISCELLANEOUS/UNFINISHED BUSINESS

XII. ADJOURNMENT

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

**Indicates Verbal Report*

PUBLIC DIALOGUE

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 7, 2018

PORTSMOUTH, NH
TIME: 6:15PM

Public Dialogue Session

There was one table used for Public Dialogue this evening due to the limited number of residents.

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Becksted.

The members of the public were asked to introduce themselves and begin discussing their concerns and/or questions related to their individual topics.

Bess Mosley asked if there would be a 3 dimensional model for the proposed new McIntyre Building and inquired about the finances for the project by Redgate/Kane.

Deputy City Manager Colbert Puff said the 3 dimensional model will be presented to the Historic District Commission. She also spoke to the need by Redgate/Kane to generate a new pro-forma for the revenue.

Harold Whitehouse asked if there would be another public hearing on the budget. He said the residents deserve an opportunity to speak regarding the budget.

City Manager Bohenko said the public hearing on the budget was held on Wednesday, May 2, 2018 and that work sessions will allow for the asking of questions by the public. He reviewed the dates of the upcoming Budget Work Sessions.

Harold Whitehouse asked what the rate of inflation is. Finance Director Belanger answered 2.86%. Mr. Whitehouse said the City Council needs to hold the line.

Paige Trace asked about the costs associated with the relocation of the Parking Services to the new garage.

City Manager Bohenko said he has withdrawn the proposal. He informed the public and City Council that the area that was to be used for Parking Services will remain raw space. He said they will install some artwork on the windows so you can't see inside the space.

Harold Whitehouse asked if we could hold off on the construction at the High Hanover Parking Garage. City Manager Bohenko said the work will be delayed until 2021.

Paige Trace spoke to the bad drought last year and if that occurs again would we limit the amount of water used by Lonza. City Manager Bohenko said we really only had restrictions on the watering of lawns and did not impact the functions at Lonza.

Councilor Dwyer said if there was a wide spread request to limit water use Lonza would have been asked to limit their use.

Esther Kennedy asked why we are not willing to expand water to Greenland. City Manager Bohenko said we are looking to decide if we are going to expand into Greenland. He indicated there is a study currently being done to determine if it is justified to run the water to Greenland.

Harold Whitehouse spoke to the meals and rooms tax that was introduced to the legislature. He said we should look into a fee for usage of services. City Manager Bohenko said we can't add a fee to a hotel however, the pillow tax would bring in an additional \$1.2 million.

Mayor Blalock said there are communities that support the tax but it would not be required.

Paige Trace spoke regarding the nitrogen levels at Pease and how it relates to Lonza. Deputy City Attorney Woodland said we will doing nitrogen removal for the first 5 years at a level of 8. She spoke to operating on an expired permit at Pease and how that is not uncommon. Ms. Trace spoke regarding the pipe at Lonza and becoming interested in what is coming out of the pipe.

Councilor Dwyer suggested having Lonza coming to provide a presentation on their functions and processing procedures.

Esther Kennedy said the problem we are facing in the research that there are major amounts of materials being stored at facilities without liners and that is hazardous. She said we need to become proactive and not reactive. She said we need to consider what percent of money that we are putting aside for dealing with these major issues. She said there is the Coakley Landfill and Jones Avenue Landfill that we need to consider.

City Manager Bohenko said the City is planning on a lot of things and have done a rate study and have done a 4% increase. We planned 5 years ago to have a better net position. He said all the construction is financed at an interest rate of 1%. He spoke to us always working to obtain grants.

Lee Roberts asked if stormwater has anything to do with nitrogen.

At 7:00 p.m., Mayor Blalock closed the Public Dialogue Session.

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 7, 2018

PORTSMOUTH, NH
TIME: 6:15 PM

I. CALL TO ORDER

Mayor Blalock called the meeting to order at 7:07 p.m.

II. ROLL CALL

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Raynolds and Becksted

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Assistant Mayor Lazenby led in the Pledge of Allegiance.

PROCLAMATION

1. Police Week – Peace Officers’ Memorial Day – May 15, 2018

Mayor Blalock read the Proclamation declaring the week of May 13th as Police Week and May 15th as Peace Officers’ Memorial Day.

Police Chief Merner accepted the Proclamation with thanks and appreciation.

V. ACCEPTANCE OF MINUTES – APRIL 16, 2018

Councilor Perkins moved to approve and accept the minutes of the April 16, 2018 City Council meeting. Seconded by Assistant Mayor Lazenby. Councilor Perkins requested that her sentence on the last page of the minutes be changed so the sentence reads as follows: *Councilor Perkins stated the current challenge is housing and that it is an economic development issued.* **Motion passed with the change.**

VI. PUBLIC DIALOGUE SUMMARY

Councilor Roberts stated there were 5 speakers and briefly explained their topics of discussion.

VII. PUBLIC HEARING ON MCINTYRE PROJECT

- A. AUTHORIZING THE CITY IN PARTNERSHIP WITH REDGATE/KANE, TO BRING THE MCINTYRE PROJECT CONCEPTUAL DESIGN TO THE HISTORIC DISTRICT COMMISSION FOR ADVISORY REVIEW

- **PRESENTATION**

Deputy City Manager Colbert Puff spoke regarding the seven public input sessions that were held by the McIntyre Committee in which they heard hundreds of comments. She said at this point we would request the Council to move the project to the Historic District Commission and authorize the City Manager to execute the Negotiating Principles and license agreements. She said the vote on the McIntyre project is anticipated to take place at the July 9, 2018 City Council meeting. She reviewed the concept development and said one idea is that there be an indoor space for a public market place. She spoke to the public realm space being 4,100 square feet and that this is a mixed use proposal. Deputy City Manager Colbert Puff addressed the license agreement to access the property with the GSA and an assignment of license agreement with Redgate/Kane. She discussed the need to prepare a financial plan of what the lease payment and expected taxes for the building.

Councilor Dwyer spoke to the framework on the project and addressed column two is where this plan meets the framework and the third column are things that still need to be decided. She said much of the decisions are around the roads of the property and that will go before the Planning Board. She spoke to the narrowing of Daniel Street and establishing a point to point shuttle. She said many things are related to transportation and another item are the land use requirements.

- **CITY COUNCIL QUESTIONS**

Councilor Becksted asked Deputy City Manager Colbert Puff if the other two teams that were part of the process in January if we have heard from them. Deputy City Manager Colbert Puff said she has not heard from either team since the public input process started.

Councilor Perkins said she commends Deputy City Manager Colbert Puff and Councilor Dwyer for their work with the public input process. She said she has thoroughly reviewed the agreements and feels comfortable moving forward.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and called for speakers.

Esther Kennedy said she would like to see a work session and allowing the public to comment when referring this to the Historic District Commission. She asked where the government agencies are going to relocate. She stated that the meeting to make a decision should not take place on July 9th due to the July 4th Holiday.

Paige Trace said Councilor Dwyer, Deputy City Manager Colbert Puff and the Committee members have done a great job with the public process. She said it is going before the Historic District Commission for review but we are still at a point where things could be changed and adjusted.

Sarah LaChance said there were excellent public input sessions on the McIntyre and thoughtful considerations. She said that 45% of the spaces will be open and feels that is excellent. She recommended moving the process forward to the Historic District Commission.

Lee Roberts said she is not happy with July 9th being the date for the decision on the McIntyre project. She spoke in favor of closing Penhallow Street and making it a pedestrian area. She also spoke in support of the open space in the project. Ms. Roberts said she feels there is more time for public comment and the Historic District Commission will allow for additional comment time.

Kathleen Logan said she agrees with the recent editorial on the McIntyre that appeared in this weekend's edition. She said she is dismayed by the renderings of the site. She said there needs to be space to sit and relax. She also said that there is not enough parking at the site and feels that we are pushing this through very quickly.

Dick Rozek said everything revolves around money when it comes to the McIntyre building. He said the McIntyre building is such a gift and downtown is blessed with history. He said he looks at the McIntyre building becoming a people's center. He feels that the government should sell the building to the City for \$1.00.

Bill Downey said that this is not another Portwalk Place. He said he is concerned with the lack of green space and to call a small area a plaza is disingenuous. He said he is concerned that we will lose the view of St. John's Steeple as well as the view of the North Church. Mr. Downey said there needs to be more green space and said he does not feel the process is equitable and thanked the City Council for their efforts.

Lee Roberts said that there are problems with green space in the winter. She said we need to think of historical buildings.

Larry Yeardon said he served on the Committee and the process was well done and thorough. He said people did not get everything they wanted but it will be a great addition to the City.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS AND ACTIONS**

Councilor Dwyer said we have had our cards on the table when it comes to this project for 15 years. She stated there is no destroying the building and the City cannot dictate what will happen to the building. She spoke to the federal government taking the land years ago. Councilor Dwyer said we either do something or someone else will. She spoke to the current tenants being on their own to identify places they want to rent. She said we will maintain a retail post office on site. She indicated that July 9th was something the Committee and staff agonized over but that is the drop dead date to make the decision. She reported that the green space on the plaza is something that can be looked at. Councilor Dwyer advised that there are a lot of places to sit outside and she likes the terminology of a people's center.

Councilor Becksted said he attended all of the sessions and has a great deal of concerns. He asked how many parking spaces are located in the back of the building. Deputy City Manager Colbert Puff reported that there are approximately 140 spaces. Councilor Becksted questioned why the renderings show 109 spaces. Deputy City Manager Colbert Puff advised that is the number that comes from meeting the zoning requirements. Councilor Becksted asked why we need to fill the entire space and the height of the building is a concern. He also asked if Redgate/Kane would be required to complete the income revenue expense report for the Assessor's office. Deputy City Manager Colbert Puff stated they would and that is required by federal regulations to be completed each year.

Councilor Pearson moved to authorize the City, in partnership with Redgate/Kane, to bring the McIntyre Project Conceptual Design to the Historic District Commission for Advisory Revenue. Seconded by Councilor Perkins.

Councilor Denton spoke regarding the height of the building. He said higher buildings are more sustainable than lower buildings.

Councilor Raynolds asked if the staff could speak to the advisory review of the Historic District Commission.

Deputy City Manager Colbert Puff said that this is a City use of the site and the City is exempt from the land use review.

City Attorney Sullivan said we will follow the same process as we did with the Middle School and Library.

Councilor Roberts said there are conflicting demands on the site, some people want lots of parking and others wanted open space and affordable housing. He stated everything was addressed in the public process and the developers have done a good job of being accessible and locating the buildings. He said there is still much to be determined.

Councilor Roberts said the 3 dimensional models will show whether the buildings are appropriately sized.

Councilor Dwyer said that this is governed by the Park Service and the revenue by what the federal government finds as reasonable. She said this will all be approved by the Park Services and we are not building this for ourselves we are building for the next 100 years. She said we need to allow changes to the site over the next 100 years.

Councilor Becksted said he would like multiple choices and we have one developer in front of us and there is no choice. He would support it because we have to make a decision. He stated he would like to occupy 5,000 square feet for the Parking Division. Councilor Becksted said he would still have more questions going forward.

Motion passed.

Councilor Perkins moved to authorize the City Manager to execute McIntyre project Negotiating Principles, a license agreement to access the property with the GSA, and an assignment of license agreement with Redgate/Kane. Seconded by Councilor Pearson.

Councilor Dwyer asked whether the license agreement becomes public information. City Attorney Sullivan said yes.

Councilor Becksted said that this agreement is to access the property.

Motion passed.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock moved to suspend the rules in order to take up Item XI. A.4. – Dock License Re: 113 Mechanic Street. Seconded by Councilor Dwyer and voted.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

City Attorney Sullivan explained the location of Round Island which is not accessible by a vehicle. He stated in an effort to figure a more permanent arrangement to access the dock a ramp and a float would be built to tie up one boat and have the right to park a vehicle on the land which is City property. He said the Lassen's will build a receptacle for trash and a mail box. City Attorney Sullivan explained if approved by the City Council it would run for 20 years and the Lassen's would pay \$5,000.00 a year for use of the land.

Councilor Becksted moved to approve the License Agreement, and further, authorize the City Manager to execute the proposed Dock License Agreement with the Charles L. Lassen Revocable Living Trust as presented and to negotiate, execute and deliver any documents necessary to implement the License Agreement. Seconded by Assistant Mayor Lazenby.

Councilor Becksted asked if we have any other agreements like this.

City Manager Bohenko said we have one on Islington Street and this type of license is not unusual.

Councilor Becksted how do you prevent the public from using the dock and where does the money that will be collected go. City Attorney Sullivan said through enforcement and City Manager Bohenko said the funds would go into the General Fund for revenues.

Motion passed.

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Police Department Grant and Donations:

- A Victim of Crime Advocate, or "VOCA" Grant to the Portsmouth Police Department from The New Hampshire Department of Justice - \$72,043.00
- Donation to Portsmouth Police Explorer Post from the Friends of the South End - \$800.00
- Scholarship Donation for a Police Explorer Cadet from Mr. Jason Page - \$200.00
- Donation in support of Portsmouth's Cops with Kids outreach from the Elks Lodge - \$2,500.00

Assistant Mayor Lazenby moved to accept and approve the grant and donations to the Portsmouth Police Department, as presented. Seconded by Councilor Perkins and voted.

IX. CONSENT AGENDA

Councilor Perkins moved to adopt the Consent Agenda. Seconded by Councilor Dwyer and voted.

- A. Request for License to Install Projecting Sign from Matthew Meade, owner of Beyond, Inc. for property located at 28 Deer Street
(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)

Planning Director's Stipulations:

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

- B. Request for License to Install Projecting Sign from Kim Lively, owner of Meraki for property located at 135 Market Street ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)***

Planning Director's Stipulations:

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

- C. Request from Chris Curtis, Film and Outreach Manager, The Music Hall, requesting permission to close Chestnut Street on September 14-16, 2018 for the Telluride by the Sea Film Festival. ***(Anticipated action – move to refer to the City Manager with power)***
- D. Request from Cole Gove, Market Manager, Seacoast Grower's Association, requesting to amend 2018 Farmer's Market Agreement to include Squamscott Vineyard & Winery, LLC. ***(Anticipated action – move to refer to the City Manager with power)***
- E. 2018 Omnibus Sidewalk Obstruction Renewals ***(Anticipated action move to approve and accept the 2018 Omnibus Sidewalk Obstruction Renewals, as listed)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Email Correspondence

Councilor Pearson moved to accept and place on file. Seconded by Councilor Perkins and voted.

Mayor Blalock declared a brief recess at 8:45 p.m. At 8:55 p.m., Mayor Blalock called the meeting back to order.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Schiller Station (Not on Agenda)

City Manager Bohenko spoke to the Schiller Station assessment and said that staff will be reviewing the assessment at the General Government Budget Work Session. He reported that Eversource has been challenging our assessments for the last three years. He informed the Council that the sale of the Station was in October but the recording of the deed did not take place until January. Assessor Lentz handed out to the City Council information outlining the assessment for their review and reference.

1. Prescott Park License Agreements (To be voted on May 21st)
 - Prescott Park Arts Festival
 - NH Art Association
 - Gundalow Company

Assistant City Manager Moore provided a detailed presentation on the license agreements. He stated that the license agreements will be voted on at the May 21, 2018 City Council meeting. He spoke to the clarity of the agreements and reaching a balance between the activities and what takes place at Prescott Park. He addressed the public benefit and the costs to maintain the park as it currently exists. He said schedules have been developed for the Sheafe Warehouse that will be used by the Gundalow. He addressed the scheduling of programming and special revenue funds for Prescott Park Arts Festival. Assistant City Manager Moore reviewed the amounts due under the agreements:

Prescott Park Arts Festival:

Year 1: \$20,000.00

Year 2: \$25,000.00

Year 3: \$30,000.00

Year 4: \$35,000.00

Year 5: \$40,000.00

NH Arts Association:

Each Year: \$1,500.00

Gundalow Company:

Year 1: \$7,500.00

Year 2: \$8,000.00

Year 3: \$8,500.00

Year 4: \$9,000.00

Year 5: \$10,000.00

City Manager Bohenko informed the City Council that the vote on these agreements will take place at the May 21, 2018 City Council meeting to allow the City Council time to review the policy documents and would give time for any adjustments that need to be made.

Councilor Becksted asked how the fees were arrived at. Assistant City Attorney Moore spoke to the formation of the fees. City Manager Bohenko said the original fees were higher and he had Assistant City Manager Moore go back to work on the figures. He spoke to the percentage of gross revenue.

Councilor Becksted inquired as to the cost for the construction of the new bathrooms at Prescott Park. City Manager Bohenko asked Ben Anderson what the costs were and Ben said it was \$600,000.00.

Councilor Denton suggested that the City employees be in charge of opening the bathrooms in the morning and Prescott Park Arts Festival would be in charge of all other maintenance. City Manager Bohenko said he would look into having the bathrooms opened by City staff. Councilor Denton spoke regarding the picking up of waste and clean up, and that when there was not an event the City staff be responsible for those tasks. City Manager Bohenko Bohenko said it is our hope not to have to utilize the penalty clause. Councilor Denton spoke opposed to reducing the number of blankets being used by Prescott Park Arts Festival. Assistant City Manager Moore said that this is not a new number but the historic number that has been used. Councilor Becksted spoke regarding the end time for movies and 10:45 p.m. not allowing enough time to see the entire movie due to the varying start times based on dusk. City Manager

Bohenko said that issue was discussed at length with Prescott Park Arts Festival and they agreed that it would provide enough time.

Councilor Perkins questioned the language in the agreement regarding a temporary stage. Assistant City Manager Moore said the documents are based upon the City owned current structure.

Councilor Dwyer asked for clarification regarding the police presence. Assistant City Manager Moore said this was discussed in consultation with the Police, Fire and Arts Festival and having crowd managers and they're committed to doing this.

Councilor Roberts said the Council has received e-mails questioning the general fairness of the agreement. He stated the Gundalow is paying a higher percentage of the fees. Assistant City Manager Moore said the Gundalow reflects a larger licensed area.

Assistant Mayor Lazenby asked about the agreements and reviewing the differences with the Gundalow with a similar goal on balances and impact. He stated 1% versus 1.4% is a significant difference. Assistant City Manager Moore said he has spoken with the Gundalow and they're happy with the agreement.

Councilor Roberts moved to take action on Prescott Park Arts Festival, NH Art Association and Gundalow Company License Agreements at the May 21, 2018 City Council meeting. Seconded by Councilor Reynolds and voted.

2. 2075 Lafayette Road Water Service Access and Multiuse Path Easements

City Manager Bohenko said that this would allow us to move forward with bike paths. He said that this is the location of the former St. James Church.

Councilor Perkins moved that the City Manager be authorized to negotiate, execute, deliver and record the deeds regarding 2075 Lafayette Road, as presented. Seconded by Assistant Mayor Lazenby and voted.

3. 355 Banfield Road Pedestrian & Bicycle Easement

Councilor Perkins moved that the City Manager be authorized to negotiate, execute, deliver and record the easement plan and deed regarding 355 Banfield Road, as presented. Seconded by Councilor Pearson and voted.

City Manager's Informational Items

2. *Presentation Re: Results of Bid for Route 33 Turf Field (Stump Dump)*

City Manager Bohenko said he would like to refer this back to the Recreation Board.

Recreation/Athletic Director Wilson spoke regarding the recreational study of 2010 that determined the City needed 3 athletic fields. He said current fields are over used and the field shortage was fine when teams had their sports held one season but now fields are used year round. He spoke to kids becoming involved in organized sports at a younger age and said that neighborhood fields are not designed for sports. He also said that artificial turf has been one of the best decision for recreation. Director Wilson said they no longer need any more grass fields and artificial turf is the way to go.

Public Works Director Rice spoke to Route 33 the Stump Dump and there is a need for a multiuse field. He spoke to artificial turf and explained that they did a bid with alternates to artificial turf. He stated that the bid came in at \$2.4 million which are all above the projected construction costs.

Assistant City Manager Moore said we want to refer additional discussion to the Recreation Board.

Recreation/Athletic Director Wilson reviewed the policy decisions. He said there are two choices, pursue one field at Route 33 or multiple fields at Community Campus. He said a vote is being issued at the May 21, 2018 meeting. He said the Recreation Board would make an advisory decision. He said we would spend relatively the same money to have multiple fields at Community Campus.

Councilor Becksted moved to refer to the Recreation Board. Seconded by Councilor Dwyer.

Councilor Dwyer said parking is a large cost. Public Works Director Rice said you could start with just a field and keep the parking area all gravel. Councilor Dwyer would like to see the costs for 2 fields which would meet the need quicker.

Motion passed.

3. *Report Back Re: Solar, Wood Heating and Wind Powered Exemptions*

Councilor Denton moved to have a Public Hearing on expanding the November 21, 2011, Solar Energy System Tax Exemption Resolution, to include both Wind-powered Energy Systems and Wood heating Energy Systems under RSA 71:61-72 and eliminate both the current five year term and \$25,000.00 cap. Seconded by Councilor Perkins.

Councilor Denton would like to have the public hearing and voted possibly in the fall.

Motion passed with Councilor Dwyer voting opposed.

5. *Report Back Re: Parking Services Resource Center at the Foundry Garage*

City Manager Bohenko spoke to the 4,500 square feet that would be left empty. He would like to shield the garage and create a mural on the windows. He reported that we are not moving forward on the Parking Division moving to the new parking garage at this point.

Councilor Pearson said the window space could be photos of the process that will be taken during the construction phase.

Councilor Dwyer said this could not have living space. Public Works Director Rice said it would change the space and how it would need to be designed.

Councilor Roberts said commercial uses are not permitted. City Manager Bohenko spoke to the bonding process.

Councilor Becksted asked what the wall is made of. Public Works Director Rice said a beam with A CMU block.

Councilor Roberts moved to suspend the rules in order to continue the meeting beyond 10:30 p.m. Seconded by Councilor Dwyer and voted.

B. MAYOR BLALOCK

1. Public Process Re: Public Budget Work Sessions/Listening Sessions

Mayor Blalock advised the City Council that individuals will be allowed to ask questions during the Public Budget Work Sessions/Listening Sessions by writing their questions onto index cards. Also, allow oral questions and comments at the end of the sessions. He said all work session will be from 6:30 p.m. to 8:30 p.m.

2. Appointments to be Considered
 - Reappointment of Cyrus Beer to the Historic District Commission as an Alternate
 - Reappointment of Vincent Lombardi to the Historic District Commission

The City Council considered the reappointments that will be voted on at the May 21, 2018 City Council meeting.

3. Appointment to be Voted
 - Katelyn Kwoka to the Economic Development Commission

Councilor Raynolds moved to appoint Katelyn Kwoka to the Economic Development Commission filling the unexpired term of Jennifer Zorn until October 1, 2018. Seconded by Councilor Denton.

Councilor Perkins said she would be abstaining from voting on this appointment.

Councilor Becksted said he had a lengthy discussion on this and he does not feel it is appropriate to put a spouse on the Economic Development Commission.

Councilor Roberts said that this happens all the time and he does not have an issue with this.

Councilor Dwyer said the Economic Development Commission would not take over the McIntyre Project.

City Manager Bohenko said that the Economic Development Commission is advisory only and they have no authority but to provide advice.

Councilor Becksted said it is the perception.

Motion passed with Councilor Perkins abstaining from voting on this appointment. Councilor Becksted voted opposed.

C. COUNCILOR ROBERTS

1. Proposed City Council Policy Re: Use of City Council Chambers & City Hall Conference Rooms

City Manager Bohenko said he would like to have the City Council wait and vote on this at the next City Council meeting and said that this is a significant policy.

Councilor Roberts said that this would open up Conference Room A and the Chambers for public use and there is a great need for this.

D. COUNCILOR DWYER

1. McIntyre Project Public Input Process – Essential Framework

This matter was discussed during the public hearing on the McIntyre Project.

E. COUNCILOR DENTON

1. Request for report back on the progress of negotiations to run municipal water to Greenland and North Hampton homes

Councilor Denton requested a report back on the progress of negotiations to run municipal water to Greenland and North Hampton homes prior to the June 7, 2018 Coakley Landfill meeting.

City Manager Bohenko said he would provide a memorandum on this matter.

F. COUNCILOR RAYNOLDS

1. Request for Report Back Re: Path to Silver Bicycle Friendly Community

Councilor Raynolds requested to refer this matter to the May 21, 2018 City Council meeting due to the lateness of the meeting.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

At 11:00 p.m., Councilor Perkins moved to adjourn. Seconded by Councilor Roberts and voted.



KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK

Annual Plan & Budget

FY 2019 BUDGET

COMMUNITY DEVELOPMENT BLOCK GRANT

5/14/2018

| Projects/Programs | TOTAL | FY 19 Entitlement Grant | FY 18 Encumbered Entitlement Grant | Reprogrammed From FY18 | REHAB | |
|---|--------------------|-------------------------------|---|---------------------------|---|---|
| | | | | | Revolving Loan Fund Current Balance | Projected FY 19 Program Income |
| Public Service Agency Grant Program | \$86,000 | \$70,879 | \$15,121 | | | |
| Multi-Family Housing Rehabilitation | | | | | | |
| Multi-Family Housing Rehab | \$107,398 | | | | \$107,398 | |
| Public Facility Improvements | | | | | | |
| Public Facilities | \$140,616 | \$81,116 | | \$59,500 | | |
| Senior Center | \$500,000 | \$110,000 | | \$350,000 | | \$40,000 |
| Low-Mod Area Site and Facility Improvements | \$205,000 | \$180,000 | \$25,000 | | | |
| Accessibility/Remove Barriers | | | | | | |
| Citywide Accessibility Improvements | \$85,000 | | | \$85,000 | | |
| PPM TV | \$65,000 | | \$50,000 | \$15,000 | | |
| Administration | | | | | | |
| General Administration | \$103,213 | \$103,213 | | | | |
| | | | | | | |
| TOTAL BUDGET | \$1,292,227 | \$545,208 | \$90,121 | \$509,500 | \$107,398 | \$40,000 |

PUBLIC SERVICE AGENCY GRANT PROGRAM

FY 19 CDBG Grant Requests and Recommended Funds

| Agency and Program | FY 17 CDBG Funds Recommended | FY 18 CDBG Funds Recommended | FY 19 CDBG Funds Recommended |
|---|------------------------------------|------------------------------------|------------------------------------|
| AIDS Response-Seacoast, Client Services Program | \$9,000.00 | \$10,000 | \$10,000.00 |
| Chase Home for Children, Diversion Program | \$5,000.00 | \$5,000 | \$5,000.00 |
| Cross Roads House, Operations | \$10,000.00 | \$17,000 | \$17,000.00 |
| Goodwin Health (<i>formerly Families First</i>) Dental Center, Services | \$8,500.00 | \$9,000 | \$9,000.00 |
| HAVEN, Operations | \$10,000.00 | \$13,000 | \$13,000.00 |
| New Hampshire Legal Assistance, Fair Housing Trainings (<i>previously CDBG funded project</i>) | none requested | none requested | \$2,500.00 |
| New Heights Adventures for Teens, Programming | \$5,000.00 | \$6,000 | \$6,000.00 |
| PHA Housing Development LTD, Making Classroom & Community Connections (MC3) | \$5,000.00 | \$6,000 | \$6,000.00 |
| Rockingham Community Action, Homelessness Prevention | \$5,000.00 | \$7,000 | \$7,500.00 |
| Seacoast Community School, Tuition Assistance | \$8,500.00 | \$9,000 | \$10,000.00 |
| other programs funded in FY 17 that were not funded/requested in FY 18 | \$14,500.00 | n/a | n/a |
| | \$80,500 | \$82,000 | \$86,000.00 |



Run with the Cause

ST. CHARLES CHILDREN'S HOME 5K

19 Grant Street • Rochester, NH 03867



May 7, 2018

Mr. John Bohenko
City Manager
1 Junkins Ave
Portsmouth, NH 03801

Dear Mr. Bohenko,

The 22nd Annual St. Charles 5K held on Labor Day at the Pease International Tradeport, would like to ask your permission once again to hold the St. Charles 5K Road Race at Pease International Tradeport on September 3, 2018 at 9:00 a.m.

As in the past, we will communicate and obtain the required insurance for the City of Portsmouth, as well as Martin's Point Healthcare and the Pease Development Authority. We also will be hiring the Portsmouth Police department to provide coverage and secure an EMT to cover medical needs. Our large pool of volunteers will make sure the event runs smoothly and that the area is left spotlessly clean by 1:00 PM.

Thank you for your time and attention toward making this a safe and successful event.

Sincerely,

Jennifer Gilbert
Office Manager/Race Coordinator

CITY COUNCIL E-MAILS

May 8 – May 21, 2018

MAY 21, 2018 CITY COUNCIL MEETING

Updated 05/21/2018 (1:00 p.m.)

New Content begins on Page 3

Below is the result of your feedback form. It was submitted by Thomas Nies (tnies@aol.com) on Tuesday, May 8, 2018 at 06:50:20

address: 419 Richards Avenue

comments: Councilor:

In March, I forwarded you comments that I provided the Police Commission on its budget for 2019. I urge you to review those comments before the May 9 work session. Unfortunately, I will be unable to attend due to a job commitment. I was also unable to attend a work session of the Commission because it was moved from a Tuesday evening to mid-day on a Thursday - hardly convenient for the working public. I guess that is one way to limit comments.

I do not believe the questions raised in my earlier letter have been addressed. To summarize key points in my earlier letter:

1. Crime statistics presented by the Police Department as justification for increased staffing do not match information on the most recent CAFR or last year's Police Department annual report. I do not know why.
2. The impact of increased staffing on next year's budget (due to contracted salary increases) has not been described.
3. The rationale for making the animal control officer position full time is weak, in my opinion.

Further, as noted in my letter, there hasn't been any real attempt to justify department expenses other than "that is what we spent last year and we added X% as directed by the City Manager."

While these are my concerns, I would like to reiterate that the request for two additional patrol officers seems justified to me (subject to clarification on crime statistics as noted above).

Please consider these, and my earlier comments, during the work session.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Morey Goodman (namdoogm@comcast.net) on Wednesday, May 9, 2018 at 07:48:35

address: 17 Nantucket Place

comments: I would like to extend an invitation to you all, to our annual fundraising event for Youth and Families to be held on Thursday, May 17, from 5:30-8pm, at the Portsmouth Harbor Event Center. The proceeds from this event are used exclusively to provide programming, membership and camp for individuals and families, in our community, who are in need of subsidies and scholarships in order to take advantage of the Y services. There is no admission charge. Food, cocktails and a fun time!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by David Hudlin (dhudlin@hotmail.com) on Wednesday, May 9, 2018 at 22:33:30

address: 260 Miller ave

comments: Dear Council,

Something that was noticeably absent from both presentations was proposed opportunities for cost reductions. It was obvious that both departments simply used the 3.25% guidance as a directive to increase expenses to that level. It was simply a math exercise with the objective being not to exceed the target.

Why aren't departments required to identify opportunities for reduction versus prior year spending? If I'm told as a department manager that I am "entitled" to a certain % increase, it de-incentivizes me to look for ways to reduce spending. Are we saying that there are zero opportunities to reduce costs?

Regarding the Police budget: The Chief stated that by holding to a 0% increase that he would need to reduce 6 officers which is the equivalent of \$460k. This is misleading to the public. What he really means is that if he can't touch the contractually obligated COLA increases, he CAN'T find any reductions in non-personnel operating expenses to offset the COLA obligations. Really? So there are no opportunities other than headcount reductions?

The same is true for the Fire Dept. From the line items that Councilor Dwyer identified alone there appears to be plenty of opportunity.

I assume both the School Dept and DPW will approach things the same way...no identified opportunities for reductions. We're relying on you to push back hard and look for all opportunities to REDUCE spending wherever possible across all line items. This also includes taking a hard look at rolling stock requests. Unless it's a critical replacement need, it should be rejected.

We need to stop the annual cycle of "entitled" spending increases.

Additionally, a consistent theme from both departments was the "growth & development" and "expanding not contracting", along with a list of future commercial developments, driving need for more service coverage. There doesn't appear to be any shortage of Investor confidence in the Commercial sector, which is one of the key drivers of value and health of a market. Yet, our last commercial assessment would indicate otherwise. If the assessment had been done correctly, Commercial assessments would have increased by more than 6%, which in turn would have resulted in less of a shift to residential and Commercial would be paying more for the services they consume instead of getting a 3% tax reduction.

Thank you
includeInRecords: on
Engage: Submit

New Content begins

Below is the result of your feedback form. It was submitted by Jason Boucher (boucher.jason@gmail.com) on Thursday, May 17, 2018 at 11:38:37

address: 65 Wibird St.

comments: As a nearby resident, I definitely vote for mixed housing units to increase diversity, affordability, and have some walking paths and park from the West end to downtown.

This project seems like a win-win to me.

Thank you,
Jason Boucher
Resident

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Molly Bolster (director@gundalow.org) on Friday, May 18, 2018 at 08:03:11

address: 60 Marcy Street

comments: 18 May, 2018

Dear Mayor Blalock, City Councilors, and City Manager Bohenko, Based on the City Council meeting on May 7, 2018, the Gundalow Company board met on May 15th and agreed that it is opposed to using a percentage of revenue generated in the Park or a percentage of our gross revenue as the basis for setting the License fee to use the dock and Sheafe.

After considerable discussion, the Gundalow Company Board proposes the following:

- The Gundalow Company wants to enter a five-year license agreement 2018-2022 with the City of Portsmouth for the use of the dock and Sheafe.
- The Gundalow Company's fee shall be based on the City of Portsmouth's fee for public dock space which is \$110 per foot PLUS the City of Portsmouth's recently established monthly fee for the NHAA's use of Sheafe which is \$750 per month making our fee for four months \$3,000. Total fee would be \$10,040.
- The Gundalow Company proposes that the fee in 2018 shall remain the same as 2017 which was \$5,500.
- The fee would go up incrementally each year until reaching \$10,040 by 2022 as follows:
- 2019 = \$6,500; 2020 = \$7,500; 2021 = 8,750; 2022= \$10,040.
- These fee amounts will be included as part of the license agreement and will not change until 2022.
- If Sheafe becomes available in July and or August of any year between 2018-2022 the Gundalow Company will get first right of refusal to use the space for its exhibit and programs.
- If the Gundalow Company ever has the opportunity to use Sheafe year-round, that would require a re-evaluation of the License Agreement and the Gundalow Company would propose comparing the arrangements the City has with other nonprofits that occupy City-owned buildings such as The Players' Ring, Discover Portsmouth, or PPMTV before agreeing to any changes in fee structure.

Sincerely,

Molly Bolster and the Gundalow Company Board

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Renee Giffroy (rgiffroy@gmail.com) on Friday, May 18, 2018 at 11:37:42

address: NHAA, 136 State Street, Portsmouth

comments: City Councilors and Mayor Blalock,

I am the President of the NH Art Association (NHAA). First, I would like to publicly acknowledge and thank David Moore, with whom we have worked over the last several months. His knowledge and professionalism have made working with him a real pleasure, and we thank him for his efforts in building a productive working relationship with us.

NHAA is excited to be part of the future plans for Prescott Park. We believe our organization is uniquely positioned to round out the vision of Grace Casey and support the tenets of the Prescott Park Master Plan, to bring all arts - both performance and visual - to the public in the Park.

We also appreciate all the efforts of the city to develop the Park's Master Plan and to establish long term agreements for the various organizations using the Park. We are happy to contribute, through our fees, to the city for ongoing upkeep of the space. However, I would be remiss in my responsibilities to my organization if I did not express disappointment that our proposed fees are proportionately higher than those of the other organizations.

We are aware of what NHAA has paid in the past, but my hope was that new fees would be equitable across all organizations, based on factors such as impact on the park, length of time using the space, as well realistic expectations of the revenue each can expect to derive from our presence. If there is any flexibility to reduce our fee to be more in line relative to those of other organizations, it would be greatly appreciated.

NHAA is really looking forward to our participation in the Park this summer. Thank you for helping make that possible. We encourage all of you to stop by to see our exhibits and public activities and, of course, bring your family and friends!

Regards,
Renee Giffroy
President of NHAA

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Lydia R Macdonald-Smith (lmacdonald-smith@sau52.org) on Sunday, May 20, 2018 at 13:58:11

address: 36 Lake Rd Brentwood, NH

comments: The Farm to School Program has developed more and more each year with teachers and students. Kate Mitchell has taken time to help teachers and students be guided through the outdoor garden space and connect the learning in the classroom to the real-life experiences of this outdoor space. Kate has come into our schools as an expert to help open our eyes to what learning possibilities are awaiting our learners. As a teacher, I feel that taking this program and expertise away from our school and teachers will be moving in the wrong directions as a school and school district. It will make this connection between teachers and students and this outdoor classroom space disconnected again. This is still ground work that needs to be done to keep this flow going. I hope that you will help us to continue this program in our school.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Allison Davis (allie.davis@comcast.net) on Sunday, May 20, 2018 at 19:22:55

address: 11 Hidden Valley Drive,

comments: Please get a bid for natural turf, properly designed with good drainage, and maintained organically. Let's protect our kids from dangerous toxins and chemicals.

I'm a business owner and tax payer in Dover and I do not wish my tax dollars to support toxic artificial turf fields.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Maria Cannon (mcannon@sau52.org) on Monday, May 21, 2018 at 07:09:03

address: 50 Clough Drive

comments: Hello,
Our Farm to School movement has changed the way kids are eating at LHS. I see a vast difference in the snacks the kids bring in as they are wanting to eat more fruit and vegetables. The kids are learning HANDS ON about insects, life-cycles and crops. We are leading the state in an area necessary for this generation-sustainability. Yes, our country has been forced backward, I believe, in many social arenas. This is science. Kids need to experience hands on learning. The garden learning creates daily "field trips" that are otherwise accomodated through a costly bus ride to a farm.

Please keep the Farm to School in the city's budget. As a teacher at LHS I know first hand the importance of it for the children of Portsmouth. We are a leader in the state. This is a credit to Portsmouth. Parents in our town should be alarmed that a necessary tool for learning is in jeopardy of being cut.

Thanks for your time,
Maria Cannon
First Grade Teacher, LHS

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Mary Lou McElwain (ml259@comcast.net) on Monday, May 21, 2018 at 10:23:56

address: 259 South Street

comments: I am strongly in favor of exploring options at the community campus for multi use fields. The proposal for RT 33 in my opinion is a very dangerous traffic concern. Trying to turn left from east bound lane, right from westbound ,or most dangerous, crossing traffic to turn left out of the lot could be a catastrophe. Speed limit is 30 in that area, but vehicles travel far above that coming east , and accelerate from the traffic light at 33/ Islington St. I have read the traffic study but in real life, put a dozen cars exiting that lot at any time of day and see what happens. It has the potential of a major accident.

I am in not in favor of crumb rubber turf and would hope the council advocates for the health of the community in choosing field surface and diminishing chemicals overall in our city.


Thank you.
Mary Lou McElwain
includeInRecords: on
Engage: Submit

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: May 17, 2018

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on May 21, 2018 City Council Agenda

Acceptance of Grants and Donations:

1. **Acceptance of Community Development Block Grant.** The U.S. Department of Housing and Urban Development (HUD) has informed the City that a Community Development Block Grant (CDBG) in the amount of \$545,208 will be made available to Portsmouth for FY 2019. This amount represents an increase of \$31,628, or 6% from last year. These funds are used to carry out a variety of housing rehabilitation and accessibility projects and other CDBG-eligible community development and public improvements as well as assistance to public service agencies.

The City's CDBG Citizens Advisory Committee is responsible for gathering public input and developing the FY 2019 CDBG budget. This happens beginning in January of each year and proceeds through the late winter and early spring, culminating in a public comment period. An annual application is then submitted to HUD. Projects funded with CDBG funds must benefit residents who earn low or moderate incomes.

The Annual Plan and Budget for FY 2019 designates funding for next year in several areas including accessibility improvements, improvements at facilities serving people earning eligible incomes, multi-family housing, and low-mod area site improvements. Rolling applications for these programs are accepted throughout the year in the Community Development Department. Public service grants for public service agency grant rounds are advertised in January of each year.

[Attached is a copy of the FY 2019 CDBG budget and copy of the FY 2019 CDBG-funded public service grant awards.](#) The City's Community Development website has a copy of

the full annual plan other postings and material related to the CDBG program and budgeting process - <http://www.cityofportsmouth.com/community/community-development-block-grant#cdbg>

I recommend the City Council move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$545,208 from the U.S. Department of Housing and Urban Development.

City Manager's Items Which Require Action:

1. **Prescott Park License Agreements.** As you will recall, City staff presented the new License Agreements for Prescott Park at your meeting on May 7, 2018. These License Agreements are between the City of Portsmouth and the Gundalow Company, Prescott Park Arts Festival, and the NH Art Association. At that time, the City Council voted to act on the Agreements at your meeting on Monday, May 21, 2018.

The **attached Agreements** are in the same form as they were submitted to you on May 7th, and further, for background and easy reference, I have included the staff comments from May 7th below:

Prescott Park License Agreements

These agreements were drafted following the completion of the Prescott Park Master Plan (February 2017) and the Final Report and Recommendations of the Prescott Park Policy Advisory Committee (December 2017). The Master Plan recommended entering into new License Agreements with organizations offering public programming in the Park and recommended further deliberations on Park policies and license terms through an Advisory Committee.

Both work products developed during these last two years are available on the City's website (<http://www.cityofportsmouth.com/prescottpark>).

Format of Agreements

Guided by and following-up on this work, the City staff has been working with the Prescott Park Arts Festival, Gundalow Company and the NH Art Association to create new agreements. Each agreement recognizes the public benefit of the programming each organization brings to the Park and the City. In addition, the Agreements are similar in their structure (through the use of a new License Form and "Schedules", which follow as attachments). While the basic license form does not vary significantly from organization to organization, the schedules are tailored to each organization in order to address specific operational and programmatic differences between the entities.

Below is a list of key issues, which arose during the Committees' policy discussions and how the basic License form addresses these issues across.

Public Benefit – Recognizing and articulating the public benefit of the Licensed Activities was viewed as important in order underline the value of the Park activity to the City.

Licensed Areas – In each Agreement, the licensed area is specifically spelled out in order to respond to concerns that, over time, there was confusion about what areas are licensed and which organizations had access to certain areas of the Park. Details are found in *each Schedule A, Licensed Area*.

Authorized Activities – This section establishes a key understanding that only those activities specifically authorized in the agreement are permitted to take place in the Park. Details are found in each *Schedule B, Authorized Activities*.

Schedule – This section ensures there is a repeatable and clear process by which a season schedule is agreed to from year-to-year. Details are found in *each Schedule C, Schedule*.

Public Benefit & Consideration – the Advisory Committee sought to link any discussion about any “fee” to be paid by organizations to the value provided to the City balanced with the City’s costs in operating the Park. Details are found in *each Schedule D, Public Benefit & Consideration*.

Term (and Extension) – Each License has the same term, which is five years from the date of City Council approval. In addition, each License has the same term and renewal language.

Capital Improvements – This term is structured to reflect the City’s responsibility for carrying out the improvements in the Prescott Park Master Plan. Preliminary design of the improvements envisioned in the Master Plan will inform the scope, order and timing of improvements for each phase; as a result each agreement reflects that this work will be moving forward and impacts to operations associated with the phased construction will be address through construction management plans.

Financial Information – The inclusion of this section is reflective of the Advisory Committee’s recommendations that the City promote transparency and public confidence in financial transactions involving the use of the Park.

Public Safety & Public Health – Each agreement places an emphasis on the Licensees’ responsibility to plan for the public safety and health of those attending its programming. While this topic is addressed in the License Form, additional detail pertaining to each Licensee’s program is covered in Schedule B, Authorized Activities.

Maintenance and Utilities – At this time, of the three Licensees, only the Prescott Park Arts Festival (PPAF) makes payment for any utilities in the Park. The agreements before the Council maintains the current practice with regard to utilities. The utilities paid for by the PPAF are those negotiated under a separate Agreement from 2012 at the time of the

construction of the new Pavilion. PPAF and the City negotiated that PPAF would operate the bathrooms from May 1st to October 1st. In total, PPAF funds \$13,100 in electricity costs related to the Pavilion facility annually and another \$17,000 in restroom and kitchen cleaning costs as well as materials for the bathroom (total of \$30,000). The Concession Stand is not a “Licensed Area” in the current PPAF Agreement before the Council as it is covered under a separate 2012 agreement. No changes are proposed in this arrangement under the new agreement.

Parking – In 2017, the City began a seasonal parking by permit program at the Water Street lot for organizations operating in the Park. In order to assist organizations working the Park as well as limit the number of unfamiliar drivers in the lot during peak usage (May to October).

Signage – The agreements limit all signage in the park and require that all signage be specifically approved as set forth in *Schedule E of each Agreement*. For this section, inventories were submitted by each organization and recorded in Schedule E.

Merchandizing – This issue was addressed by the Advisory Committee as an important issue to keep a “check” on commercialization of the Park. As a result, in the agreements, specific areas for selling and what can be sold are listed.

Sound/Amplification – One of the impacts of park programming is sound within and that travels outside of the Park. In order to manage sound impacts amplification is not-prohibited unless expressly authorized in the Schedule B, Authorized Activities. This will permit controls over the sound that is amplified and type and design of amplifications systems used in the Park in order to manage, for example, off-site impacts.

Review of Performance – All agreements require the participation of Board and staff representatives from each organization to meet in a public meeting (up to three per year) as convened by the City Manager to discuss issue and concerns in the Park.

Infractions – The Advisory Committee recommended tools in the agreement to incentivize performance. In each agreement, a list of infractions for which a financial penalty would be assessed is listed.

a) Prescott Park Arts Festival: I recommend the City Council move to approve the Prescott Park Arts Festival License Agreement, and further, to authorize the City Manager to execute the Agreement.

b) NH Art Association: I recommend the City Council move to approve the NH Art Festival License Agreement, and further, to authorize the City Manager to execute the Agreement.

c) Gundalow Company: I recommend the City Council move to approve the Gundalow Company License Agreement, and further, to authorize the City Manager to execute the Agreement.

2. **Pedestrian Connector - License Agreement with Rockingham House Condominium Association.** As you will recall, the Chestnut Street Pedestrian Connector linking Porter Street to State Street has been identified as a critical pedestrian linkage between the African Burying Ground and Memorial Park, The Music Hall and beyond along with Vaughan Mall.

The pedestrian connector will be a significant enhancement to the area in keeping with the City's Bike and Pedestrian Plan and further enhance the "placemaking" benefits of The Music Hall project as well as result in a more fitting entry way to the African Burying Ground from the direction of Congress Street. This will be done through the introduction of an attractive paved walkway (matching pavers used in front of the Music Hall) as well as the introduction of trees and landscaping along the project and three street lights, which will enhance both the aesthetics and safety of the area. In addition, current overhead utilities along the Connector from Porter Street to State Street will be put under ground. [A site plan of the improvements is attached.](#)

The City is currently pursuing construction of Connector improvements as part of The Music Hall Streetscape Improvement project, now underway. Funding for the Connector project has been included in years' past Capital budgets.

While the area to be improved is City-owned property, there has been longstanding use of the space for parking by the Rockingham House Condominium. As a result, the City has worked closely over the last few years to reconfigure the Condominium parking so the pedestrian connector can be built. The goal of relocating all of the affected parking spaces on the Condominium land is not able to be achieved in the space available. As a result, one space "space 31" continues to be shown on the plans located on City property.

At this time, the City staff is recommending the City vote to authorize the City Manager to enter into the [attached License Agreement](#). While the offering of this Agreement to the Rockingham House is unusual, we believe these circumstances and especially the opportunity for realizing the benefits of the pedestrian connector at this time is a great benefit to the public as a whole. The Board of the Rockingham House will vote on acceptance of the License in early June.

The License Agreement permits the Condominium Association use of the parking space referenced above as well as permits the Rockingham House Condominium owners to pass and repass over of the City property to access their lot. Both activities are permitted for an indefinite amount of time, subject to the City's right to terminate the license at any time, provided that twelve (12) month prior written notice is delivered to the Rockingham House Condominium Association. A two-thirds vote of the City Council would be required to terminate the license.

I recommend the City Council move to authorize the City Manager to execute the License Agreement enclosed following acceptance of the agreement by the Rockingham House Condominium Association.

3. **Recreation Board Report Back – Policy Options for Recreation Fields.** At its most recent meeting on May 7th, the City Council voted to refer two policy options regarding the future of the City’s investment in recreation fields to the Recreation Board for a recommendation and report back. The two policy options are summarized below:

Option A:

- Pursue construction of Route 33 Multi-purpose field with either one of the following construction approaches:
 - Crumb Rubber Artificial Turf (\$2,552,000)
 - Crumb Rubber and all Bid Alternatives (\$3,151,000)
 - Safeshell Infill, all Bid Alternatives (\$3,507,500)

Option B:

- Pursue initial buildout of newly acquired Community Campus property
- One full-size synthetic turf field (and one, U-10 field) and associated site access and parking
- The estimated cost is \$4 million
- Over time, construct grass practice field at Route 33 site

At its regular meeting on May 10th, the Recreation Board unanimously voted to recommend the City Council move forward with Option B. During the discussion, Board members recognized this investment in the Community Campus would produce a new multi-purpose field and U-10 field and would have the added benefit of advancing more quickly toward the long-held vision of a complex of co-located fields. The Board viewed this result to be a better and more efficient use of resources over constructing a standalone field on the Route 33 property, with no prospect of adding fields in the future.

If the City Council chooses to move forward with this recommendation (Option B), I would work with City staff to advance this project including bringing back bonding for the Council’s July meeting. Based on existing bonded funds in place for the Route 33 project (approx. \$1,550,000) and the \$600,000 in proceeds from the Peirce Trust (recommended in the FY 19 CIP), an additional \$1.85 million will be needed in order to fund the estimated \$4 million project at the Community Campus.

I recommend the City Council move to authorize the City Manager to take the necessary steps to move forward with Option B – initial construction of the Community Campus property – and bring back project bonding at the July 2018 meeting.

Informational Items:

1. **Events Listing.** For your information, attached is a copy of the updated Events Listing showing events from this date forward through 2018. In addition, this can be found on the City's website.
2. **Greenland Breakfast Hill Area Waterline Study and Preliminary Design.** As requested by Councilor Denton, attached is a memorandum from Deputy of Public Works Brian Goetz and Assistant City Engineer Ray Pezzullo regarding the Greenland Breakfast Hill area waterline study and preliminary design.

**PRESCOTT PARK LICENSE AGREEMENT
FOR
Prescott Park Arts Festival, Inc.**

PARTIES. This license agreement (“**Agreement**”) is by and between the City of Portsmouth, a municipal corporation organized and existing under the laws of the State of New Hampshire, with a principal place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801 (the “**City**”), and

Licensee, Prescott Park Arts Festival, Inc., a non-profit corporation, organized and existing under the laws of the State of New Hampshire with a mailing address of P.O. Box 4370 Portsmouth, NH 03802.

This Agreement is dated (date of acceptance by City Council):_____.

RECITALS. This License sets forth the rights, obligations and conditions of Licensee’s use of property and buildings on City property known as Prescott Park and bounded by State Street, Marcy Street and Mechanic Street (the “**Park**”)

- The City owns Prescott Park and is responsible for preserving its historic resources and operating Prescott Park consistent with its fiduciary and charitable obligations.
- The 2017 Prescott Park Master Plan (adopted by the City Council February 6, 2017) is a foundational policy statement guiding the operations and programming authorized in Prescott Park. Further, the recommendations of the Prescott Park Policy Advisory Committee (Final Report December 2017) provide additional guidance in development of park policies and agreements.
- Prescott Park is first and foremost a waterfront open space for the people of Portsmouth. The “Park First” approach of the 2017 Prescott Park Master Plan is a framework for decision-making, which prioritizes the Park space as a City park and place for respite and quiet enjoyment.
- Ensuring a presence for theater, dance, music and visual arts in the Park is a tenet of the Prescott Park Master Plan.
- Prescott Park’s Shaw Warehouse, Marine Railway Building, and Sheafe Warehouse are invaluable historic and cultural resources, whose value in showcasing and interpreting the historic development of Portsmouth is inestimable.

NOW THEREFORE: For the public benefit and consideration set forth, the City grants a non-exclusive license to Licensee to use the licensed area defined in this Agreement for limited authorized activities subject to the following terms and conditions.

GENERAL

1. **PUBLIC BENEFIT.** The City Council has determined that granting this License to the Licensee is in the public benefit. Specifically, the benefit is the provision of arts and arts education programming and family entertainment as well as cultural events in Prescott Park. The public benefit is further described in Paragraph 5 relative to Consideration and Schedule D.
2. **LICENSED AREA.** The City and Licensee agree that it is not the intention of the parties to create a public forum within the Licensed Area, the Park currently has a public forum designated area and there is no intention by this Agreement to expand or alter it. The Licensed Area for the Authorized Activities is as described in Schedule A. The Licensee shall have exclusive programming rights and use of the stage subject to entering into good faith negotiations with the City for some limited-use by the City.
3. **AUTHORIZED ACTIVITIES.** Licensee is permitted to use the Licensed Area for those activities identified in Schedule B and for no other purpose. Licensee shall conduct no other business, enterprise, program or activity in, on or around the Park other than specifically authorized by this Agreement.
4. **SCHEDULE OF PROGRAMMING.** Schedule C of this agreement outlines the annual submittal timeline for a proposed schedule for each season by the Licensee as well as standards for approval of a schedule by the City Manager. Schedule Parameters listed in Schedule C establish the standards that shall be the basis for approval of the Licensee's schedule. In addition, Licensee recognizes the parameters represent an "up to" amount of programming eligible to be approved annually in the Park and is not an amount of programming to be allowed "by right" annually. Adjustments to these parameters may be made annually by the City Manager based on Licensee's performance under this Agreement.

The schedule, when approved annually in writing by the City Manager, shall become a part of this Agreement as Schedule C, Addendum 1. Licensee shall conduct its operations in accord with Schedule C. Licensee shall not schedule, stage or promote any program, act or performance in which pyrotechnics, explosives or display of open flames are involved or used without prior and separate written approval.

5. **PUBLIC BENEFIT & CONSIDERATION.** In recognition of the value of the Licensee's programming to the City and the role the Park has in enabling the Licensee's programming, Licensee agrees to share in the City's expenses associated with the overall administration, maintenance and operations in accordance with Schedule D. Licensee and the City recognize the consideration outlined in Schedule D reflects a balance of the following factors: the public benefit of Licensee programming to the residents and to the vitality of the City (cultural, social and economic); the value of the Park's assets to Licensee operations (including non-realized occupancy costs for office and storage uses to Licensee); administrative, maintenance and operational costs to the City; and impacts to the Park and the surrounding area in terms of the wear and tear, transportation and parking, and off-site sound exposure.

6. **TERM.** The term of this Agreement shall be five years commencing on the date of this Agreement and ending five years from that date unless terminated earlier due to default or by agreement.
7. **EXTENSION OF TERM.** Licensee may at the conclusion of year 4 of the term request an extension of the license for up to an additional five year term. The City shall negotiate in good faith an extension provided: (1) Licensee is not in violation or default of any material term of this Agreement; (2) Licensee has not received more than six (6) notices of default during the term; (3) Licensee has not received more than six (6) notices of infractions per season; and (4) the City has not been obligated to make any financial contributions to maintain the Licensed Area other than those obligations contemplated by this Agreement.
8. **EARLY TERMINATION.** Licensee may terminate this Agreement without penalty by written notice to the City upon the following conditions: (1) Licensee is not in default of any obligation; and (2) the City is provided notice no later than December 31 of the completed season.
9. **FINANCIAL INFORMATION.** In order to promote transparency and public confidence in financial transactions involving the use of the Park, Licensee shall provide timely financial information, including the following (the timing of the submittals below may be modified by the City Manager for good cause upon request of the Licensee presented in writing prior to the dates shown below):
 - A. Financial Profits and Loss Summary for the season immediately preceding, shall be submitted annually no later than February 15th. The Licensee's fiscal year is a calendar year – January 1 to December 31st.
 - B. Audited financial statements and management letter shall be submitted on an annual basis at a reasonable time following completion and review with the Licensee's Board.
 - C. Other financial information (e.g., policies for cash handling, etc.) and books open for inspection as may be requested by the City.
10. **AS IS CONDITION.** Licensee accepts the Licensed Area “as is” and as fit for the Licensee's intended purposes. City is under no obligation to improve, fit-up or make ready the Licensed Area for Licensee's Authorized Activities.
11. **RESPONSIBILITY FOR COSTS OF OPERATIONS.** Unless otherwise stated in this Agreement, Licensee is responsible for all costs and expenses incurred by Licensee for performing its obligations under this Agreement and carrying out its mission and programming. Those costs may include but are not limited to administration, scheduling, security and crowd management, staging and production, maintenance of equipment, assets, and temporary facilities; permitting and licensing fees; waste and clean up as set forth in paragraph 14; as well as all subcontracted services and other costs of carrying out this Agreement.
12. **PUBLIC ACCESS TO OTHER PROGRAMMING.** Licensee recognizes the City schedules use of the Park for weddings, dock reservations, public forum area events and Four

Tree Island Events. Licensee agrees to cooperate and make reasonable accommodations to facilitate these uses.

PROPERTY REQUIREMENTS

13. **UTILITIES.** Unless separately metered and billed to the Licensee as of March 1, 2018, all utilities (water and sewer, electricity, fire alarm monitoring, and natural gas) associated with the use of the Licensed Area in Schedule A shall be the responsibility of the City. For the purposes of this section neither telephone nor other telecommunications utilities such as fiber-optics, cable, internet service or the like are utilities.
14. **MAINTENANCE.** Licensee shall be responsible at its own cost for maintaining any of its temporary structures, staging or exhibits and for ensuring that any of its equipment is in good and sanitary condition and repair. City shall be responsible for all maintenance of its structures including the licensed areas in the Shaw Building. Licensee shall notify the City as soon as possible in writing if Licensee identifies any areas that are in need of maintenance to preserve and protect the structural integrity and historic value of any building or to protect public health and safety.
15. **WASTE AND CLEAN-UP.** The Licensee shall not allow any waste, rubbish or other objectionable materials to accumulate within the Licensed Area or upon the surrounding Park grounds. The Licensee shall arrange and pay for proper solid waste receptacles, the location of which shall be approved by the City Manager. Licensee shall be expressly responsible for cleaning up debris, emptying trash bins and otherwise returning and restoring any exterior Licensed Area to a park-like condition after each use for an event or activity. To the extent the Licensed Area includes building space, the building shall be kept clean, free of debris and tidy. If the City sponsors or adopts any evaluation or pilot of an alternative waste collection system, Licensee will participate in such evaluation or pilot program.
16. **CAPITAL IMPROVEMENTS.** Licensee understands the 2017 Prescott Park Master Plan is the City's plan for all future renovations, modifications, and reconstruction in the Park. The design, timing of implementation, order of improvements, and the type of modifications, improvements, and related construction efforts above and below ground for the Park will be directed by the City. Licensee recognizes that planning, design, and construction of Master Plan improvements will likely move forward during the License term. In particular, construction will cause disruption to Licensee programming and activities. All construction impacts and disruptions associated with execution of the Master Plan improvements will be carried out in close coordination with the Licensees through the creation of detailed Construction Management Plans for each phase.
17. **MODIFICATIONS.** No modifications of any kind to the Licensed Area, including structures within a Licensed Area, are permitted without prior written agreement of the City.
18. **EQUIPMENT/INSTALLATION OF ADDITIONAL EQUIPMENT.** With the prior written approval of the City, Licensee may install additional machinery, equipment or other

personal property; if attached or affixed to the Licensed Area, such machinery, equipment or other personal property shall become the property of the City unless the City otherwise agrees in writing. With advance written consent of the City, Licensee may remove such machinery, equipment and other personal property from the Licensed Area, provided that any removal of machinery, equipment or other personal property does not adversely affect the structural integrity of any structure. If any damage is occasioned by such removal, Licensee agrees to promptly repair such damage at its own expense.

19. **RIGHT OF ENTRY.** The City shall have the right to enter into and upon the Licensed Area including all buildings at all times to inspect, make repairs or improvements to City-owned structures, to remove items from the Licensed Area that are in violation of the this Agreement, and to protect the health, safety and welfare of users, employees and visitors or for any purpose; including for administering sound monitoring protocol described elsewhere in this agreement.

20. **INSURANCE.** Throughout the License Term, Licensee shall, at its sole cost and expense, maintain insurance against such risks and for such amounts as are customarily insured against by entities engaged in the types of activities in which Licensee will be engaged.

A. Types of insurance shall include:

- i. Commercial General Liability coverage protecting Licensee against loss from liability imposed by law or assumed in any written contract or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or other occurrence, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
- ii. Automobile Liability coverage protecting Licensee against loss arising from personal injury, including bodily injury or death, or damage to the property of others, caused by all owned autos with a limit of liability of not less than \$300,000 per occurrence. If Licensee does not own vehicles, the Licensee may so affirmatively represent as such in writing, in which case coverage may be for non-owned and hired autos only.
- iii. Licensee shall maintain such coverage necessary to insure its exhibits, equipment and other personal property placed in any municipal building or on any municipal property. Licensee shall also provide property coverage for any of its temporary structures and betterments.
- iv. Workers' compensation insurance to the extent required by the laws of the State of New Hampshire.
- v. Marine insurance/endorsement of at least \$1,000,000 is required if Licensee's Authorized Activities include use of any docking structure or marine activities.

B. The parties acknowledge and agree that insurance coverages may need to be adjusted over the course of the term of this lease due to changes in the City's Member Agreement, due to inflation or changes in Licensee's Authorized Activities. The parties agree to make good faith efforts to mutually agree upon such updates and adjustments to insurance coverage so

as to maintain commercially reasonable amounts and to apportion equitably such costs and risks.

- C. All insurance required by this Agreement shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by entities engaged in the types of activities in which Licensee will be engaged.
- D. The City shall be identified as an additional insured party on a primary and non-contributory basis on all liability policies.
- E. Licensee shall provide proof of insurance coverage satisfactory to the City which may include certificates of insurance or policy documents.
- F. The City shall maintain existing property and liability coverage on the buildings and property of Prescott Park. If the loss or claim arises in whole or in part from the activities of Licensee, the liability insurance of Licensee shall be primary and the City's secondary.

21. **INDEMNIFICATION.** Licensee agrees to defend, hold harmless and indemnify the City and its officers, agents and employees against any and all liability for bodily injury, death, and property damage arising from the existence of this Agreement or any activity conducted hereunder or any person or entity operating under Licensee's authority. This provision shall survive termination or expiration of the Agreement.

RESTRICTIONS

22. **NON-DISCRIMINATION.** Licensee shall not discriminate on the basis of race, color, religion, gender, gender expression, age, national origin, disability, marital status, sexual orientation or military status.
23. **NO ALCOHOL, MARIJUANA OR ILLEGAL SUBSTANCES.** No alcohol, marijuana or illegal substances are permitted in the Park. Licensee shall communicate this restriction to all employees, volunteers and contractors and shall take steps to communicate this restriction to all invitees as instructed by the City Manager.
24. **PARKING.** Licensee understands the North Parking and Water Street Parking lots in the Park are public, off-street parking lots and the City may establish rules and terms of use for these parking lots in accordance with City ordinances which may without limitation include: elimination or reduction in parking within the Park at any time (consistent with the Park Master Plan); metering one or both lots; and changing the 2017 pilot permit parking program. Licensee is expressly not authorized to lease, sub-license, award, or otherwise designate or reserve any parking spot in any area of the Park. The parties agree there is no obligation on behalf of the City to provide parking to the Licensee, paid or unpaid, within or outside the Park. Parking for tour buses (up to three spaces) may be reserved by PPAF in the area designated by the City in 2017. No idling of tour buses will be permitted.
25. **COMMERCIAL ACTIVITY IN PARK.** As stated in Paragraph 3 above Licensee shall conduct no other business, enterprise, program or activity in, on or around the Park other than specifically authorized by this Agreement. There shall further be no selling of merchandise or concessions (authorized through separate agreement), solicitations, monetization of Park grounds, or charging of any fees unless specifically allowed under Authorized Activities.
26. **SIGNAGE.** Licensee shall not display, erect or permit any signage in the Licensed Area or Park which has not been approved by the City and described in Schedule E.
27. **NO AMPLIFICATION.** Licensee shall not employ any sound amplification unless such amplification is allowed under Authorized Activities and Licensee has met all setup, equipment and training conditions prior to commencement of use.

OPERATIONS AND RECOURSE FOR INFRACTIONS

28. **POINT OF CONTACT.** Licensee shall designate in writing a person as a point of contact for City officials. In addition, Licensee shall further identify and publish on its website and other materials a protocol for Licensee to receive and review complaints and concerns from the public. Licensee will track the receipt of such complaints and concerns and Licensee's response and produce such information for inspection upon the City's request.
29. **REVIEW OF PERFORMANCE.** Up to three times per year, Licensee shall make a representative from its Board as well as administrative leadership available to participate in a public meeting to hear public comment and to respond to questions and concerns. The timing, format and schedule of these public meetings shall be at the discretion and direction of the City Manager.
30. **APPROVAL OF TEMPORARY FACILITIES.** The process for City approval of the Licensee's temporary facilities (authorized facilities erected and disassembled on a seasonal basis) is outlined in Schedule B, Authorized Activities. The purpose of this approval is to ensure: (1) compliance with this Agreement as well as with life safety and building codes and the Americans with Disabilities Act; and (2) incorporation of public safety recommendations and risk management practices into the layout.
31. **RECOURSE FOR INFRACTIONS.** An infraction shall mean an event of non-compliance with this Agreement which the City has elected to treat as less than a Default under paragraph 33. Such infractions may include but are not limited to the following:
- placement of unauthorized signage
 - engaging in other business or activities that are not authorized
 - exceedance of sound system limitation
 - failure to maintain clear sidewalks or aisles
 - failure to follow any health and safety directive of an authorized City official

In the event of infraction, the City may at the discretion of the City Manager exercise its right of entry as set forth in paragraph 19 to correct the infraction. In addition, the City may provide written notice to the Licensee of the infraction and assess a penalty of \$250 for each infraction. In the event that the City issues more than three notices of infraction in a thirty day period, subsequent violations for the remainder of the calendar year may be increased at the City's discretion to \$400 per infraction. The City shall also have the right to demand assurances from Licensee and a plan of action for avoiding further infractions. Penalties shall be paid within 30 days of assessment.

32. **RESTORATION AND DAMAGES.** Licensee shall restore, replace and remedy promptly any damage caused to the Park by Licensee's activities. If the damage is not remedied promptly, the City - after written notice to Licensee - may, through its own forces or a contractor, restore, replace and remedy the damage in which case Licensee will be charged for that work.

33. **PUBLIC SAFETY AND PUBLIC HEALTH.** The City Manager, Chief of Police, Fire Chief and Public Works Director may, at their sole discretion, order additional measures beyond those described in this Agreement to protect the health and safety of Park visitors. Such additional measures may include without limitation the assignment of additional personnel or the erection of barriers. If such additional measures are ordered, Licensee shall pay for the cost of such additional measures. Current billing rates (for representation purposes as they are adjusted annually) are as follows:

A. Portsmouth Police officer: \$61.75/hour minimum four hours. Cruiser rate: \$12.50/per detail.

B. Portsmouth Fire Department: Firefighter/Paramedic: \$50.00 /hour – minimum of two hours. No charge for vehicles.

C. Department of Public Works (minimum of four hours):

- Laborer: \$37.95/hour
- Utility Mechanic: \$41.78/hour
- Park Foreman 1: \$61.60/hour
- Vehicles: Pickup Truck: \$15.00/hour; Dump Truck: \$50.00/hour; Backhoe: \$50.00/hour

DEFAULT AND CURE

34. **DEFAULT.** The following shall be an "Event of Default" under this Agreement:
- A. The failure by Licensee to follow any public health or public safety directive;
 - B. The failure to observe or perform any obligation or covenant of the Agreement; if such failure is unrelated to public health or safety, Licensee shall have a fourteen (14) day period to cure the performance following written notice, unless otherwise indicated below;
 - C. More than six infractions by Licensee in a thirty (30) day period;
 - D. Any false or misleading material statement or representation by Licensee related to this Agreement and performance under it;
 - E. The dissolution or liquidation of Licensee; the failure by Licensee generally to pay its debts as they become due; an assignment by Licensee for the benefit of creditors (excepting such security interests entered into during the normal course of business); the commencement by Licensee (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; the commencement of a case in bankruptcy or any proceeding under any other insolvency law against Licensee (as the debtor) or Licensee consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of Licensee for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of creditors;
 - F. Licensee's loss of 501(c)(3) tax exempt status subject to a sixty (60) day period to cure;
 - G. The failure of Licensee to comply with the terms or conditions of any federal, state or local funding sources for monies received subject to a sixty (60) day period to cure.

If by reason of force majeure a party is unable in whole or in part to carry out its obligations under this Agreement, that party shall give written notice of such force majeure event within a reasonable time of its inability to perform. Performance shall be suspended during continuance of the force majeure and for a reasonable time thereafter. The term "force majeure" shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, insurrections, riots, epidemics, natural disasters, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault,

35. **REMEDIES ON DEFAULT.** Whenever Licensee shall commit any Event of Default, the City may with written notice take, to the extent permitted by law, any one or more of the following remedial steps:
- A. Assess to the Licensee any cost incurred by the City to correct, cure or remedy the Event of Default;
 - B. Amend or limit the number of Authorized Activities;
 - C. Take possession of and/or secure the Licensed Area;

- D. Declare any and all other payments due under this Agreement immediately due and payable;
- E. Take any action as it shall deem necessary to cure any such Event of Default, such action shall not be deemed to constitute a waiver of such Event of Default; and/or
- F. Terminate this Agreement; and take any other action at law or in equity which it deems necessary or desirable to collect the payments or other obligations then due or thereafter to become due hereunder, to secure possession of the Licensed Area, and to enforce the obligations, agreements or covenants of Licensee under this Agreement.

No action taken by the City pursuant to this paragraph (including repossession of the Licensed Area) shall relieve Licensee from its obligations required by this Agreement. After an Event of Default, Licensee shall have the right upon notice to the City to enter the Licensed Area with agents or representatives of the City to remove any Equipment or personal property owned by Licensee if such Equipment or personal property is not part of the Licensed Area.

- 36. **REMEDIES CUMULATIVE.** No remedy is intended to be exclusive of any other available remedy. Each remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
- 37. **NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any obligation contained in this Agreement is breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach waived and shall not be deemed to waive any other breach hereunder.
- 38. **NON-RECOURSE.** Notwithstanding any provision hereof to the contrary, or any other express or implied agreement between the parties, or any act or course of conduct hereunder, the obligations of the parties set forth herein shall solely be those of the entities named in the first paragraph of this Agreement. No Councilor, employee or agent of the City shall have any personal liability whatsoever under this Agreement, nor shall any officer, director, shareholder, general or limited partner, employee or agent of Licensee have any personal liability whatsoever under this Agreement, it being understood and agreed that the City shall look solely to the assets of Licensee for recourse hereunder.
- 39. **TERMINATION OR SURRENDER OF LICENSE.** Upon termination of this Agreement, or mutual cancellation thereof, the Licensee shall immediately surrender the Licensed Area.

MISCELLANEOUS PROVISIONS

40. **COMPLIANCE WITH LAWS.** The Licensee shall comply with all Federal, State and Municipal laws, ordinances and regulations affecting the Park and Licensed Area, the improvements thereon, or any activity or condition on or in the Licensed Area.

41. **FREE OF LIENS.** Licensee shall keep Park property free and clear of all liens arising out of the Licensee's occupancy and use of the Licensed Area and at all times promptly and fully pay or discharge any claims on which any lien could be based.

42. **NOTICES.** Any notice required under this License or other writing which may be given by either party to the other shall be deemed to have been given when made in writing and delivered in hand or delivered by U.S. Mail or a courier service with proof of delivery and addressed as follows:

To the City: John P. Bohenko, City Manager
 City Hall
 1 Junkins Avenue
 Portsmouth, NH 03801

With a copy to: Robert P. Sullivan, City Attorney
 City Hall
 1 Junkins Avenue
 Portsmouth, NH 03801

To the Licensee: Jameson French, Board Chair
 Prescott Park Arts Festival, Inc.
 P.O. Box 4370
 Portsmouth, NH 03802

With a copy to: Ben Anderson, President
 Prescott Park Arts Festival, Inc.
 P.O. Box 4370
 Portsmouth, NH 03802

43. **SEVERABILITY.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision.

44. **AMENDMENTS, CHANGES AND MODIFICATIONS.** This Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by the parties.

45. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of New Hampshire without regard or reference to its conflict of laws principles.
46. **COMPLETE AGREEMENT.** This Agreement and the Schedules A - E appended hereto constitutes the entire agreement between the parties and may be modified only by a writing agreed to by both parties.
47. **ASSIGNMENT AND SUBLETTING PROHIBITED.** Licensee shall not assign this Agreement or sublet any portion of the Licensed Area.

IN WITNESS WHEREOF, the parties have executed this License on _____,
2018.

WITNESS:

THE CITY OF PORTSMOUTH

John P. Bohenko, City Manager
Pursuant to vote by the City Council on
_____, 2018.

WITNESS:

PRESCOTT PARK ARTS FESTIVAL, INC.

Printed Name of Duly Authorized Agent

Signature of Duly Authorized Agent

SCHEDULE A: LICENSED AREA

A. The areas licensed to the Licensee are listed below and depicted on the map figure in this Schedule. In the event of discrepancy between the two, the words below shall govern.

| Licensed Area | Authorized Uses As Limited by this Agreement | Square Feet |
|----------------------------------|--|-------------|
| Shaw Warehouse Building | | |
| Section A, Floor 2 | Office Use | 826 |
| Section A, Floor 3 | Storage | 1140 |
| Section C, Floor 1 | Storage and Backstage support uses | 920 |
| Stage | Staging of performances as authorized under this Agreement | 2320 |
| Seasonal Back Stage Area | Operational and Storage area in Support of Stage Programming | 6768 |
| Wooden Deck Structure | Tables and Chairs | 456 |
| Permitted Table and Chair Area | | |
| Section A. | Tables and Chairs | |
| Section B. | Tables and Chairs | |
| Merchandise/Sound Booth Building | Technical Support of Productions/Storage/Sale of Items | 430 |
| Outdoor Merchandise area | Display of Authorized For Sale Items | 605 |
| “Old” Sound Booth Building | Storage | 168 |
| Lighting Poles in Stage area | Hosting Lighting Equipment | 4 |

License Agreement Prescott Park Layout

Map prepared by Portsmouth Department of Public Works

1 inch = 34 feet

03/26/2018

PPAF LICENSED AREA
 SHAW WAREHOUSE:
 Section A, Floor 2 - 826 SQ.FT.
 Section A, Floor 3 - 1140 SQ.FT.
 Section C, Floor 1 - 920 SQ.FT.
 STAGE - 2326 SQ.FT.
 SEASONAL BACKSTAGE AREA - 6768 SQ.FT.
 WOODEN DECK - 496 SQ.FT.
 TABLE+CHAIRS AREAS:
 A - 1042 SQ.FT.
 B - 611 SQ.FT.
 MERCHANDIZING/SOUND BOOTH - 430 SQ.FT.
 OUTDOOR MERCHANDIZE AREA - 606 SQ.FT.
 OLD SOUND BOOTH - 168 SQ.FT.

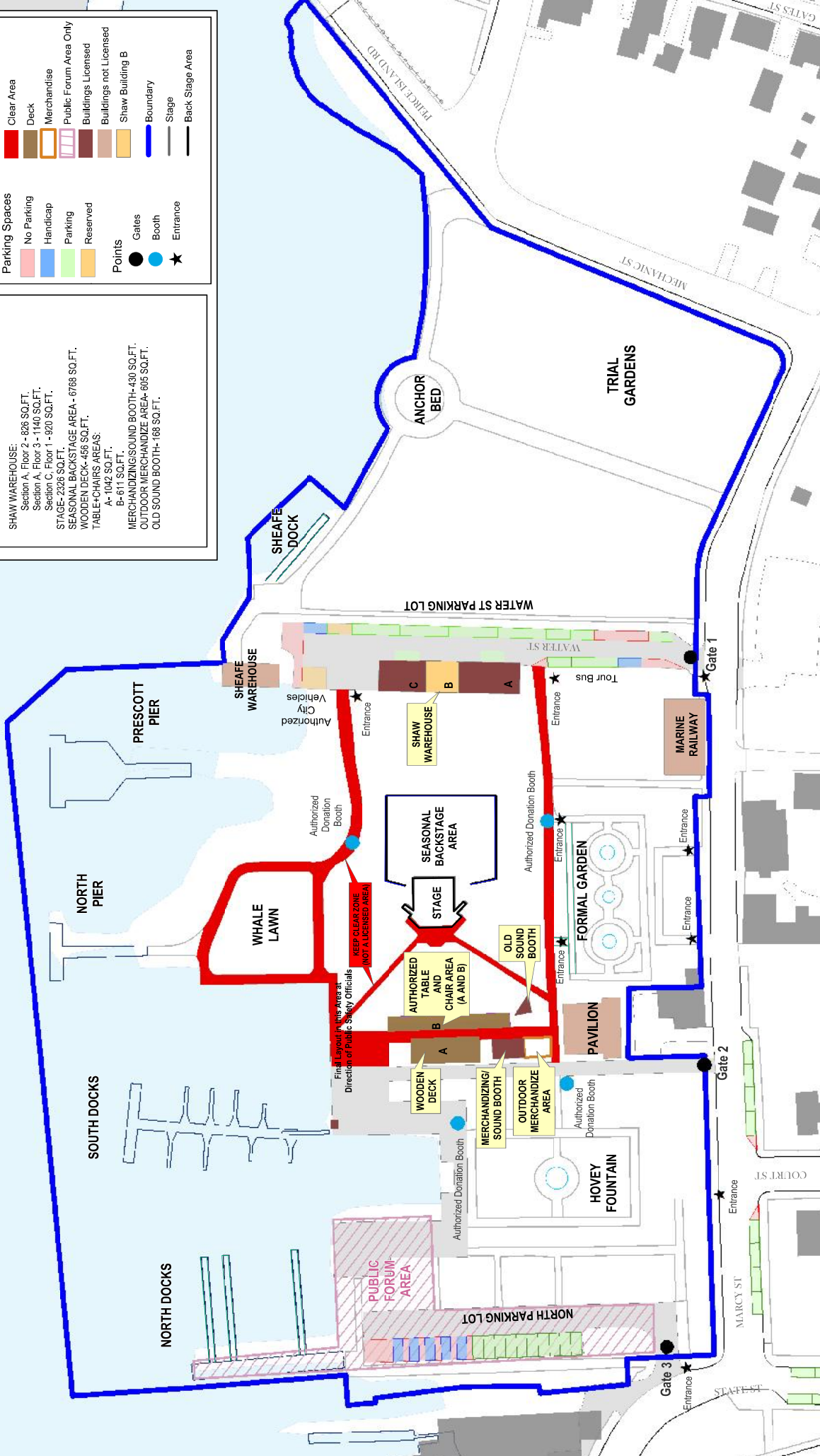
Legend

Polygon
 Clear Area (Red)
 Deck (Brown)
 Merchandise (Orange)
 Public Forum Area Only (Pink)
 Buildings Licensed (Dark Brown)
 Buildings not Licensed (Light Brown)
 Shaw Building B (Light Orange)

Parking Spaces
 No Parking (Red)
 Handicap (Blue)
 Parking (Green)
 Reserved (Yellow)

Points
 Gates (Black circle)
 Booth (Blue circle)
 Entrance (Star)

Boundary
 Stage (Red line)
 Back Stage Area (Black line)



SCHEDULE B: AUTHORIZED ACTIVITIES

1. **General Authority.** The Licensee is authorized to carry out the following listed Activities in the Licensed Areas.

A. The staging, promotion, and production of musical concerts, theater performances, dance performances, theatre classes, youth camps, community showcases (stage performances featuring local performers, acts and organizations), up to three food festivals located within the Park, outdoor movies subject to the following:

1. A schedule of programming shall be approved annually in accordance with Schedule C.
2. There shall be a variety of programming with a musical theater production core to the Festival Season; and
3. All programming shall be appropriate for all ages and include a mix of opportunities for local performers as well as local workforce.

B. Maintain office space and store materials and equipment required for the operation of the Licensee's programming.

1. Licensee is authorized to use the following licensed areas for the purposes described and as limited below:
 - a. Utilize the second floor of Section A of the Shaw Building (see map in Schedule A, Licensed Areas) for office use.
 - b. Utilize the third floor of Section A of the Shaw Building for storage of costumes and other non-bulky items.
 - c. Utilize Section C of the Shaw building for storage of materials and equipment directly related to the seasonal operation of the Licensee.
 - d. There shall be no storage of hazardous materials and no smoking in the Licensed buildings.
 - e. Licensee recognizes the restroom facility on the second floor of Shaw is a shared bathroom space for use by the City personnel assigned to the Park when other restrooms are winterized.

C. Solicitation of Donations within the Park subject to the following:

1. Donations must be collected in a manner, by signage or otherwise, which clearly informs donors their contribution is voluntary;
2. Donation booths permitted only where designated on the License Area Map; and
3. Donations within the Park may be sought beginning two hours prior to the scheduled start of an authorized program and end no later than the end of the program.

D. Erection of Temporary Facilities within the park subject to the following:

1. All temporary facilities placed in or erected in the Park on a seasonal basis shall be in substantial conformance with the number, type and layout as deployed during the 2017 season and comply with all life safety and building codes as determined by the City's Chief Building Inspector.
2. Temporary facilities may be placed in the Park no earlier than May 1st.
3. All temporary facilities will be removed from the Park by October 1st.
4. All "back stage" temporary facilities shall be located within an authorized footprint not to exceed 94 feet by 72 feet inclusive of all fencing.
5. Licensee shall be responsible for all costs of the temporary facilities and obtaining all necessary electrical, building and other permits.
6. No installation, construction or erection of temporary facilities shall take place until all appropriate building permits have been issued.

E. Reservation of space (monetization of Park grounds) in exchange for payment in authorized spaces (this means restricting access to the use of a portion of the Park on the basis of payment) and is subject to the following:

1. May only be done during programming authorized under this agreement;
2. Reservation of tables and chairs is limited to the Licensed Area Tables and Chairs A and B; and
3. The number of tables and chairs on the Table and Chairs Areas A and B must not exceed occupancy limits established in the Life Safety Code (15 feet per square foot per person with table and chair).

F. Merchandizing is permitted subject to Additional Conditions set forth in Section 2.

2. Additional Conditions for Authorized Uses. The authorized activities are conditioned upon the following:

A. Public Safety & Crowd Management. Licensee and City agree the responsibility for ensuring the safety of attendees at events first lies with the Licensee. In furtherance of the goal to ensure public safety and crowd management the preparations and the Licensee agrees to the following:

- a. **Event Classification.** For the purposes of planning for site security and crowd management the following an event labeling system will be used, which matches audience size targets addressed in the Schedule Parameters in Schedule C. Events will be described in accordance with the anticipated audience size; Type 1 (up to 1,500 people), Type 2 (between 1,500 and 3,400), and Type 3 (events where attendance swells beyond authorized level of 3,400).
- b. **Public Safety & Crowd Management Planning Meeting.** At the call of the City Manager and prior to the approval of the season schedule, a meeting will be held to plan for site security and crowd management in the Park for the upcoming season, including projection of events by type for the purposes of ensuring adherence to the

terms in this section and planning out staff requirements. This planning shall be inclusive of all necessary traffic safety and parking mitigation strategies required.

- c. **Event Coordinator.** Licensee shall identify an Event Coordinator for each scheduled event. Name and contact information shall be provided to the City Manager’s office, Fire Department, Police Department and Department of Public Works. The coordinator shall be certified in Crowd Management and be directly responsible for supervising crowd managers on site.
- d. **Crowd Managers.** Licensee is required to use crowd managers as set forth in this section. The use of crowd managers is critical to ensuring aisle ways are kept clear at all times and to assist in any emergency. The use of crowd managers avoids the use barricades or other barriers that could become a tripping or other hazard.
 - i. A crowd manager shall have crowd manager training. Training is available at Fire Marshal Support Services, LLC (<https://www.crowdmanagers.com/training>). An equivalent training program may be approved in advance by the Fire Chief.
 - ii. Names of all trained staff persons or volunteers who may serve as crowd managers shall be provided to the City Manager’s office.
 - iii. Crowd managers for each event shall: wear bright/distinctive shirt tops, all the same color; have flash lights for evening events; and perform no other role during the event other than crowd management.
 - iv. Crowd managers shall be present and actively working to enforce clearing aisle ways, the number of crowd managers for each event shall be determined in accordance with the following chart and reviewed in advance as part of the planning meeting discussed above. Coverage for crowd manager shall be a factor of the audience size divided by 250 (per NFPA 1 Fire Code).

| Event Identifier | Event Type Requiring Crowd Managers | Audience Size Anticipated | Aisle ways Kept Clear | Estimate #/Year | Crowd Managers |
|--------------------------------|--|---------------------------|-----------------------|-----------------|----------------|
| Type 1 (up to 1,500 people) | Movies | 300 | Yes | 10 | 1 |
| | Plays | 900 | Yes | 36 | 4 |
| | Regular Concerts (incl. music festivals) | 850 | Yes | 22 | 6 |
| Type 2 (1,500 > 3,400) | Large concerts | up to 3,500 | All events | Up to 3 | 6-14 |
| Type 3 (3,400>) | | >3,500 | All events | Zero | 14 |

- e. **Required Details of Public Safety Personnel.** The Licensee agrees to schedule and pay for all costs associated with the following police, fire and public works detail requirements:

| Type | Police | Fire | DPW |
|---|----------------------------------|--------------------------------|------------------------|
| Type 1 (Concert only) (up to 1,500 people) | 1 detail officer | None Required | Discretion of Director |
| Type 2 Event (1,500 > 3,400) | 2 detail officers | Discretion of on-call Chief | Discretion of Director |
| Type 3 Event (3,400>) | Discretion of Shift Commander | Discretion of on-call Chief | Discretion of Director |

- f. **Notice Required for Event Relocation and Cancellation.** If an event is relocated due to weather – the Licensee is obligated to advise the City as well as the on-call Fire Chief and the Police Department.
- g. **Stage Announcement.** At the beginning of each event, Licensee shall make an announcement from the stage which will cover, at a minimum, the following information:
- i. Possession or consumption of alcohol in Prescott Park or any City Park is prohibited;
 - ii. Smoking is not permitted;
 - iii. Aisle ways and paths must be kept clear at all times;
 - iv. Introduce and identify one or more crowd managers and make clear that the directions of crowd managers must be followed; and
 - v. Identify the exits

B. Parking and Traffic Mitigation.

1. Licensee recognizes programming in the Park increases parking and traffic-related issues in the vicinity of the neighborhood. In addition to cooperating on mitigation and planning from a safety perspective as part of Crowd Management and Site Security below, the Licensee will take the following affirmative actions to assist in mitigating impacts related to Licensee programming:
 - a. List available parking assets for patrons on its website and related materials. Due to construction, Pierce Island shall not be listed as a parking resource until such time as notified by the City.
 - b. Promote the use of public transportation buses and shuttles.
 - c. Continue efforts for off-site drop-off of students attending camps with supervised crossing in to Park.

C. Merchandising. The Master Plan governance recommendations recognize the value and purpose of open green spaces and urban parks as places of respite, recreation and enjoyment. According to the Plan “maintaining this special status includes limiting commercialization, which, unchecked, can disrupt the Park atmosphere”. Consistent with this orientation, the following is agreed to when it comes to selling merchandise in the Licensed Area.

- A. **Authorized Points of Sale and Times.** Points of sale for merchandise authorized under this section are the Merchandise/Sound Booth and Outdoor Merchandize Area and no other location.
- B. **Appearance and Configuration.** At all times this area shall be kept in a neat and orderly manner and configured in accordance with public safety and crowd management guidance issued by the City.
- C. **Authorized Items for sale.** No merchandise may be sold to the public which is not expressly authorized. Items expressly authorized for sale include.

- Apparel including T-shirts, hats, flip-flops, and sweatshirts.
- Items to Support Attendees enjoyment of productions including blankets, chairs, sunscreen, sunglasses, bug repellent, water canteens, wrapped candy, chocolate and bottled water.
- Fairy House Tour items including wings, wands, fairy halo, and tiaras.
- Kites
- Season memberships
- Toys and miscellaneous items with a relationship to a production including stuffed toys, tote bags, pins, posters and stickers.
- Light-up items including fiber wand and light saber.
- Park type toys such as Frisbees and play swords.
- Books, Posters and vinyl Records/CDs/Cassettes

D. Blanket and Chair Policy. The Licensee is responsible for administering and enforcing a policy on blanket and chairs as outlined below.

- A. Licensee and the City shall identify and agree upon prior to the commencement of the season an area in front of the stage to be reserved for blankets.
- B. Neither unattended blankets nor lawn chairs shall be placed on the lawn earlier than 3:00 p.m. or four hours prior to a performance. No plastic or other tarps shall be permitted.
- C. The Licensee’s blanket reservations will be limited to six per event; reserve blanket placements shall be subject to the same terms in this section.
- D. Licensee shall discourage the use of rocks from the Park and its shoreline as anchor weights for blankets placed in the audience area. Licensee shall be responsible for the removal of

remaining anchor weights following the conclusion of Licensee-sponsored events consistent with section 14 of this agreement.

- E. This provision will not prevent blankets or lawn chairs from being placed in the lawn area in front of the stage prior to the restricted time of day if they are attended.
- F. The Licensee shall clearly communicate this Blanket and Chair Policy on materials advertising its programming, and on its website as well as signage in the audience area.

E. Off-Site Sound Mitigation and Sound System Design and Setup. Licensee and the City agree that management of impacts of programming in the Park with and outside of the Park is key to success of Park programming. The following action will be carried out by the Licensee prior to and during the authorized schedule of activities for each year during the License term:

A. Sound Monitoring Requirements. Licensee will cooperate with a sound monitoring, recording, and reporting system to be utilized to confirm adherence to agree upon sound level standards established in this section.

1. The Licensee will reimburse the City up to \$2,500 for this expense in 2018, and \$2,500 each season thereafter (an amount equal to one-half of the City's expense). This amount will be due July 1st each year.
2. Licensee agrees to limit sound levels in accordance with standards utilized during the 2017 season; limit of 90 dBA as measured at the Sound Booth.
3. The same monitoring and alert systems will be used (lighting system), which was used in 2017, which is geared to the limit above:

Green – neither condition below is true (target sound level range)

Yellow – 10-second Leq exceeds 90 dBA

Red – 1-second Leq exceeds 95 dBA

Sound engineers are instructed to respond as follows:

Yellow – Gradually reduce overall level until green illuminates.

Red – Immediately reduce overall level by at least 5 dB until green illuminates.

4. Continuous data monitoring and recording of sound levels in the Park, will be kept and a bi-weekly report on the results will be provided to the City, the Licensee and the public. Draft copies of the reports, will first be made available to the Licensee prior to finalization.

SCHEDULE C: SCHEDULE OF PROGRAMMING

1. Timing of Submittal Approval Process. Prior to May 1st each year, the PPAF shall submit a schedule to the City Manager for his consideration and approval. The scheduling parameters below will be the basis for approval of the schedule submittal by the City Manager.

Approval of the schedule from the City Manager shall be issued no later than May 15th of each season. The proposed schedule submittal shall show all events (all types) for the Festival Season. The events shall be shown in calendar form by month with start times for each event/performance. The names of all acts/artists/performers are not required to be submitted at time of submittal, however each date will be identified and labeled “Type 1” or “Type 2” in keeping with the typology in the section on Crowd Management and Public Safety Schedule B.

The parties agree some events are not known, committed or confirmed as of the schedule submittal date above. Changes and additions from the approved schedule shall be permissible so long as the overall schedule conforms with the schedule parameters for the season.

2. Recognition of Overall Purpose of Scheduling Parameters. The Licensee and City recognize the establishment of these scheduling parameters have two goals, listed below. In addition, Licensee recognizes the parameters below represent an “up to” amount of programming eligible to be approved annually in the Park and is not an amount of programming to be allowed “by right” annually. Adjustments to these parameters may be made annually by the City Manager based on Licensee’s performance under this agreement.

- A. The City’s desire to seek a balance between the park programming and impacts on the condition of the Park itself; on transportation & parking in the vicinity of the Park; off-site sound exposure; and limited times on days and evenings when the Park is available as a place of respite and for quiet enjoyment.
- B. Provide clarity and predictability from year-to-year about the amount, type, and frequency scheduled programming eligible to be approved in advance of creation of the schedule and commitment to artists and performers

3. Establishment of Parameters. The scheduling parameters below will be the basis for approval of the schedule submittal by the City Manager as outlined below.

A. Program Type and Mix:

- a. There shall be a variety of programming to be offered in the Park with a musical theater production core to the Festival Season. In addition, programming in the Park shall be appropriate for all ages and include a mix of opportunities for local performers as well as local workforce.

B. Festival Season Start and End dates:

- a. Season bookends shall be established for the regular festival season.
- b. The start of the season **shall be no sooner than the Friday of the week school year concludes** (using the Portsmouth School Board first adopted school year calendar).
- c. The end of season **shall be no later than the Sunday night of Labor Day weekend**. However, no events which end after 7:00 p.m. on a night before a school day will be permitted.
- d. The establishment of the season bookends above do not preclude separate approval of “Special Events” (ex. Chowder Festival, Road Race), which have traditionally fallen outside of the regular season schedule. All special events outside of the season **bookends shall end by 7:00 p.m. on Sunday through Thursday and by 10:30 p.m. on Friday and Saturday**.

C. Program Times:

- a. All programming Sunday through Thursday **shall end at 10:00 p.m.** Exception: one weekly Movie offering shall end no later than 10:45 p.m.
- b. All programming on Friday and Saturday **shall end at 10:30 p.m.** Exception: Play offerings on Fridays and Saturdays shall end no later than 10:45 p.m. In recognition that unusual circumstances may cause the end time of plays or movies offered on Fridays or Saturdays to extend beyond the 10:45 p.m. termination time, the City Manager will be notified (via text message or phone call) when an event may extend past 10:45 p.m. but no later than 11:00 p.m.
- c. For the purposes of this section all programming includes rehearsals, sound checks and the like.
- d. These are hard stop requirements and inclusive of intermission and delays of any kind to the program start, including inclement weather.

D. Weekly Schedule

- a. There shall be one “Non-Performance” day (versus two “Non-Performance” days) and one “Low-Impact” day per week. The PPAF recognizes the agreement to move to one “non-performance” day versus two “Non-Performance” day, is made based on the assumption that the recommendations made as part of the 2017 Sound System Review by Reuter Associates (and any other recommendations) to concentrate sound in the Park and lessen off-site sound migration will be implemented prior to the start of the 2018 Festival Season.
- b. There shall be **at least one** day per week where there is no performance or event on the stage or in the Park (Non-Performance Day). This prohibition includes rehearsals, sound checks and the like as well events not requiring or utilizing amplified sound or music. Exception for daytime camp activities.
- c. There shall be **at least one** day (in addition to the Tuesday, Non-Performance Day) where the event held (and anytime during the day) is “Low-Impact” programming. For the purposes of this provision, “low-impact” is defined as programming reasonably expected to attract attendance levels consistent with those of “movie nights” and create

sound impacts lesser than concert or musical theater programming. For the purposes of this section, a “movie night” is an example of low-impact programming.

- d. The Non-Performance Day in a week, shall **be on “Tuesday” for each week of the Festival season.**
- e. There shall be no more than two (2) music concerts per week. There shall be **no more than 25** concerts during a Festival season, which includes all music concerts, including music festivals. Any week (up to three per year) within the season bookends PPAF can have a total of three concerts, so long as one is a festival and the other two concerts are demonstrated by PPAF to be lower impact/attendance. The approvals for these concert/festival weeks would be special exceptions sought by the PPAF and approved separately at the time the full-schedule is approved.
- f. Programming (all types, including rehearsals, sound checks, performances, meet and greets etc.) on weekend days (Saturday and Sundays) will not begin before 12:00 p.m. Exceptions shall include cast “Meet and Greets” and “Camp Shows” (events traditionally held on weekend mornings) commencing **no earlier than 10:00 a.m.** which shall be permitted to take place on up to 6 weekend days.
- g. There will be more musical theater performances than any other performance type.

E. Intensity (audience size):

- a. The PPAF may schedule up to 3 events where the attendance will not exceed 3,400 persons, so long as City public safety officials determine events with this attendance can be safely held in the Park. For all other events: No event shall be scheduled where its attendance is reasonably anticipated to exceed 1,500 persons.
- b. Compliance with paragraph a. above (as well as other agreement terms to be determined), will be a factor in annual reviews of the schedule parameters.
- c. No events or performances in Prescott Park shall be held which cannot be safely accommodated in the Park.

SCHEDULE D: PUBLIC BENEFIT & CONSIDERATION

General Purpose. In acknowledgement of the City's costs in operating Prescott Park and in balance with the benefits to the public of the Licensee programming, the Licensee and the City agree to the following consideration paid to the City in order to reduce the required annual operational subsidy for the Park.

The amounts shown below are due on July 1st (one-half of total amount due) and September 1st (one-half of total amount due)

Year 1: \$20,000

Year 2: \$25,000

Year 3: \$30,000

Year 4: \$35,000

Year 5: \$40,000

The City recognizes that exigent circumstances (such as extraordinary wet weather conditions or other emergency causing prolonged disruption to operations) may occur, which significantly impact the Licensee's ability to pay the amount listed above. Accordingly, the City Manager is authorized to negotiate a lower figure for the affected year.

SCHEDULE E- SIGNAGE

In accordance the License provision, no signage is authorized to be erected in the Park or in the Licensed Premises without the express authorization. The following inventory of signs is authorized

| Sign | Permanent | Seasonal | Nightly | Location |
|--|------------------|-----------------|----------------|--------------------------|
| Bathrooms Arrow | 1 | | | Support Building |
| "Employees only" | 2 | | | Pavilion |
| "Private" | 2 | | | Support Building |
| Concert series poster | 1 | | | Support Building |
| Family Friendly directional | 2 | | | Pavilion |
| Federal Savings bank VIP Seating | 1 | | | VIP Deck |
| Handicap accessible/family friendly | 1 | | | Pavilion |
| Main entrance and accessible ramp this way | 2 | | | Garden Gate |
| Men's (restroom sign) | 1 | | | Pavilion |
| Menu board | 1 | | | Pavilion |
| Movie poster | 1 | | | Support Building |
| Musical poster | 1 | | | Support Building |
| PPAF Est. 1974 | 1 | | | Marcy Street Lamp Post |
| Prop logo sign | 1 | | | Pavilion |
| Rent chairs/blankets here | 2 | | | Support Building |
| Welcome signs | 2 | | | Pavilion |
| Women's (restroom sign) | 2 | | | Pavilion |
| "Fog/Strobe in use" | | 4 | | Gates |
| Annual fund donor list | | 1 | | Support Building |
| Bagged ice available at the Pavilion | | 1 | | Dock gate |
| Bowls and baskets here pizza below | | 2 | | Pizza Recycling Holders |
| Chairs for rent | | 1 | | Support Building |
| Do not climb | | 4 | | Light Poles |
| Donation Thank You | | 4 | | Gates |
| For the record poster | | 1 | | Support Building |
| Lobster poster | | 1 | | Sound Booth |
| Mainstage Signs | | 2 | | Stage |
| Marcy Street Sign | | 1 | | Marcy/State Street Fence |
| No alcohol, No dogs signs | | 9 | | Gates |
| No Smoking Sign | | 2 | | Light Poles |

| | | |
|-------------------------------------|---|-------------------------|
| PPAF Banner | 2 | Park Lamp Post |
| Quote signs | 5 | Support Building |
| Ride your bike | 1 | Support Building |
| Road race/chili/do good poster | 1 | Support Building |
| We recycle pizza boxes | 4 | Pizza Recycling Holders |
| Blanket and table chalk board | | 1 Support Building |
| Chairs for rent Adirondack | | Chairs/Support Building |
| Concessions chalk boards | | 2 Pavilion |
| For the record sign on box | | 1 Support Building |
| Keep Off Stage sign | | 1 Stage |
| Play, but don't keep | | 2 Lego Table |
| No Unattended blankets/chairs signs | | 4 Lawn |
| Sponsor banners | | 4 Gates |
| Treasure bar | | 1 Support Building |
| Trash and Compost | | 2 In Park |
| Win this bike | | 1 Display Bike |

**PRESCOTT PARK LICENSE AGREEMENT
FOR
NH Art Association**

PARTIES. This license agreement (“**Agreement**”) is by and between the City of Portsmouth, a municipal corporation organized and existing under the laws of the State of New Hampshire, with a principal place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801 (the “**City**”), and

Licensee, NH Art Association, a non-profit corporation, organized and existing under the laws of the State of New Hampshire with a mailing address of 136 State Street Portsmouth, NH 03801.

This Agreement is dated (date of acceptance by City Council):_____.

RECITALS. This License sets forth the rights, obligations and conditions of Licensee’s use of property and buildings on City property known as Prescott Park and bounded by State Street, Marcy Street and Mechanic Street (the “**Park**”)

- The City owns Prescott Park and is responsible for preserving its historic resources and operating Prescott Park consistent with its fiduciary and charitable obligations.
- The 2017 Prescott Park Master Plan (adopted by the City Council February 6, 2017) is a foundational policy statement guiding the operations and programming authorized in Prescott Park. Further, the recommendations of the Prescott Park Policy Advisory Committee (Final Report December 2017) provide additional guidance in development of park policies and agreements.
- Prescott Park is first and foremost a waterfront open space for the people of Portsmouth. The “Park First” approach of the 2017 Prescott Park Master Plan is a framework for decision-making, which prioritizes the Park space as a City park and place for respite and quiet enjoyment.
- Ensuring a presence for theater, dance, music and visual arts in the Park is a tenet of the Prescott Park Master Plan.
- Prescott Park’s Shaw Warehouse, Marine Railway Building, and Sheafe Warehouse are invaluable historic and cultural resources, whose value in showcasing and interpreting the historic development of Portsmouth is inestimable.

NOW THEREFORE: For the public benefit and consideration set forth, the City grants a non-exclusive license to Licensee to use the licensed area defined in this Agreement for limited authorized activities subject to the following terms and conditions.

GENERAL

1. **PUBLIC BENEFIT.** The City Council has determined that granting this License to the Licensee is in the public benefit. Specifically, the benefit is to ensure visual arts learning programs and exhibits in the Park. The public benefit is further discussed in Paragraph 5 relative to Consideration and Schedule D.
2. **LICENSED AREA.** The City and Licensee agree that it is not the intention of the parties to create a public forum within the Licensed Area, as the Park currently has a public forum designated area and there is no intention by this Agreement to expand or alter it. The Licensed Area for the Authorized Activities is as described in Schedule A.
3. **AUTHORIZED ACTIVITIES.** Licensee is permitted to use the Licensed Area for those activities identified in Schedule B and for no other purpose. Licensee shall conduct no other business, enterprise, program or activity in, on or around the Park other than specifically authorized by this Agreement.
4. **SCHEDULE OF PROGRAMMING.** Schedule C of this agreement outlines the submittal timeline for a proposed schedule by the Licensee. The schedule, when approved in writing by the City Manager, shall become a part of this Agreement as Schedule C, Addendum 1. Licensee shall conduct its operations in accord with Schedule C. Licensee shall not schedule, stage or promote any program, act or performance in which pyrotechnics, explosives or display of open flames are involved or used without prior and separate written approval.
5. **PUBLIC BENEFIT & CONSIDERATION.** In recognition of the value of the Licensee's programming to the City and the role the Park has in enabling the Licensee's programming, Licensee agrees to share in the City's expenses associated with the overall administration, maintenance and operations, upkeep, occupancy and related overhead costs to the City in accordance with Schedule D. Licensee and the City recognize the consideration outlined in Schedule D reflects a balance of the following factors: the public benefit of Licensee programming to the residents and to the vitality of the City (cultural, social and economic); the value of the Park's assets to Licensee operations; administrative, maintenance and operational costs to the City; and impacts to the Park and the surrounding area in terms of the wear and tear, transportation and parking, and off-site sound exposure.
6. **TERM.** The term of this Agreement shall be five years commencing on the date of this Agreement and ending five years from that date unless terminated earlier due to default or by agreement.
7. **EXTENSION OF TERM.** Licensee may at the conclusion of year 4 of the term request an extension of the license for up to an additional five year term. The City shall negotiate in good faith an extension provided: (1) Licensee is not in violation or default of any material term of this Agreement; (2) Licensee has not received more than six (6) notices of default during the term; (3) Licensee has not received more than six (6) notices of infractions per season; and (4) the City has not been obligated to make any financial contributions to maintain the Licensed Area other than those obligations contemplated by this Agreement.

8. **EARLY TERMINATION.** Licensee may terminate this Agreement without penalty by written notice to the City upon the following conditions: (1) Licensee is not in default of any obligation; and (2) the City is provided notice no later than December 31 of the completed season.
9. **FINANCIAL INFORMATION.** In order to promote transparency and public confidence in financial transactions involving the use of the Park, Licensee shall provide timely financial information, including the following (the timing of the submittals below may be modified by the City Manager for good cause upon request of the Licensee presented in writing prior to the dates shown below):
 - A. Financial Profits and Loss Summary for the season immediately preceding, shall be submitted annually no later than February 15th. The Licensee's fiscal year is a calendar year – May 1st to April 30th.
 - B. Audited financial statements and management letter, if available, shall be submitted on an annual basis at a reasonable time following completion and review with the Licensee's Board.
 - C. Other financial information (e.g. policies for cash handling, etc.) and books open for inspection as may be requested by the City.
10. **AS IS CONDITION.** Licensee accepts the Licensed Area "as is" and as fit for the Licensee's intended purposes. City is under no obligation to improve, fit-up or make ready the Licensed Area for Licensee's Authorized Activities. Licensed Area will be made available "broom clean".
11. **RESPONSIBILITY FOR COSTS OF OPERATIONS.** Unless otherwise stated in this Agreement, Licensee is responsible for all costs and expenses incurred by Licensee for performing its obligations under this Agreement and carrying out its mission and programming. Those costs may include but are not limited to administration, scheduling, set up of exhibits, maintenance of Licensee's equipment, and temporary facilities; permitting and licensing fees; waste and clean up as set forth in paragraph 14; as well as all subcontracted services and other costs of carrying out this Agreement.
12. **PUBLIC ACCESS TO OTHER PROGRAMMING.** Licensee recognizes the City schedules use of the Park for weddings, dock reservations, public forum area events and Four Tree Island Events. Licensee agrees to cooperate and make reasonable accommodations to facilitate these uses.

PROPERTY REQUIREMENTS

13. **UTILITIES.** Unless separately metered and billed to the Licensee as of March 1, 2018, all utilities (water and sewer, electricity, fire alarm monitoring, and natural gas) associated with the use of the Licensed Area in Schedule A shall be the responsibility of the City. For the purposes of this section neither telephone nor other telecommunications utilities such as fiber-optics, cable, internet service or the like are utilities.
14. **MAINTENANCE.** Licensee shall be responsible at its own cost for maintaining any of its temporary structures, staging or exhibits and for ensuring that any of its equipment is in good and sanitary condition and repair. City shall be responsible for all maintenance of its structures including the licensed area in the Sheafe Building. Licensee shall notify the City as soon as possible in writing if Licensee identifies any areas that are in need of maintenance to preserve and protect the structural integrity and historic value of any building or to protect public health and safety.
15. **WASTE AND CLEAN-UP.** The Licensee shall not allow any waste, rubbish or other objectionable materials to accumulate within the Licensed Area or upon the surrounding Park grounds. The Licensee shall arrange and pay for proper solid waste receptacles, the location of which shall be approved by the City Manager. Licensee shall be expressly responsible for cleaning up debris, emptying trash bins and otherwise returning and restoring any exterior Licensed Area to a park-like condition after each use for an event or activity. To the extent the Licensed Area includes building space, the building shall be kept clean, free of debris and tidy. If the City sponsors or adopts any evaluation or pilot of an alternative waste collection system, Licensee will participate in such evaluation or pilot program.
16. **CAPITAL IMPROVEMENTS.** Licensee understands the 2017 Prescott Park Master Plan is the City's plan for all future renovations, modifications, and reconstruction in the Park. The design, timing of implementation, order of improvements, and the type of modifications, improvements, and related construction efforts above and below ground for the Park will be directed by the City. Licensee recognizes that planning, design, and construction of Master Plan improvements will likely move forward during the License term. In particular, construction will cause disruption to Licensee programming and activities. All construction impacts and disruptions associated with execution of the Master Plan improvements will be carried out in close coordination with the Licensees through the creation of detailed Construction Management Plans for each phase.
17. **MODIFICATIONS.** No modifications of any kind to the Licensed Area, including structures within a Licensed Area, are permitted without prior written agreement of the City.
18. **EQUIPMENT/INSTALLATION OF ADDITIONAL EQUIPMENT.** With the prior written approval of the City, Licensee may install additional machinery, equipment or other personal property; if attached or affixed to the Licensed Area, such machinery, equipment or other personal property shall become the property of the City unless the City otherwise agrees in writing. With advance written consent of the City, Licensee may remove such machinery, equipment and other personal property from the Licensed Area, provided that any removal of

machinery, equipment or other personal property does not adversely affect the structural integrity of any structure. If any damage is occasioned by such removal, Licensee agrees to promptly repair such damage at its own expense.

19. **RIGHT OF ENTRY.** The City shall have the right to enter into and upon the Licensed Area including all buildings at all times to inspect, make repairs or improvements to City-owned structures, to remove items from the Licensed Area that are in violation of the this Agreement, and to protect the health, safety and welfare of users, employees and visitors or for any purpose; including for administering sound monitoring protocol described elsewhere in this agreement.

20. **INSURANCE.** Throughout the License Term, Licensee shall, at its sole cost and expense, maintain insurance against such risks and for such amounts as are customarily insured against by entities engaged in the types of activities in which Licensee will be engaged.

A. Types of insurance shall include:

- i. Commercial General Liability coverage protecting Licensee against loss from liability imposed by law or assumed in any written contract or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or other occurrence, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
- ii. Automobile Liability coverage protecting Licensee against loss arising from personal injury, including bodily injury or death, or damage to the property of others, caused by all owned autos with a limit of liability of not less than \$300,000 per occurrence. If Licensee does not own vehicles, the Licensee may so affirmatively represent as such in writing, in which case coverage may be for non-owned and hired autos only.
- iii. Licensee shall maintain such coverage necessary to insure its exhibits, equipment and other personal property placed in any municipal building or on any municipal property. Licensee shall also provide property coverage for any of its temporary structures and betterments.
- iv. Workers' compensation insurance to the extent required by the laws of the State of New Hampshire.
- v. Marine insurance/endorsement of at least \$1,000,000 is required if Licensee's Authorized Activities include use of any docking structure or marine activities.

B. The parties acknowledge and agree that insurance coverages may need to be adjusted over the course of the term of this lease due to changes in the City's Member Agreement, due to inflation or changes in Licensee's Authorized Activities. The parties agree to make good faith efforts to mutually agree upon such updates and adjustments to insurance coverage so as to maintain commercially reasonable amounts and to apportion equitably such costs and risks.

C. All insurance required by this Agreement shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write

insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by entities engaged in the types of activities in which Licensee will be engaged.

- D. The City shall be identified as an additional insured party on a primary and non-contributory basis on all liability policies.
- E. Licensee shall provide proof of insurance coverage satisfactory to the City which may include certificates of insurance or policy documents.
- F. The City shall maintain existing property and liability coverage on the buildings and property of Prescott Park. If the loss or claim arises in whole or in part from the activities of Licensee, the liability insurance of Licensee shall be primary and the City's secondary.

21. **INDEMNIFICATION.** Licensee agrees to defend, hold harmless and indemnify the City and its officers, agents and employees against any and all liability for bodily injury, death, and property damage arising from the existence of this Agreement or any activity conducted hereunder or any person or entity operating under Licensee's authority. This provision shall survive termination or expiration of the Agreement.

RESTRICTIONS

22. **NON-DISCRIMINATION.** Licensee shall not discriminate on the basis of race, color, religion, gender, gender expression, age, national origin, disability, marital status, sexual orientation or military status.
23. **NO ALCOHOL, MARIJUANA OR ILLEGAL SUBSTANCES.** No alcohol, marijuana or illegal substances are permitted in the Park. Licensee shall communicate this restriction to all employees, volunteers and contractors and shall take steps to communicate this restriction to all invitees as instructed by the City Manager. No smoking is be permitted inside any Park structures, including Licensed Areas.
24. **PARKING.** Licensee understands the North Parking and Water Street Parking lots in the Park are public, off-street parking lots and the City may establish rules and terms of use for these parking lots in accordance with City ordinances which may without limitation include: elimination or reduction in parking within the Park at any time (consistent with the Park Master Plan); metering one or both lots; and changing the 2017 pilot permit parking program. Licensee is expressly not authorized to lease, sub-license, award, or otherwise designate or reserve any parking spot in any area of the Park. The parties agree there is no obligation on behalf of the City to provide parking to the Licensee, paid or unpaid, within or outside the Park.
25. **COMMERCIAL ACTIVITY IN PARK.** As stated in Paragraph 3 above Licensee shall conduct no other business, enterprise, program or activity in, on or around the Park other than specifically authorized by this Agreement. There shall further be no selling of merchandise or concessions, solicitations, monetization of Park grounds, or charging of any fees unless specifically allowed under Authorized Activities.
26. **SIGNAGE.** Licensee shall not display, erect or permit any signage in the Licensed Area or Park which has not been approved by the City and described in Schedule E.
27. **NO AMPLIFICATION.** Licensee shall not employ any sound amplification unless such amplification is allowed under Authorized Activities and Licensee has met all setup, equipment and training conditions prior to commencement of use.

OPERATIONS AND RECOURSE FOR INFRACTIONS

28. **POINT OF CONTACT.** Licensee shall designate in writing a person as a point of contact for City officials. In addition, Licensee shall further identify and publish on its website and other materials a protocol for Licensee to receive and review complaints and concerns from the public. Licensee will track the receipt of such complaints and concerns and Licensee's response and produce such information for inspection upon the City's request.
29. **REVIEW OF PERFORMANCE.** Up to three times per year, Licensee shall make a representative from its Board as well as administrative leadership available to participate in a public meeting to hear public comment and to respond to questions and concerns. The timing, format and schedule of these public meetings shall be at the discretion and direction of the City Manager.
30. **APPROVAL OF TEMPORARY FACILITIES.** The process for City approval of the Licensee's temporary facilities (authorized facilities erected and disassembled on a seasonal basis) is outlined in Schedule B, Authorized Activities. The purpose of this approval is to ensure: (1) compliance with this Agreement as well as with life safety and building codes and the Americans with Disabilities Act; and (2) incorporation of public safety recommendations and risk management practices into the layout.
31. **RECOURSE FOR INFRACTIONS.** An infraction shall mean an event of non-compliance with this Agreement which the City has elected to treat as less than a Default under paragraph 33. Such infractions may include but are not limited to the following:
- placement of unauthorized signage
 - engaging in other business or activities that are not authorized
 - unauthorized use of amplification
 - failure to maintain clear sidewalks or aisles
 - failure to follow any health and safety directive of an authorized City official

In the event of infraction, the City may at the discretion of the City Manager exercise its right of entry as set forth in paragraph 19 to correct the infraction. In addition, the City may provide written notice to the Licensee of the infraction and assess a penalty of \$250 for each infraction. In the event that the City issues more than three notices of infraction in a thirty day period, subsequent violations for the remainder of the calendar year may be increased at the City's discretion to \$400 per infraction. The City shall also have the right to demand assurances from Licensee and a plan of action for avoiding further infractions. Penalties shall be paid within 30 days of assessment.

32. **RESTORATION AND DAMAGES.** Licensee shall restore, replace and remedy promptly any damage caused to the Park by Licensee's activities. If the damage is not remedied promptly, the City - after written notice to Licensee - may, through its own forces or a contractor, restore, replace and remedy the damage in which case Licensee will be charged for that work.

33. **PUBLIC SAFETY AND PUBLIC HEALTH.** The City Manager, Chief of Police, Fire Chief and Public Works Director may, at their sole discretion, order additional measures beyond those described in this Agreement to protect the health and safety of Park visitors. Such additional measures may include without limitation the assignment of additional personnel or the erection of barriers. If such additional measures are ordered, Licensee shall pay for the cost of such additional measures. Current billing rates (for representation purposes as they are adjusted annually) are as follows:

A. Portsmouth Police officer: \$61.75/hour minimum four hours. Cruiser rate: \$12.50.

B. Portsmouth Fire Department: Firefighter/Paramedic: \$50.00 /hour – minimum of two hours. No charge for vehicles.

C. Department of Public Works (minimum of four hours):

- Laborer: \$37.95/hour
- Utility Mechanic: \$41.78/hour
- Park Foreman 1: \$61.60/hour
- Vehicles: Pickup Truck: \$15.00/hour; Dump Truck: \$50.00/hour; Backhoe: \$50.00/hour

DEFAULT AND CURE

34. **DEFAULT.** The following shall be an "Event of Default" under this Agreement:
- A. The failure by Licensee to follow any public health or public safety directive;
 - B. The failure to observe or perform any obligation or covenant of the Agreement; if such failure is unrelated to public health or safety, Licensee shall have a fourteen (14) day period to cure the performance following written notice, unless otherwise indicated below;
 - C. More than six infractions by Licensee in a thirty (30) day period;
 - D. Any false or misleading material statement or representation by Licensee related to this Agreement and performance under it;
 - E. The dissolution or liquidation of Licensee; the failure by Licensee generally to pay its debts as they become due; an assignment by Licensee for the benefit of creditors (excepting such security interests entered into during the normal course of business); the commencement by Licensee (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; the commencement of a case in bankruptcy or any proceeding under any other insolvency law against Licensee (as the debtor) or Licensee consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of Licensee for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of creditors;
 - F. Licensee's loss of 501(c)(3) tax exempt status subject to a sixty (60) day period to cure;
 - G. The failure of Licensee to comply with the terms or conditions of any federal, state or local funding sources for monies received subject to a sixty (60) day period to cure.

If by reason of force majeure a party is unable in whole or in part to carry out its obligations under this Agreement, that party shall give written notice of such force majeure event within a reasonable time of its inability to perform. Performance shall be suspended during continuance of the force majeure and for a reasonable time thereafter. The term "force majeure" shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, insurrections, riots, epidemics, natural disasters, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault,

35. **REMEDIES ON DEFAULT.** Whenever Licensee shall commit any Event of Default, the City may with written notice take, to the extent permitted by law, any one or more of the following remedial steps:
- A. Assess to the Licensee any cost incurred by the City to correct, cure or remedy the Event of Default;
 - B. Amend or limit the number of Authorized Activities;
 - C. Take possession of and/or secure the Licensed Area;
 - D. Declare any and all other payments due under this Agreement immediately due and payable;

- E. Take any action as it shall deem necessary to cure any such Event of Default, such action shall not be deemed to constitute a waiver of such Event of Default; and/or
- F. Terminate this Agreement; and take any other action at law or in equity which it deems necessary or desirable to collect the payments or other obligations then due or thereafter to become due hereunder, to secure possession of the Licensed Area, and to enforce the obligations, agreements or covenants of Licensee under this Agreement.

No action taken by the City pursuant to this paragraph (including repossession of the Licensed Area) shall relieve Licensee from its obligations required by this Agreement. After an Event of Default, Licensee shall have the right upon notice to the City to enter the Licensed Area with agents or representatives of the City to remove any Equipment or personal property owned by Licensee if such Equipment or personal property is not part of the Licensed Area.

- 36. **REMEDIES CUMULATIVE.** No remedy is intended to be exclusive of any other available remedy. Each remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
- 37. **NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any obligation contained in this Agreement is breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach waived and shall not be deemed to waive any other breach hereunder.
- 38. **NON-RECOURSE.** Notwithstanding any provision hereof to the contrary, or any other express or implied agreement between the parties, or any act or course of conduct hereunder, the obligations of the parties set forth herein shall solely be those of the entities named in the first paragraph of this Agreement. No Councilor, employee or agent of the City shall have any personal liability whatsoever under this Agreement, nor shall any officer, director, shareholder, general or limited partner, employee or agent of Licensee have any personal liability whatsoever under this Agreement, it being understood and agreed that the City shall look solely to the assets of Licensee for recourse hereunder.
- 39. **TERMINATION OR SURRENDER OF LICENSE.** Upon termination of this Agreement, or mutual cancellation thereof, the Licensee shall immediately surrender the Licensed Area.

MISCELLANEOUS PROVISIONS

40. **COMPLIANCE WITH LAWS.** The Licensee shall comply with all Federal, State and Municipal laws, ordinances and regulations affecting the Park and Licensed Area, the improvements thereon, or any activity or condition on or in the Licensed Area.
41. **FREE OF LIENS.** Licensee shall keep Park property free and clear of all liens arising out of the Licensee's occupancy and use of the Licensed Area and at all times promptly and fully pay or discharge any claims on which any lien could be based.
42. **NOTICES.** Any notice required under this License or other writing which may be given by either party to the other shall be deemed to have been given when made in writing and delivered in hand or delivered by U.S. Mail or a courier service with proof of delivery and addressed as follows:

To the City: John P. Bohenko, City Manager
 City Hall
 1 Junkins Avenue
 Portsmouth, NH 03801

With a copy to: Robert P. Sullivan, City Attorney
 City Hall
 1 Junkins Avenue
 Portsmouth, NH 03801

To the Licensee: Renee Giffroy, President
 NH Art Association
 136 State Street
 Portsmouth, NH 03801

43. **SEVERABILITY.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision.
44. **AMENDMENTS, CHANGES AND MODIFICATIONS.** This Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by the parties.
45. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of New Hampshire without regard or reference to its conflict of laws principles.
46. **COMPLETE AGREEMENT.** This Agreement and the Schedules A - E appended hereto constitutes the entire agreement between the parties and may be modified only by a writing agreed to by both parties.

47. **ASSIGNMENT AND SUBLETTING PROHIBITED.** Licensee shall not assign this Agreement or sublet any portion of the Licensed Area.

IN WITNESS WHEREOF, the parties have executed this License on _____,
2018.

WITNESS:

THE CITY OF PORTSMOUTH

John P. Bohenko, City Manager
Pursuant to vote by the City Council on
_____, 2018.

WITNESS:

NH ART ASSOCIATION

Signature of Duly Authorized Agent

Printed Name of Duly Authorized Agent (above)

SCHEDULE A: LICENSED AREA

A. The areas licensed to the Licensee are listed below.

| Licensed Area | Authorized Uses As Limited by this Agreement | Square Feet |
|--|---|-------------|
| Sheafe Warehouse (First Floor) | Hosting of educational exhibit, public programming | 1076 |
| Certain areas immediately surrounding the Sheafe Warehouse | Specifically authorized demonstrations, art classes and public art demonstrations | 250 |

SCHEDULE B: AUTHORIZED ACTIVITIES

1. **General Authority.** The Licensee is authorized to carry out the following listed Activities in the Licensed Areas.

A. To offer educational programming and exhibits in the visual arts through the following :

- a. To conduct its annual Art Show and associated art demonstrations and talks within the Sheafe Warehouse.
- b. To hold temporary outdoor public art installations (up to three per season).
- c. To hold pop-up art classes sponsored by the NH Art Association in areas approved by the City Manager. Classes shall be offered by donation only.
- d. The sale of paintings associated with the Association's Art Show.

B. Specific Prohibitions. The following activities are specifically not permitted in Prescott Park,:

- a. The storage of combustible materials.
- b. Smoking or use of open flame.
- c. The staging of theatrical or other events involving amplified sound or music.
- d. The sale of any goods, services or tickets other than addressed above.
- e. The sale, transport, use, and possession of alcoholic beverages by the Licensee is prohibited.

2. **Additional Conditions for Authorized Uses.** The authorized activities are conditioned upon the following:

A. Public Safety & Crowd Management. Licensee and City agree the responsibility for ensuring the safety of attendees at events first lies with the Licensee. In furtherance of the goal to ensure public safety and crowd management the preparations the Licensee shall confer directly and in advance with the City Manager's in order to prepare for any event which may require security measures.

B. Merchandising. The Master Plan governance recommendations recognize the value and purpose of open green spaces and urban parks as places of respite, recreation and enjoyment. According to the Plan "maintaining this special status includes limiting commercialization, which, unchecked, can disrupt the Park atmosphere". Consistent with this orientation, the following is agreed to when it comes to selling merchandise in the Licensed Area.

- a. **Authorized Points of Sale and Times.** The First Floor of Sheafe Warehouse is the sole authorized point of sale for merchandise
- b. **Appearance and Configuration.** At all times this area shall be kept in a neat and orderly manner and configured in accordance with guidance issued by the City. Licensee is permitted one donation box, which may be placed in the interior of the Sheafe.
- c. **Authorized Items for sale.** No merchandise may be sold to the public which is not expressly authorized. Items expressly authorized for sale include, those below:
 - Paintings, sculptures and 3D art pieces by NHAA Artists

- Note cards (prints of NHAA artworks)
- Portsmouth Puzzle- NHAA Artist selected annually
- Other approved NHAA-created objects

SCHEDULE C: SCHEDULE OF PROGRAMMING

1. **Timing of Submittal Approval Process.** Prior to February 15th of each year, the Licensee shall submit a schedule to the City Manager for his consideration, which proposes the yearly schedule for the use of the Licensed premises. Approval of the schedule from the City Manager shall be issued no later than March 15th of each season; this schedule shall include all events types (listed in Schedule B. Authorized Activities)

SCHEDULE D: PUBLIC BENEFIT & CONSIDERATION

General Purpose. In acknowledgement of the City's costs in operating Prescott Park and in balance with the benefits to the public of the Licensee programming, the Licensee and the City agree to the following consideration paid to the City in order to reduce the required annual operational subsidy of the Park. Each year under this agreement, the Licensee will pay \$1,500; payment shall be due on July 1st.

The City recognizes that exigent circumstances (such as extraordinary wet weather conditions or other emergency causing prolonged disruption to operations) may occur, which significantly impact the Licensee's ability to pay the amount listed above. Accordingly, the City Manager is authorized to negotiate a lower figure for the affected year.

SCHEDULE E- SIGNAGE

In accordance the License provision, no signage is authorized to be erected in the Park or in the Licensed Premises without express authorization. The following inventory of signs is authorized:

- a. Limited interpretative signage (erected for one day only) associated with the single-day public art installation.
- b. A sign to be erected on the inside of the exterior door (visible to the outside when opened) to the Sheafe Warehouse related to the Art Show and that season's NH Art programming to take place in the Park.
- c. A single A-Frame at Water Street
- d. A donor listing shall be permitted on one sign in an agreed upon location on an existing authorized sign above or other approved sign.

**PRESCOTT PARK LICENSE AGREEMENT
FOR
Gundalow Company**

PARTIES. This license agreement (“**Agreement**”) is by and between the City of Portsmouth, a municipal corporation organized and existing under the laws of the State of New Hampshire, with a principal place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801 (the “**City**”), and

Licensee, Gundalow Company, a non-profit corporation, organized and existing under the laws of the State of New Hampshire with a mailing address of 60 Marcy Street Portsmouth, NH 03801.

This Agreement is dated (date of acceptance by City Council):_____.

RECITALS. This License sets forth the rights, obligations and conditions of Licensee’s use of property and buildings on City property known as Prescott Park and bounded by State Street, Marcy Street and Mechanic Street (the “**Park**”)

- The City owns Prescott Park and is responsible for preserving its historic resources and operating Prescott Park consistent with its fiduciary and charitable obligations.
- The 2017 Prescott Park Master Plan (adopted by the City Council February 6, 2017) is a foundational policy statement guiding the operations and programming authorized in Prescott Park. Further, the recommendations of the Prescott Park Policy Advisory Committee (Final Report December 2017) provide additional guidance in development of park policies and agreements.
- Prescott Park is first and foremost a waterfront open space for the people of Portsmouth. The “Park First” approach of the 2017 Prescott Park Master Plan is a framework for decision-making, which prioritizes the Park space as a City park and place for respite and quiet enjoyment.
- Ensuring strong connections to maritime history, maximizing waterfront access for the public, and preserving cultural resources in the Park are tenets of the Prescott Park Master Plan.
- Prescott Park’s Shaw Warehouse, Marine Railway Building, and Sheafe Warehouse are invaluable historic and cultural resources, whose value in showcasing and interpreting the historic development of Portsmouth is inestimable.

NOW THEREFORE: For the public benefit and consideration set forth, the City grants a non-exclusive license to Licensee to use the licensed area defined in this Agreement for limited authorized activities subject to the following terms and conditions.

GENERAL

1. **PUBLIC BENEFIT.** The City Council has determined that granting this License to the Licensee is in the public benefit. Specifically, the benefit to the public is to facilitate the presence of public access to the waterfront; celebrate and share City's maritime history and culture; and expand knowledge and understanding among residents and visitors of the importance and function of natural resources as well as promote protection and preservation of the Piscataqua River region. The public benefit is further discussed in Paragraph 5 relative to Consideration and Schedule D.
2. **LICENSED AREA.** The City and Licensee agree that it is not the intention of the parties to create a public forum within the Licensed Area, the Park currently has a public forum designated area and there is no intention by this Agreement to expand or alter it. The Licensed Area for the Authorized Activities is as described on Schedule A.
3. **AUTHORIZED ACTIVITIES.** Licensee is permitted to use the Licensed Area for those activities identified in Schedule B and for no other purpose. Licensee shall conduct no other business, enterprise, program or activity in, on or around the Park other than specifically authorized by this Agreement.
4. **SCHEDULE OF PROGRAMMING.** Schedule C of this agreement outlines the submittal timeline for a proposed schedule by the Licensee. The schedule, when approved in writing by the City Manager, shall become a part of this Agreement as Schedule C, Addendum 1. Licensee shall conduct its operations in accord with Schedule C. Licensee shall not schedule, stage or promote any program, act or performance in which pyrotechnics, explosives or display of open flames are involved or used without prior and separate written approval.
5. **PUBLIC BENEFIT & CONSIDERATION.** In recognition of the value of the Licensee's programming to the City and the role the Park has in enabling the Licensee's programming, Licensee agrees to share in the City's expenses associated with the overall administration, maintenance, operations, upkeep, occupancy and related overhead costs to the City in accordance with Schedule D. Licensee and the City recognize the consideration outlined in Schedule D reflects a balance of the following factors: the public benefit of Licensee programming to the residents and to the vitality of the City (cultural, social and economic); the value of the Park's assets to Licensee operations; administrative, maintenance and operational costs to the City; and impacts to the Park and the surrounding area in terms of the wear and tear, transportation and parking, and off-site sound exposure.
6. **TERM.** The term of this Agreement shall be five years commencing on the date of this Agreement and ending five years from that date unless terminated earlier due to default or by agreement.
7. **EXTENSION OF TERM.** Licensee may at the conclusion of year 4 of the term request an extension of the license for up to an additional five year term. The City shall negotiate in good faith an extension provided: (1) Licensee is not in violation or default of any material term of this Agreement; (2) Licensee has not received more than six (6) notices of default

during the term; (3) Licensee has not received more than six (6) notices of infractions per season; and (4) the City has not been obligated to make any financial contributions to maintain the Licensed Area other than those obligations contemplated by this Agreement.

8. **EARLY TERMINATION.** Licensee may terminate this Agreement without penalty by written notice to the City upon the following conditions: (1) Licensee is not in default of any obligation; and (2) the City is provided notice no later than December 31 of the completed season.
9. **FINANCIAL INFORMATION.** In order to promote transparency and public confidence in financial transactions involving the use of the Park, Licensee shall provide timely financial information, including the following (the timing of the submittals below may be modified by the City Manager for good cause upon request of the Licensee presented in writing prior to the dates shown below):
 - A. Financial Profits and Loss Summary for the season immediately preceding, shall be submitted annually no later than February 15th. The Licensee's fiscal year is a calendar year – January 1 to December 31st.
 - B. Audited financial statements and management letter, if available, shall be submitted on an annual basis at a reasonable time following completion and review with the Licensee's Board.
 - C. Other financial information (i.e. policies for cash handling, etc.) and books open for inspection as may be requested by the City.
10. **AS IS CONDITION.** Licensee accepts the Licensed Area "as is" and as fit for the Licensee's intended purposes. City is under no obligation to improve, fit-up or make ready the Licensed Area for Licensee's Authorized Activities. Licensed Area will be made available in "broom clean" condition.
11. **RESPONSIBILITY FOR COSTS OF OPERATIONS.** Unless otherwise stated in this Agreement, Licensee is responsible for all costs and expenses incurred by Licensee for performing its obligations under this Agreement and carrying out its mission and programming. Those costs may include but are not limited to administration, scheduling, set up of exhibits, maintenance of Licensee's equipment, and temporary facilities; permitting and licensing fees; waste and clean up as set forth in paragraph 14; as well as all subcontracted services and other costs of carrying out this Agreement.
12. **PUBLIC ACCESS TO OTHER PROGRAMMING.** Licensee recognizes the City schedules use of the Park for weddings, dock reservations, public forum area events and Four Tree Island Events. Licensee agrees to cooperate and make reasonable accommodations to facilitate these uses.

PROPERTY REQUIREMENTS

13. **UTILITIES.** Unless separately metered and billed to the Licensee as of March 1, 2018, all utilities (water and sewer, electricity, fire alarm monitoring, and natural gas) associated with the use of the Licensed Area in Schedule A shall be the responsibility of the City. For the purposes of this section neither telephone nor other telecommunications utilities such as fiber-optics, cable, internet service or the like are utilities.
14. **MAINTENANCE.** Licensee shall be responsible at its own cost for maintaining any of its temporary structures, staging or exhibits and for ensuring that any of its equipment is in good and sanitary condition and repair. City shall be responsible for all maintenance of its structures including the licensed area in the Sheafe Building. Licensee shall notify the City as soon as possible in writing if Licensee identifies any areas that are in need of maintenance to preserve and protect the structural integrity and historic value of any building or to protect public health and safety.
15. **WASTE AND CLEAN-UP.** The Licensee shall not allow any waste, rubbish or other objectionable materials to accumulate within the Licensed Area or upon the surrounding Park grounds. The Licensee shall arrange and pay for proper solid waste receptacles, the location of which shall be approved by the City Manager. Licensee shall be expressly responsible for cleaning up debris, emptying trash bins and otherwise returning and restoring any exterior Licensed Area to a park-like condition after each use for an event or activity. To the extent the Licensed Area includes building space, the building shall be kept clean, free of debris and tidy. If the City sponsors or adopts any evaluation or pilot of an alternative waste collection system, Licensee will participate in such evaluation or pilot program.
16. **CAPITAL IMPROVEMENTS.** Licensee understands the 2017 Prescott Park Master Plan is the City's plan for all future renovations, modifications, and reconstruction in the Park. The design, timing of implementation, order of improvements, and the type of modifications, improvements, and related construction efforts above and below ground for the Park will be directed by the City. Licensee recognizes that planning, design, and construction of Master Plan improvements will likely move forward during the License term. In particular, construction will cause disruption to Licensee programming and activities. All construction impacts and disruptions associated with execution of the Master Plan improvements will be carried out in close coordination with the Licensees through the creation of detailed Construction Management Plans for each phase.
17. **MODIFICATIONS.** No modifications of any kind to the Licensed Area, including structures within a Licensed Area, are permitted without prior written agreement of the City.
18. **EQUIPMENT/INSTALLATION OF ADDITIONAL EQUIPMENT.** With the prior written approval of the City, Licensee may install additional machinery, equipment or other personal property; if attached or affixed to the Licensed Area, such machinery, equipment or other personal property shall become the property of the City unless the City otherwise agrees in writing. With advance written consent of the City, Licensee may remove such machinery, equipment and other personal property from the Licensed Area, provided that any removal of

machinery, equipment or other personal property does not adversely affect the structural integrity of any structure. If any damage is occasioned by such removal, Licensee agrees to promptly repair such damage at its own expense.

19. **RIGHT OF ENTRY.** The City shall have the right to enter into and upon the Licensed Area including all buildings at all times to inspect, make repairs or improvements to City-owned structures, to remove items from the Licensed Area that are in violation of the this Agreement, and to protect the health, safety and welfare of users, employees and visitors or for any purpose; including for administering sound monitoring protocol described elsewhere in this agreement.

20. **INSURANCE.** Throughout the License Term, Licensee shall, at its sole cost and expense, maintain insurance against such risks and for such amounts as are customarily insured against by entities engaged in the types of activities in which Licensee will be engaged.

A. Types of insurance shall include:

- i. Commercial General Liability coverage protecting Licensee against loss from liability imposed by law or assumed in any written contract or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or other occurrence, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
- ii. Automobile Liability coverage protecting Licensee against loss arising from personal injury, including bodily injury or death, or damage to the property of others, caused by all owned autos with a limit of liability of not less than \$300,000 per occurrence. If Licensee does not own vehicles, the Licensee may so affirmatively represent as such in writing, in which case coverage may be for non-owned and hired autos only.
- iii. Licensee shall maintain such coverage necessary to insure its exhibits, equipment and other personal property placed in any municipal building or on any municipal property. Licensee shall also provide property coverage for any of its temporary structures and betterments.
- iv. Workers' compensation insurance to the extent required by the laws of the State of New Hampshire.
- v. Marine insurance/endorsement of at least \$1,000,000 is required if Licensee's Authorized Activities include use of any docking structure or marine activities.

B. The parties acknowledge and agree that insurance coverages may need to be adjusted over the course of the term of this lease due to changes in the City's Member Agreement, due to inflation or changes in Licensee's Authorized Activities. The parties agree to make good faith efforts to mutually agree upon such updates and adjustments to insurance coverage so as to maintain commercially reasonable amounts and to apportion equitably such costs and risks.

C. All insurance required by this Agreement shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write

insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by entities engaged in the types of activities in which Licensee will be engaged.

- D. The City shall be identified as an additional insured party on a primary and non-contributory basis on all liability policies.
- E. Licensee shall provide proof of insurance coverage satisfactory to the City which may include certificates of insurance or policy documents.
- F. The City shall maintain existing property and liability coverage on the buildings and property of Prescott Park. If the loss or claim arises in whole or in part from the activities of Licensee, the liability insurance of Licensee shall be primary and the City's secondary.

21. **INDEMNIFICATION.** Licensee agrees to defend, hold harmless and indemnify the City and its officers, agents and employees against any and all liability for bodily injury, death, and property damage arising from the existence of this Agreement or any activity conducted hereunder or any person or entity operating under Licensee's authority. This provision shall survive termination or expiration of the Agreement.

RESTRICTIONS

22. **NON-DISCRIMINATION.** Licensee shall not discriminate on the basis of race, color, religion, gender, gender expression, age, national origin, disability, marital status, sexual orientation or military status.
23. **NO ALCOHOL, MARIJUANA OR ILLEGAL SUBSTANCES.** No alcohol, marijuana or illegal substances are permitted in the Park. Licensee shall communicate this restriction to all employees, volunteers and contractors and shall take steps to communicate this restriction to all invitees as instructed by the City Manager. No smoking is be permitted inside any Park structure, including Licensed Areas.
24. **PARKING.** Licensee understands the North Parking and Water Street Parking lots in the Park are public, off-street parking lots and the City may establish rules and terms of use for these parking lots in accordance with City ordinances which may without limitation include: elimination or reduction in parking within the Park at any time (consistent with the Park Master Plan); metering one or both lots; and changing the 2017 pilot permit parking program. Licensee is expressly not authorized to lease, sub-license, award, or otherwise designate or reserve any parking spot in any area of the Park. The parties agree there is no obligation on behalf of the City to provide parking to the Licensee, paid or unpaid, within or outside the Park.
25. **COMMERCIAL ACTIVITY IN PARK.** As stated in Paragraph 3 above Licensee shall conduct no other business, enterprise, program or activity in, on or around the Park other than specifically authorized by this Agreement. There shall further be no selling of merchandise or concessions, solicitations, monetization of Park grounds, or charging of any fees unless specifically allowed under Authorized Activities.
26. **SIGNAGE.** Licensee shall not display, erect or permit any signage in the Licensed Area or Park which has not been approved by the City and described in Schedule E.
27. **NO AMPLIFICATION.** Licensee shall not employ any sound amplification unless such amplification is allowed under Authorized Activities and Licensee has met all setup, equipment and training conditions prior to commencement of use.

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29. **REVIEW OF PERFORMANCE.** Up to three times per year, Licensee shall make a representative from its Board as well as administrative leadership available to participate in a public meeting to hear public comment and to respond to questions and concerns. The timing, format and schedule of these public meetings shall be at the discretion and direction of the City Manager.
30. **APPROVAL OF TEMPORARY FACILITIES.** The process for City approval of the Licensee's temporary facilities (authorized facilities erected and disassembled on a seasonal basis) is outlined in Schedule B, Authorized Activities. The purpose of this approval is to ensure: (1) compliance with this Agreement as well as with life safety and building codes and the Americans with Disabilities Act; and (2) incorporation of public safety recommendations and risk management practices into the layout.
31. **RECOURSE FOR INFRACTIONS.** An infraction shall mean an event of non-compliance with this Agreement which the City has elected to treat as less than a Default under paragraph 33. Such infractions may include but are not limited to the following:
- placement of unauthorized signage
 - engaging in other business or activities that are not authorized
 - unauthorized use of amplification
 - failure to maintain clear sidewalks or aisles
 - failure to follow any health and safety directive of an authorized City official

In the event of infraction, the City may at the discretion of the City Manager exercise its right of entry as set forth in paragraph 19 to correct the infraction. In addition, the City may provide written notice to the Licensee of the infraction and assess a penalty of \$250 for each infraction. In the event that the City issues more than three notices of infraction in a thirty day period, subsequent violations for the remainder of the calendar year may be increased at the City's discretion to \$400 per infraction. The City shall also have the right to demand assurances from Licensee and a plan of action for avoiding further infractions. Penalties shall be paid within 30 days of assessment.

32. **RESTORATION AND DAMAGES.** Licensee shall restore, replace and remedy promptly any damage caused to the Park by Licensee's activities. If the damage is not remedied promptly, the City - after written notice to Licensee - may, through its own forces or a contractor, restore, replace and remedy the damage in which case Licensee will be charged for that work.

33. **PUBLIC SAFETY AND PUBLIC HEALTH.** The City Manager, Chief of Police, Fire Chief and Public Works Director may, at their sole discretion, order additional measures beyond those described in this Agreement to protect the health and safety of Park visitors. Such additional measures may include without limitation the assignment of additional personnel or the erection of barriers. If such additional measures are ordered, Licensee shall pay for the cost of such additional measures. Current billing rates (for representation purposes as they are adjusted annually) are as follows:

A. Portsmouth Police officer: \$61.75/hour minimum four hours. Cruiser rate: \$12.50.

B. Portsmouth Fire Department: Firefighter/Paramedic: \$50.00 /hour – minimum of two hours. No charge for vehicles.

C. Department of Public Works (minimum of four hours):

- Laborer: \$37.95/hour
- Utility Mechanic: \$41.78/hour
- Park Foreman 1: \$61.60/hour
- Vehicles: Pickup Truck: \$15.00/hour; Dump Truck: \$50.00/hour; Backhoe: \$50.00/hour

DEFAULT AND CURE

34. **DEFAULT.** The following shall be an "Event of Default" under this Agreement:
- A. The failure by Licensee to follow any public health or public safety directive;
 - B. The failure to observe or perform any obligation or covenant of the Agreement; if such failure is unrelated to public health or safety, Licensee shall have a fourteen (14) day period to cure the performance following written notice, unless otherwise indicated below;
 - C. More than six infractions by Licensee in a thirty (30) day period;
 - D. Any false or misleading material statement or representation by Licensee related to this Agreement and performance under it;
 - E. The dissolution or liquidation of Licensee; the failure by Licensee generally to pay its debts as they become due; an assignment by Licensee for the benefit of creditors (excepting such security interests entered into during the normal course of business); the commencement by Licensee (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; the commencement of a case in bankruptcy or any proceeding under any other insolvency law against Licensee (as the debtor) or Licensee consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of Licensee for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of creditors;
 - F. Licensee's loss of 501(c)(3) tax exempt status subject to a sixty (60) day period to cure;
 - G. The failure of Licensee to comply with the terms or conditions of any federal, state or local funding sources for monies received subject to a sixty (60) day period to cure.

If by reason of force majeure a party is unable in whole or in part to carry out its obligations under this Agreement, that party shall give written notice of such force majeure event within a reasonable time of its inability to perform. Performance shall be suspended during continuance of the force majeure and for a reasonable time thereafter. The term "force majeure" shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, insurrections, riots, epidemics, natural disasters, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault,

35. **REMEDIES ON DEFAULT.** Whenever Licensee shall commit any Event of Default, the City may with written notice take, to the extent permitted by law, any one or more of the following remedial steps:
- A. Assess to the Licensee any cost incurred by the City to correct, cure or remedy the Event of Default;
 - B. Amend or limit the number of Authorized Activities;
 - C. Take possession of and/or secure the Licensed Area;
 - D. Declare any and all other payments due under this Agreement immediately due and payable;

- E. Take any action as it shall deem necessary to cure any such Event of Default, such action shall not be deemed to constitute a waiver of such Event of Default; and/or
- F. Terminate this Agreement; and take any other action at law or in equity which it deems necessary or desirable to collect the payments or other obligations then due or thereafter to become due hereunder, to secure possession of the Licensed Area, and to enforce the obligations, agreements or covenants of Licensee under this Agreement.

No action taken by the City pursuant to this paragraph (including repossession of the Licensed Area) shall relieve Licensee from its obligations required by this Agreement. After an Event of Default, Licensee shall have the right upon notice to the City to enter the Licensed Area with agents or representatives of the City to remove any Equipment or personal property owned by Licensee if such Equipment or personal property is not part of the Licensed Area.

- 36. **REMEDIES CUMULATIVE.** No remedy is intended to be exclusive of any other available remedy. Each remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
- 37. **NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any obligation contained in this Agreement is breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach waived and shall not be deemed to waive any other breach hereunder.
- 38. **NON-RECOURSE.** Notwithstanding any provision hereof to the contrary, or any other express or implied agreement between the parties, or any act or course of conduct hereunder, the obligations of the parties set forth herein shall solely be those of the entities named in the first paragraph of this Agreement. No Councilor, employee or agent of the City shall have any personal liability whatsoever under this Agreement, nor shall any officer, director, shareholder, general or limited partner, employee or agent of Licensee have any personal liability whatsoever under this Agreement, it being understood and agreed that the City shall look solely to the assets of Licensee for recourse hereunder.
- 39. **TERMINATION OR SURRENDER OF LICENSE.** Upon termination of this Agreement, or mutual cancellation thereof, the Licensee shall immediately surrender the Licensed Area.

46. **COMPLETE AGREEMENT.** This Agreement and the Schedules A - E appended hereto constitutes the entire agreement between the parties and may be modified only by a writing agreed to by both parties.
47. **ASSIGNMENT AND SUBLETTING PROHIBITED.** Licensee shall not assign this Agreement or sublet any portion of the Licensed Area.

IN WITNESS WHEREOF, the parties have executed this License on _____,
2018.

WITNESS:

THE CITY OF PORTSMOUTH

John P. Bohenko, City Manager
Pursuant to vote by the City Council on
_____, 2018.

WITNESS:

GUNDALOW COMPANY, INC.

Signature of Duly Authorized Agent

Printed Name of Duly Authorized Agent (above)

SCHEDULE A: LICENSED AREA

A. The areas licensed to the Licensee are listed below.

| Licensed Area | Authorized Uses As Limited by this Agreement | Square Feet |
|---|--|-------------|
| Sheafe Warehouse (First Floor) | Hosting of educational exhibit, public programming | 1076 |
| Sheafe Dock | Docking for The PISCATAQUA Vessel and public access for programs | 450 |
| Pavement Area in front of dock entrance | Selling tickets and providing orientation | 36 |

SCHEDULE B: AUTHORIZED ACTIVITIES

1. **General Authority.** The Licensee is authorized to carry out the following listed Activities in the Licensed Areas.

A. To offer educational programming in the areas of maritime culture and history, ecology of the Piscataqua as well as river access to members of the public through the following:

- a. To tie-up the PISCATAQUA (as well as one work boat for Licensee's use only) to operate sails and educational programs onboard the PISCATAQUA.
- b. Install an exhibit for public viewing in the Sheafe Warehouse (first floor).
- c. Sell goods (including tickets for public sails) to the public as limited below.
- d. On a day-to-day basis utilize a small portable table and umbrella located adjacent to the Sheafe Dock entrance for the purpose of selling tickets for scheduled sails and providing orientation to patrons and for no other purpose. The table shall be attended at all times and shall not obstruct the passage of pedestrians. The table and umbrella are to be removed when not in use.
- e. Host educational programming sponsored by the Gundalow Company, including the following:
 - i. Education programs for school groups in conjunction with school group sailing trips;
 - ii. Mission-related educational programs for adults and families;
 - iii. Annual meeting of Gundalow Company members;
 - iv. Gundalow Company monthly board meetings;
 - v. Volunteer training;
 - vi. Educational exhibit with watershed model, touch tanks and interpretive panels, staffed by trained volunteers and opened to the public on a regular schedule;
 - vii. Orientation space for passengers before, after, or in place of a sail on the PISCATAQUA.

B. Specific Prohibitions. The following activities are specifically not permitted in Prescott Park, on the ramp or float of the so-called Sheafe Dock, in the quay area, or onboard the PISCATAQUA:

- a. The use of amplified sound or music.
- b. The handling of motor vehicle fuel or the refueling of any boat.
- c. The sale, transport, use, and possession of alcoholic beverages by the Company and its passengers shall be as follows:
 - i. Alcoholic beverages may be kept onboard the PISCATAQUA for consumption at times when the PISCATAQUA is not docked at the Park so long as they are properly secured and locked when not being served. Alcoholic beverages may be consumed but not sold onboard the PISCATAQUA, for a period of twenty (20) minutes before and twenty (20) minutes after the commencement or the conclusion of scheduled cruises. Alcoholic beverages are not permitted to be consumed or sold on the dock. Other than as provided above, there shall be no

sale, transport, use, possession or consumption of alcoholic beverages in the Park or on the dock.

2. Additional Conditions for Authorized Uses. The authorized activities are conditioned upon the following:

A. Public Safety & Crowd Management. Licensee and City agree the responsibility for ensuring the safety of attendees at events first lies with the Licensee. In furtherance of the goal to ensure public safety and crowd management the preparations the Licensee shall confer directly and in advance with the City Manager's in order to prepare for any event which may require security measures.

B. Maintenance of Vessel Seaworthiness and Docking Facility. In recognition of the Licensee's specific dock maintenance and operations requirements as well as specialization in marine structures and norms of operating in navigable waters, Licensee is responsible for all necessary maintenance and repair of the Sheafe Dock with City coordination and approval. On termination of this agreement at any time for any reason the Licensee shall be solely responsible for relocating the PISCATAQUA elsewhere from Prescott Park. In addition, annually the Licensee shall provide the City with an annual inspection report detailing the seaworthiness of the PISCATAQUA.

C. Merchandising. The Master Plan governance recommendations recognize the value and purpose of open green spaces and urban parks as places of respite, recreation and enjoyment. According to the Plan "maintaining this special status includes limiting commercialization, which, unchecked, can disrupt the Park atmosphere". Consistent with this orientation, the following is agreed to when it comes to selling merchandise in the Licensed Area.

- a. **Authorized Points of Sale and Times.** The First Floor of Sheafe Warehouse and the table and umbrella area in front of the Sheafe Dock are the sole authorized point of sale for merchandise. Merchandise stored at the Sheafe Warehouse may be sold at the table and umbrella, but not stored, displayed, or otherwise hung or presented in the table and chair area. Merchandise approved in this section may be sold at all times a representative of the Licensee (volunteer or staff person) is "staffing" the Sheafe Warehouse.
- b. **Appearance and Configuration.** At all times this area shall be kept in a neat and orderly manner and configured in accordance guidance issued by the City.
- c. **Authorized Items for sale.** No merchandise may be sold to the public which is not expressly authorized. Items expressly authorized for sale include, those below:

- Gundalow logo wear such as hats and coffee mugs
- Stainless steel water bottles
- Pins that say "Celebrate our Rivers" and Gundalow logo on them
- Cross-Grained & Wily Waters (book that serves as the exhibit catalog)
- Children's book about the cat on PISCATAQUA
- Post cards and notecards – historic images of Gundalows and new photos of PISCATAQUA

SCHEDULE C: SCHEDULE OF PROGRAMMING

1. Timing of Submittal Approval Process. Prior to February 15th of each year, the Licensee shall submit a schedule to the City Manager for his consideration, which proposes the yearly schedule for the use of the Licensed premises. Approval of the schedule from the City Manager shall be issued no later than March 15th of each season; this schedule shall include all events types (listed in Schedule B. Authorized Activities)

SCHEDULE D: PUBLIC BENEFIT & CONSIDERATION

General Purpose. In acknowledgement of the City's costs in operating Prescott Park and in balance with the benefits to the public of the Licensee programming, the Licensee and the City agree to the following consideration paid to the City in order to reduce the required annual operational subsidy of the Park.

The amounts shown below are due on July 1st (one-half of total amount due) and September 1st (one-half of total amount due).

Year 1: \$7,500

Year 2: \$8,000

Year 3: \$8,500

Year 4: \$9,000

Year 5: \$10,000

The City recognizes that exigent circumstances (such as extraordinary wet weather conditions or other emergency causing prolonged disruption to operations) may occur, which significantly impact the Licensee's ability to pay the amount listed above. Accordingly, the City Manager is authorized to negotiate a lower figure for the affected year.

SCHEDULE E- SIGNAGE

In accordance the License provision, no signage is authorized to be erected in the Park or in the Licensed Premises without express authorization of the City. The following inventory of signs is authorized:

- a. Two signs to be erected on the Sheafe Dock's gangway or fence adjacent to the gangway related to the current season programming and schedule as well as reference to the Sheafe Warehouse Exhibit, and rack card holder.
- b. A single A-Frame at Water Street
- c. A donor listing shall be permitted on one sign in an agreed upon location on an existing authorized sign above or other approved sign.

Please return to:
Law Offices of Justin C. Caramagno, P.A.
P.O. Box 4472
Portsmouth, NH 03802

LICENSE AGREEMENT

FOR VALUABLE CONSIDERATION received, the City of Portsmouth, New Hampshire hereby grants to The Rockingham House Condominium Association:

A license to park an automobile in parking space 31, located on the City's Chestnut St. connector and to pass and repass over adjacent City land to access this parking space and other Condominium Association spaces on a twenty-four (24) hour, seven (7) days a week basis.

All of the foregoing is identified on a plan entitled "Chestnut Street Connector, State Street to Porter Street, dated April 10, 2018, Altus Engineering, Inc." This license shall run indefinitely from the date of this Agreement subject to the City's right to terminate this license at any time, provided that twelve (12) month prior written notice is delivered to The Rockingham House Condominium Association. Such termination must be approved by a two thirds vote of the Portsmouth City Council. This Agreement resolves all known issues between the City of Portsmouth and The Rockingham House Condominium Association.

Executed this ___ day of May 2018.

City of Portsmouth

John P. Bohenko, City Manager
Per vote of the City Council on
_____, 2018.

Rockingham House Condominium Association

Wayne Lehman, President

Pursuant to vote of the Board of Directors
on _____, 2018.

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Personally appeared this _____ day of April 2018, the above named **John P. Bohenko** known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledge that he executed the same for the purposes therein contained.
Before me,

Notary Public

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Personally appeared this _____ day of April 2018, the above named **Wayne Lehman**, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledge that he executed the same for the purposes therein contained.
Before me,

Notary Public



ISSUED FOR: CHANGE ORDER #4
 ISSUE DATE: APRIL 10, 2018
 REVISION: BY DATE
 NO. DESCRIPTION EXP. 04/10/18
 1. CORRECTION
 2. CORRECTION

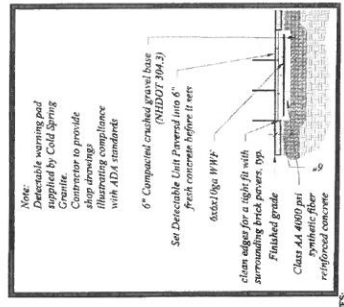
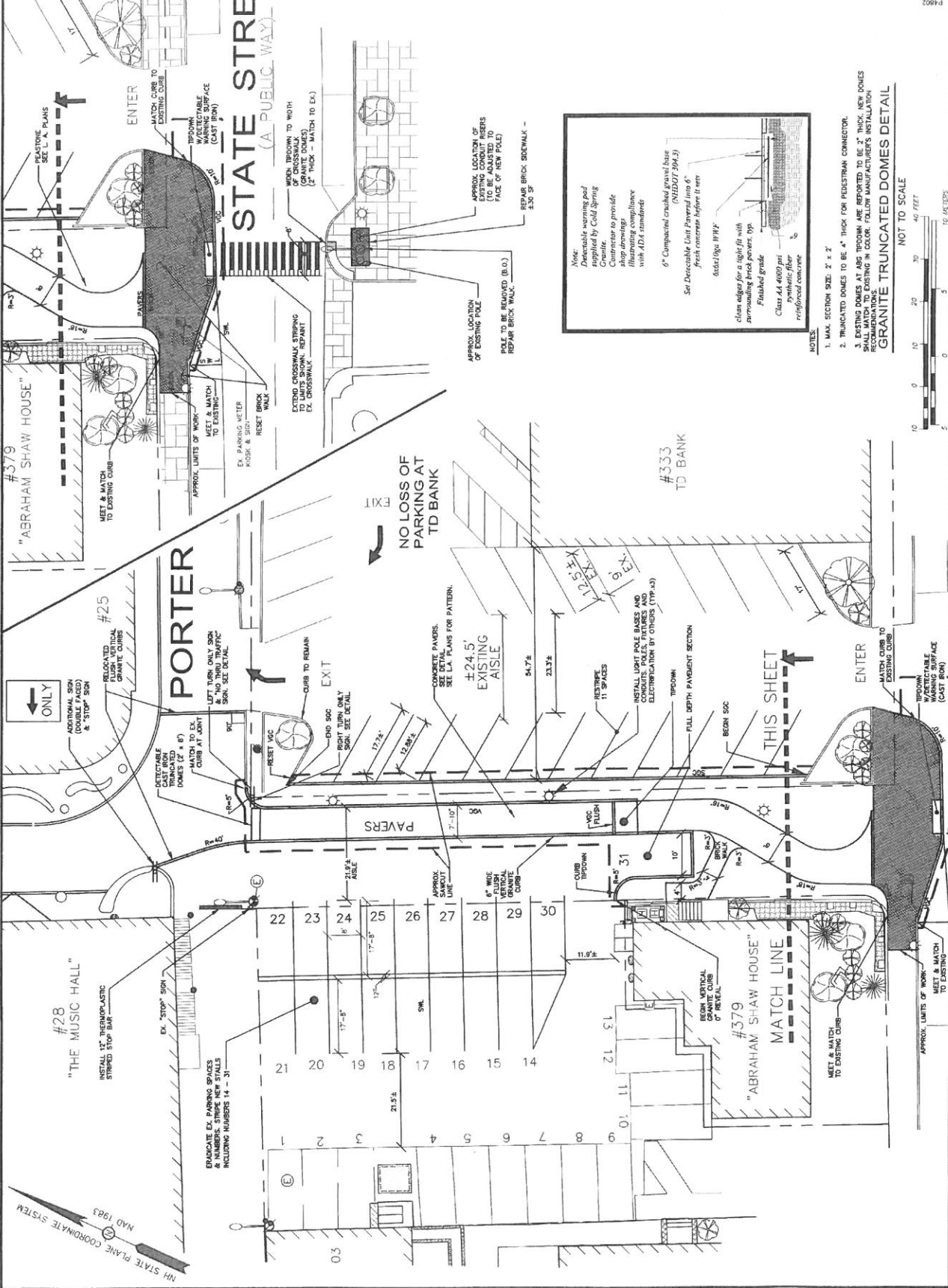
DRAWN BY: ESW
 APPROVED BY: ESW
 DRAWING FILE: 002_0700_0206
 SCALE: 24" x 36" = 1" = 10'
 12" x 18" = 1" = 20'
 NOTES:



CITY OF PORTSMOUTH
 1 JENKINS AVENUE
 PORTSMOUTH, NH 03801

SUBJECT: CHESTNUT STREET STREETSCAPE PROJECT
 BID #81-17
 CHANGE ORDER #4
 CHESTNUT STREET PEDESTRIAN CONNECTOR
 STATE STREET TO PORTER STREET

TITLE: SITE PLAN
 SHEET NUMBER: C-1



- NOTES:
- MAX. SECTION SIZE: 2' x 2'
 - TRUNCATED DOMES TO BE 4" THICK FOR PEDESTRIAN CONNECTOR.
 - EXISTING DOMES AT ABC TRAMPOLI ARE REPORTED TO BE 3" THICK NEW DOMES SMALL MATCH TO EXISTING IN COLOR. FOLLOW MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- GRANITE TRUNCATED DOMES DETAIL
- NOT TO SCALE
- 0 10 20 30 40 FEET
- 10 METERS

Event Listing by Date

Starting Date: 5/21/2018

Ending Date: 12/31/2018

| Start End | Type Description | Location | Requestor | Vote Date |
|------------------------|--|--|---------------------------------|------------|
| 5/27/2018 5/27/2018 | FUND Lilia-Potter-Schwartz is the contact for this event. This is a triathlon which begins at Portsmouth High School | Portsmouth High School | Education to All Children | 11/20/2017 |
| 6/ 2/2018 6/ 2/2018 | RACE Melissa Vetter is the contact for this event. Tel. (603)661-6168 | Dondero Elementary School | Dondero PTA | 3/19/2018 |
| 6/ 9/2018 6/ 9/2018 | FESTIVAL Barbara Massar is the contact for this event. This event begins at 9:00 a.m. to 4:00 p.m. | Market Square | Market Square Day - Pro Ports m | 8/21/2017 |
| 6/ 9/2018 6/ 9/2018 | ROAD RACE Starts in Market Square Barbara Massar is the contact for this event. The road race starts at 9:00 a.m. in Market Square | | Market Square Road Race - Pro | 8/21/2017 |
| 6/16/2018 6/16/2018 | RACE Kaity Stanton, Special Events Manager is the contact for this event. Raindate: June 17, 2018 | Pleasant Street | Big Brothers Big Sisters of NH | 9/18/2017 |
| 6/23/2018 6/23/2018 | PRIDE This event begins at the Portsmouth Public Library and continues as one rainbow down the streets leading to Strawberry Banke. | Library to Strawberry Banke | Seacoast Outright | 12/18/2017 |
| 6/23/2018 6/23/2018 | ROAD RACE Contact: Stephanie Puls, Development Coordinator, Special Events spulis@komennewengland.org (774)-512-0403 This event begins and ends at Great Bay Community College | Great Bay Community College | Susan G. Komen New Hampshire R | 10/ 2/2017 |
| 6/30/2018 6/30/2018 | FUND Ezekiel Tappin is the contact for this event. Tel. (603) 315-9187 | Market Square | Portsmouth Professional Fire F | 4/16/2018 |
| 6/30/2018 6/30/2018 | MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 to 9:30 p.m. | Pleasant Street - Summer in the Street Music Serie | Pro Portsmouth | 8/21/2017 |
| 7/ 4/2018 7/ 4/2018 | FUND Rick Mason is the contact for this event. Tel. (603)396-8604 | Peirce Island | Veteran's Count - Pack & Boots | 3/19/2018 |
| 7/ 7/2018 7/ 7/2018 | FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in Street Series. It begins at 5:00 p.m. to 9:30 p.m. | Downtown - Pleasant Street | Pro Portsmouth - Summer in the | 8/21/2017 |

Event Listing by Date

Starting Date: 5/21/2018

Ending Date: 12/31/2018

| Start End | Type Description | Location | Requestor | Vote Date |
|------------------------|--|--|--------------------------------|------------|
| 7/14/2018 7/14/2018 | BIKE TOUR Chris Vlangas, Development Director is the contact. This event begins in Kittery, Maine and travels thru Portsmouth Event begins at 7:30 a.m. Contact Info: 800-757-0203 | Shapleigh Middle School in Kittery, Maine | Cystic Fibrosis Foundation | 2/ 5/2018 |
| 7/14/2018 7/14/2018 | MUSIC Barbara Massar, Executive Director is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m. | Pleasant Street - Summer in the Street Music Serie | Pro Portsmouth | 8/21/2017 |
| 7/21/2018 7/21/2018 | MUSIC Barbara Massar is the contact for this event. The event begins at 5:00 p.,m. to 9:30 p.m. | Market Square - Pleasant Street | Summer in the Street Music Ser | 8/21/2017 |
| 7/28/2018 7/28/2018 | MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m. | Market Square - Pleasant Street | Summer in the Streets Music Se | 8/21/2017 |
| 8/11/2018 8/11/2018 | BOAT Molly Bolster of the Gundalow is the contact for this event. director@gundalow.org | Peirce Island Boat Launch | Round Island Regatta | 2/ 5/2018 |
| 8/11/2018 8/11/2018 | FUND Ezekiel Tappin is the contact for this event. tel. (603) 315-9187 | Market Square | Portsmouth Professional Fire F | 4/16/2018 |
| 8/25/2018 8/25/2018 | BIKE TOUR Emily Christian, Logistics Manager is the contact for this event. | Route 1A South | National Multiple Sclerosis So | 11/20/2017 |
| 9/14/2018 9/16/2018 | FILM EXPO Contact: Chris Curtis Congress to Porter Streeets will be closed. | Music Hall | Telluride By The Sea Film Fest | 5/ 7/2018 |
| 9/15/2018 9/15/2018 | WALK Ken La Valley, Chair Registration begins at 8:30 a.m. | Little Harbour School - Begin and End | American Foundation for Suicid | 2/ 5/2018 |
| 9/16/2018 9/16/2018 | FILM EXPO This is the Telluride by the Sea Film Festival. Chris Curtis is the contact. | Chestnut Street from Congress to Porter | The Music Hall | 5/ 7/2018 |
| 9/16/2018 9/16/2018 | RACE Jennie Halstead, Executive Director is the contact. This race begins at 7:30 a.m. with registration Start of the race: 9:00 a.m. | Portsmouth Middle School | My Breast Cancer Support | 12/18/2017 |

Event Listing by Date

Starting Date: 5/21/2018

Ending Date: 12/31/2018

| Start End | Type Description | Location | Requestor | Vote Date |
|--------------------------|--|---|--------------------------------|-----------|
| 9/22/2018 9/23/2018 | BIKE TOUR Donna Hepp is the contact for this event. This event travels through Portsmouth over a 2-day period. | Travelling thru Portsmouth | Granite State Wheelman Bicycle | 4/ 2/2018 |
| 9/22/2018 9/23/2018 | TOUR Caroline Piper is the contact for this event. Tel. (603) 686-4338 This is a two day event. | South End Neighborhood | Friends of the South End | 2/ 5/2018 |
| 9/23/2018 9/23/2018 | WALK Kate Corriveau is the contact for this event. Registration begins at 8:30 a.m. Walk Kicks Off at 10:00 a.m. | Little Harbour School - begin and end | Alzheimer's Association | 2/ 5/2018 |
| 9/29/2018 9/30/2018 | FESTIVAL Bruce MacIntyre is the contact for this event. | Market Square | Portsmouth Maritime Folk Festi | 3/ 5/2018 |
| 10/ 7/2018 10/ 7/2018 | RACE 6th Annual Memorial Bridge 5 K - Prescott Park Arts Festival and Seacoast Community School 10:00 a.m. to 11:30 a.m. | Memorial Bridge | Prescott Park Arts Festival | 2/20/2018 |
| 11/11/2018 11/11/2018 | RACE Jay Diener, Co-Race Director Tel. (603) 758-1177 This race will start at 8:00 a.m. with walkers Runners will start at 8:30 a.m. | Begins and Ends at Portsmouth High School | Seacoast Half Marathon | 4/ 2/2018 |

City of Portsmouth

Department of Public Works



MEMORANDUM

TO: John P. Bohenko, City Manager

FROM: Brian Goetz, Deputy Director of Public Works
Ray Pezzullo, Assistant City Engineer

DATE: May 8, 2018

SUBJECT: Greenland Breakfast Hill Area Waterline Study and Preliminary Design

Underwood Engineers has been hired by the City to perform a study and prepare preliminary designs of water main improvements in the Breakfast Hill area of Greenland for a cost of \$181,600. This project will be totally funded through a grant from the State's Drinking Water and Groundwater Trust Fund. The acceptance of this grant was approved by City Council at their February 5, 2018 meeting.

The work will involve a hydraulic analysis of potential flows and pressures to extend the City's water service on Breakfast Hill Road and the surrounding subdivisions from Lafayette Road to Post Road in Greenland. The analysis will also project the amount of public water supply needed for the City potentially serving water to the area. Field work will include a topographic survey of the area and subsurface investigations to determine the rock and soil conditions to assess potential construction costs. The preliminary design will also assess the potential construction costs.

No commitment for construction of the water system has been made at this time from the City's Water Division

USE OF CITY COUNCIL CHAMBERS & CITY HALL CONFERENCE ROOMS

CITY COUNCIL POLICY

Except as noted below the City Hall Conference rooms are non-public-fora. The fundamental purpose of these rooms is to implement the work of the City of Portsmouth government and to the extent relevant, the governmental work of the State and the Federal Government.

Government related activities, committees or non-profit organizations which are affiliated with the City are permitted. Although these activities will typically be Portsmouth based, they may include regional or statewide groups if they have a tangible connection with municipal government.

City Council and City staff usage have priority – the City reserves the right to cancel use by outside groups if the City Council or staff have an unanticipated need for facilities.

No other use is permitted.

City Council Chambers and Conference Room A:

During regular daytime business hours, the Council Chambers and Conference Room A may be used by any Portsmouth cultural, civic, educational, or non-profit group or organization.

The use of these rooms shall be subject to the following time, place and manner restrictions:

- City departments have scheduling priority
- Reservations cannot be made more than 90 days in advance
- Users are limited to 8 reservations per year
- 8 a.m. to 9 p.m. Monday-Thursday, 8 a.m.-1 p.m. Friday
- Audio-visual equipment will not be provided by the City
- No fees can be charged by the user unless the event is sponsored by the City
- Use of the room shall be free, but a deposit for custodial, maintenance or other City expenses, or as a security deposit, may be required
- Scheduling may be coordinated with the library, which also has available public conference rooms.

Custodial activities are limited to set up only; special requests for audio/visual equipment should be made well in advance of scheduled meetings. The availability of equipment is dependent on the needs of City Council and staff.

User is to contact the City Clerk's Office to determine availability of room and to reserve space. The user shall provide the City Clerk with the name and telephone number of a contact person.

DRAFT

ACTION ITEMS

PARKING and TRAFFIC SAFETY COMMITTEE MEETING

8:00 A.M. – April 5, 2018
City Hall – Conference Room A

MEMBERS PRESENT: Chairman, Doug Roberts
City Manager, John Bohenko
Public Works Director, Peter Rice
Deputy Fire Chief, James Heinz
Members: Harold Whitehouse, Ronald Cypher,
Mary Lou McElwain and Ralph DiBernardo

MEMBERS ABSENT: Police Captain, Frank Warchol
Member, Shari Donnermeyer

CITY STAFF PRESENT: Parking and Transportation Engineer, Eric Eby
Planning Director, Juliet Walker
Parking Director, Ben Fletcher

Action Items requiring an immediate ordinance during the next Council meeting:

None

Temporary Action Items requiring an ordinance during the annual omnibus:

None

1. Accepted and placed on file meeting minutes from March 1, 2018.
2. Accepted and placed on file financial report dated February 28, 2018.
3. Public Comment: One Speaker: Charles McMahon
4. (VI.A.) **Action Item:** Request to restrict parking along both sides of Thaxter Road within 150 feet of Islington Street, by Jesse Choquette. **VOTED** to have staff collect data, evaluate and report back with a recommendation at the next meeting.
Public Comment: One Speaker: Mr. Choquette
5. Old Business: no old business.
6. Public Comment: no public comment.
7. (IX.A.) **Action Item:** City public outreach process. – No action required by Committee.
8. (IX.B.) **Action Item:** Quarterly accident report. – No action required by Committee.

9. (IX.C.) **Action Item:** PTS open action items. – No action required by Committee.
10. (IX.D.) **Action Item:** Vaughn Street parking and traffic restrictions during AC Hotel construction. – No action required by Committee.
11. (X.A.) **Action Item:** July 5th PTS meeting is cancelled due to the Independence Day holiday. – **VOTED** to cancel the July 5th PTS meeting and reassess at the June 7th meeting.
12. Adjournment – At 8:37 a.m., **VOTED** to adjourn.

Respectfully submitted by:
Amy Chastain
Secretary to the Committee

MEETING MINUTES

PARKING and TRAFFIC SAFETY COMMITTEE

8:00 A.M. – April 5, 2018
City Hall – Conference Room A

I. CALL TO ORDER:

At 8:00 a.m., Chairman Roberts called the meeting to order.

II. ROLL CALL:

Members Present:

Chairman, Doug Roberts
City Manager, John Bohenko
Public Works Director, Peter Rice
Deputy Fire Chief, James Heinz
Member, Harold Whitehouse
Member, Ronald Cypher
Member, Mary Lou McElwain
Alternate Member, Ralph DiBernardo

Members Absent:

Police Captain, Frank Warchol
Member, Shari Donnermeyer

Staff Advisors Present:

Parking and Transportation Engineer, Eric Eby
Planning Director, Juliet Walker
Parking Director, Ben Fletcher

III. ACCEPTANCE OF THE MINUTES:

Harold Whitehouse moved to accept the meeting minutes of March 1, 2018.
Seconded by Mary Lou McElwain. **Motion passed 8-0.**

IV. FINANCIAL REPORT:

Mary Lou McElwain asked Parking Director Ben Fletcher to provide background on each line item listed on the monthly report. She stated it would be helpful to go through it at a future meeting. City Manager Bohenko said this information was available online in the budget, and confirmed that they would review each line item at the next meeting. The financial report was placed on file.

City Manager Bohenko requested members contact him or Chairman Roberts directly regarding all PTS requests or questions. They will forward the information to the appropriate staff member.

V. PUBLIC COMMENT:

Chairman Roberts stated there would be only one public comment period starting at the next meeting. He stated this would allow the committee and speakers more flexibility. The committee could suspend the rules to allow speakers to address action items at the time of committee discussion and vote.

Charles McMahon spoke to the potential closure of Echo Avenue and Farm Lane from the Spaulding Turnpike. He spoke to the impacts from the Woodbury Avenue Bridge closure and the eventual reconstruction of the traffic circle. He reiterated that the neighbors on Echo Avenue are still interested in closing the streets from the turnpike. He requested a pilot project be conducted to test the impacts of the potential closure. He addressed several options made at the public meeting. Mr. McMahon thanked Eric Eby for his work. He stated he looks forward to future meetings and would be responsible for dissemination of information to his neighbors.

Ralph DiBernardo motioned to suspend the rules to allow Mr. Choquette to address the committee during action item VI.A. Seconded by Mary Lou McElwain. **Motion passed 8-0.**

Harold Whitehouse asked what the target date was for finishing the Woodbury Avenue Bridge. Eric Eby responded that the NHDOT estimated it would take 10-11 months once the project is started. The Stark Street Bridge must be completed before the project is started and it is anticipated to be completed in October 2018. He stated the next step is to demolish the existing Woodbury Avenue Bridge either before Thanksgiving or after New Years, depending on the contractor's schedule.

VI. NEW BUSINESS:

A. Request to restrict parking along both sides of Thaxter Road within 150 feet of Islington Street, by Jesse Choquette. Eric Eby stated that the information from Mr. Choquette was provided in the packet. The request was to restrict parking further back on Thaxter Road. The concern is that Thaxter Road is very narrow where it intersects with Islington Street. When vehicles are parked near the intersection on Thaxter Road, it makes it hard for cars to turn in from Islington Street, while vehicles are waiting to get out. It can create a bottleneck at the intersection point. Mr. Eby looked at the intersection on Tuesday morning and there were plenty of cars parked at the location.

Jesse Choquette stated he was home when the site visit was conducted by the committee. He stated parking goes all the way up to the stop sign, and if cars are parked on both sides of the street, it is virtually impossible for a large vehicle to get through. There are cars parked along the left hand side of the street regularly. If the parking were brought back away from the corner of the intersection, it would be a safer option. Then vehicles could at least swing in, and then they would be able to pass a little more easily. There have been enough near accidents at this corner, so this would make sense. There is ample parking along Islington Street.

Ralph DiBernardo asked who was parking there. Were they residents of the neighborhood or businesses parking on the street? Mr. Choquette responded that it was a mixture of both.

Chairman Roberts noted that there was another concern there as well. If too many spaces are removed, then people will drive fast around the corner. No parking tends to encourage speeding. Mr. Choquette noted that Thaxter Street is not really a pass through

street. He was not proposing to eliminate all the parking, 150 feet was an arbitrary number and probably is enough space to open up the corner at the intersection.

Ronald Cypher stated he was at the site visit and thinks the 150 feet option is excessive. A compromised figure would be much better.

Ralph DiBernardo moved to restrict parking on both sides of Thaxter Road to the east side of the two driveways closest to Islington Street. Seconded by Public Works Director Rice for discussion. He commented that the sample motion was to have staff collect data, evaluate and report back with a recommendation at the next meeting. Ralph DiBernardo withdrew his motion.

Harold Whitehouse moved to have staff collect data, evaluate and report back with a recommendation at the next meeting. Seconded by City Manager Bohenko.

Mary Lou McElwain commented that they often have one or two neighbors come in with a request and she just wanted to ensure that all of the neighbors who park there were aware that this change may occur.

Chairman Roberts commented that it would be easy to bring the agenda to the neighboring houses during on-site visits. He stated it is not always easy to do in a large area, but in this case it would be.

Mr. Choquette asked if it would be helpful if he informed the neighbors and had them email the committee. City Manager Bohenko requested all correspondence be directed to Eric Eby.

Eric Eby explained that he would set up a traffic camera on Thaxter Road to evaluate traffic. The preference would be to eliminate parking based on queueing and traffic flows.

Harold Whitehouse noted that he was not a fan of signs and preferred that they restrict the parking with the minimum amount of signs required.

Vote 8-0, to have staff collect data, evaluate and report back with a recommendation at the next meeting.

VII. OLD BUSINESS:
No old business.

VIII. PUBLIC COMMENT:
No public comment.

IX. INFORMATIONAL:
A. City public outreach process. Memorandum provided in the packet. No action required.

B. Quarterly accident report. Chairman Roberts commented that there were more than 1,100 car accidents in Portsmouth last year. Data from the Fire Department showed there were 110 accidents requiring transports to the hospital.

Mary Lou McElwain commented on two crosswalk areas: Greenleaf Avenue at Route 1 Bypass and Harvard Street at Route 33. She explained the issue and asked if there is a better way to light the crosswalks. She suggested blinking lights and asked if it could be presented to NHDOT. She presented the issue because it relates to crosswalk safety and the number of crosswalk accidents noted on the report.

City Manager Bohenko stated the Police Department (PD) would be asked to investigate the areas regarding vehicles not stopping for school buses.

Eric Eby noted that the Greenleaf Avenue crosswalk has the green light to cross at the same time traffic has a green light. Vehicles are supposed to yield to pedestrians in the crosswalk. He could suggest to NHDOT that signs be added instructing cars to yield to pedestrians in the crosswalk.

Mary Lou McElwain questioned if the traffic lights could be changed. Eric Eby responded that the lights are programmed for concurrent phasing and could not be changed.

City Manager Bohenko stated staff could look into adding a crossing guard at the location during school hours.

C. PTS open action items. Chairman Roberts mentioned Rick Chellman's presentation noted on the list. He followed up on the item and gave Eric Eby a list of spots that could result in more parking. Eric Eby is reviewing the list and will report back.

Harold Whitehouse asked about the parking restrictions by South Street in the city hall parking area and the signs being installed. Public Works Director Rice responded that the signs are related to the City Hall facade project. Some of the Police Department parking behind city hall has been displaced because the contractor needed a staging area. The area is reserved space for the PD.

Harold Whitehouse commented on the Middle Street bicycle improvement project. Bids were above the anticipated project cost. He asked about the next step. City Manager Bohenko responded that this has been a long project with high resident involvement. City staff are looking at alternates as part of the project. Harold Whitehouse stated he is still opposed to the project and spoke to other areas that are away from Route 1.

D. Vaughn Street parking and traffic restrictions during AC Hotel construction. Chairman Roberts noted that it would be helpful if this was explained further. City Manager Bohenko noted staff met with the businesses to ensure them that the City would work closely with them.

Public Works Director Rice explained there is a hotel project on the corner of Green Street and Vaughn Street. In order to construct the building, the contractor will need to stage materials and equipment in one of the lanes on the roadway. This will restrict the roadway and cause some parking issues. Staff is working with the impacted businesses to mitigate the problems. It is a narrow section of roadway coming off of Maplewood Avenue at that corner. He stated the issue of keeping the street open to two-way traffic during the construction would make it even more difficult to travel.

Public Works Director Rice stated the right-hand lane on Vaughan Street coming from Maplewood Avenue would be restricted at the two lots where the hotel is being constructed. Because the corner of Maplewood Avenue and Vaughan Street is tight, City staff felt that it would be appropriate to have one-way traffic on that section of Vaughan Street. He stated it is something the City had considered in the past. This is an opportunity to treat it as a pilot project to evaluate traffic flows during the project.

City Manager Bohenko commented that an important issue to review is large vehicles turning onto Vaughan Street from Maplewood Avenue. Ten on-street parking spaces will be eliminated for safety. There was a discussion about the need for parking turnover and 3-hour parking in the area. Presently, cars can park all day.

Ralph DiBernardo clarified that they were suggesting a one-way traffic flow entering from Maplewood Avenue onto Vaughan Street continuing through Raynes Avenue. A Do Not Enter road sign would be posted at the entrance of Raynes Avenue from Maplewood Avenue. City Manager Bohenko confirmed that was correct. Ralph DiBernardo noted the one-way traffic flow might eliminate traffic queuing and the backups to the railroad tracks. City Manager Bohenko agreed.

Mary Lou McElwain asked how this related to the September 27, 2017 action items regarding the request to restrict parking on the inside corner of Vaughn Street. Eric Eby said that action eliminated 2-3 spaces right at the corner. The two corners are currently restricted on parking. However, cars that park on the street now can still restrict access for larger vehicles. Mary Lou McElwain clarified that it would just extend the current restriction. Eric Eby confirmed that was correct. Public Works Director Rice commented that the 2017 action item was a concern relative to the traffic flow in that area.

City Manager Bohenko stated staff would discuss the inconsistency regarding metering in the area.

Harold Whitehouse asked about the materials proposed in the staging area and a timeline. Public Works Director Rice stated that the staging area would contain a combination of construction material and equipment. The project timeline would be approximately one year.

City Manager Bohenko noted that they were trying to minimize the loss of on-street parking. The goal is to increase parking somewhere else. He spoke to the importance of communication between the businesses and the developer.

Chairman Roberts stated the long-term plan for Maplewood Avenue included one-way traffic on Vaughan Street.

X. MISCELLANEOUS:

A. July 5th PTS meeting is cancelled due to the Independence Day holiday. Public Works Director Rice commented that because the July meeting is the day after a holiday and there are staffing challenges, the meeting should be cancelled. City Manager Bohenko stated that if something came up that needed to be addressed, the Chairman could call a meeting. Harold Whitehouse requested a meeting be scheduled for July 12th. Chairman Roberts suggested cancelling the meeting now and deciding in June if a meeting needed to be held later in July.

City Manager Bohenko moved to cancel the July 5th PTS meeting and reassess at the June 7th meeting. Seconded by Public Works Director Rice. **Vote 8-0, to cancel the July 5th PTS meeting and reassess at the June 7th meeting.**

XI. ADJOURNMENT – at 8:37 a.m., VOTED to adjourn.
Respectfully submitted by:

Rebecca Frey
PTS Recording Secretary

ACTION ITEMS

PARKING and TRAFFIC SAFETY COMMITTEE MEETING

8:00 A.M. – May 3, 2018
City Hall – Conference Room A

MEMBERS PRESENT: Chairman, Doug Roberts
Deputy City Manager, Nancy Colbert Puff
Public Works Director, Peter Rice
Deputy Fire Chief, James Heinz
Police Captain, Frank Warchol
Members: Harold Whitehouse, Ronald Cypher,
Shari Donnermeyer, Mary Lou McElwain and Ralph
DiBernardo

CITY STAFF PRESENT: Parking and Transportation Engineer, Eric Eby
Planning Director, Juliet Walker
Parking Director, Ben Fletcher

Action Items requiring an immediate ordinance during the next Council meeting:
None

Temporary Action Items requiring an ordinance during the annual omnibus:
Action Item (VI.D.) Electric vehicle charging station parking space regulations.
VOTED to approve proposed parking space regulations for electric vehicles.

Action Item (VII.A.) Report back: Request to restrict parking along both sides of Thaxter Road within 150 feet of Islington Street. VOTED to limit No Parking area on both sides of Thaxter Road to within 60 feet of Islington Street.

1. Accepted and placed on file meeting minutes from April 5, 2018.
2. Accepted and placed on file financial report dated March 31, 2018.
3. Public Comment: Eight Speakers: Elizabeth Moreau, Tim Ackerman, Mike Richardson, Jonathan Blakeslee, Jennifer Fecteau, Charles McMahon, Jamie Byron and Dave Palumbo. Three email submissions: Kelly Hurd, Tom Hudson and Anne Poubeau. One email to Eric Eby: Peter Somssich.
4. (VI.A.) **Action Item:** Request for a loading zone between the hours of 9 am and 5 pm, 7 days a week, on Vaughan Street at 3S Artspace, by Martin Holbrook. **VOTED to refer to staff for report back at the next meeting, if possible.**
Public Comment: Martin Holbrook and Maggie Osborn.

5. (VI.B.) **Action Item:** Request to lower speed limit to 20 mph on Dodge Avenue, by Harold Sullivan. **VOTED to have staff collect data and report back at the next meeting, if possible.**
6. (VI.C.) **Action Item:** Request to expand No Parking area on Highland Street near Middle Street, by Jane Nilles. **VOTED to have staff collect data and report back.**
7. (VI.D.) **Action Item:** Electric vehicle charging station parking space regulations. **VOTED to approve proposed parking space regulations for electric vehicles.**
8. (VII.A.) **Action Item:** Report back: Request to restrict parking along both sides of Thaxter Road within 150 feet of Islington Street, by Jesse Choquette. **VOTED to limit No Parking area on both sides of Thaxter Road to within 60 feet of Islington Street.**
9. (VII.B.) **Action Item:** Report back: Frank Jones Neighborhood Turnpike connections.
VOTED to separate the action item into two separate motions. VOTED to fully close Echo Avenue at the Turnpike as a pilot project for six months. Public Comment: Five Speakers: Jennifer McCafferty, Steve Mower, Bruce Osborn, Catherine Cosgrove and Charles McMahan.

VOTED to postpone action on Farm Lane until the pilot project on Echo Avenue is completed and results are evaluated. If problems are noticed on Farm Lane, Committee can reconvene to revisit and take action.
10. (VII.C.) **Action Item:** Report back: Islington Street at Albany Street crosswalk and bump-out. **VOTED to include crosswalk and bump-out as part of the Islington Street corridor reconstruction project and construct a temporary crosswalk and bump-out on an interim basis beginning this summer.**
11. (VII.D.) **Action Item:** Report back: Langdon Street and Brewster Street parking and traffic flow. **VOTED to schedule a public discussion on proposed changes at the next meeting.** Public Comment: One Speaker: Paul Winkley
12. (VII.E.) **Action Item:** Report back: Intersection of Middle Street and State Street. **VOTED to approve staff recommendation to make no changes.**
13. (VII.F.) **Action Item:** Report back: Chairman Robert's parking space suggestions. **VOTED to postpone action item until next month's meeting.**
14. (VIII.A.) **Action Item:** Parking revenue report line item explanation, and tax rate offset, by Parking Director Ben Fletcher. No action required by Committee.

15. (VIII.B.) **Action Item:** Rectangular Rapid Flash Beacon (RRFB) installation at Miller Avenue and Lincoln Avenue. No action required by Committee.
16. (VIII.C.) **Action Item:** Zagster bike share 2018 update, by Planning Director Juliet Walker. Postponed to next month's meeting.
17. (VIII.D.) **Action Item:** Neighborhood Traffic Calming Program, by Planning Director Juliet Walker. Postponed to next month's meeting.
18. (VIII.E.) **Action Item:** Parking meters on Vaughan Street, Raynes Avenue, Islington Street, State Street, and Parrott Avenue. Postponed to next month's meeting.
19. (VIII.F.) **Action Item:** Emails regarding Bartlett Street and Cate Street area. Postponed to next month's meeting.
20. (VIII.G.) **Action Item:** PTS open action items. No action required by Committee.

Adjournment – At 9:35 a.m., **VOTED** to adjourn.

Respectfully submitted by:
Amy Chastain
Secretary to the Committee

MEETING MINUTES

PARKING and TRAFFIC SAFETY COMMITTEE

8:00 A.M. – May 3, 2018
City Hall – Conference Room A

I. CALL TO ORDER:

At 8:00 a.m., Chairman Roberts called the meeting to order.

II. ROLL CALL:

Members Present:

Chairman, Doug Roberts
Deputy City Manager, Nancy Colbert Puff
Public Works Director, Peter Rice
Police Captain, Frank Warchol
Deputy Fire Chief, James Heinz
Member, Harold Whitehouse
Member, Ronald Cypher
Member, Shari Donnermeyer
Member, Mary Lou McElwain
Alternate Member, Ralph DiBernardo

Staff Advisors Present:

Parking and Transportation Engineer, Eric Eby
Planning Director, Juliet Walker
Parking Director, Ben Fletcher

III. ACCEPTANCE OF THE MINUTES:

Harold Whitehouse moved to accept the meeting minutes from the April 5, 2018 meeting.

Seconded by Ronald Cypher.

Motion passed 9-0.

IV. FINANCIAL REPORT:

Mary Lou McElwain moved to accept the financial report dated March 31, 2018.

Seconded by Harold Whitehouse.

Motion passed 9-0.

V. PUBLIC COMMENT:

Elizabeth Moreau encouraged the Committee to hold a public meeting about the proposed changes on Brewster and Langdon regarding a one-way street and parking. She requested the meeting to allow neighbors to comment on the proposed changes.

Tim Ackerman, owner of Seacoast Mazda, opposed Farm Lane becoming a one-way street. Mr. Ackerman's business is at the end of the street, and they use both lanes of traffic now to move cars back and forth. They would like to keep it that way.

Mike Richardson, from New England Marine and Industrial, echoed the comments made by Mr. Ackerman. He stated that if it becomes inconvenient for customers to come to his store, he believes he will lose business. He wants the street to remain intact. Mr. Richardson asked the Committee to take his comments into consideration when they vote on the issue.

Jonathan Blakeslee spoke in support of the proposed bump out and crosswalk in front of White Heron Tea and Coffee on Islington Street and Albany Street.

Jennifer Fecteau, an employee from Port City Nissan, opposed the proposed change on Farm Lane. She stated it would be a huge detriment to their business. Other options were discussed, such as adding speed bumps. Ms. Fecteau wondered why those options weren't still on the table.

Chuck McMahon spoke in support of the changes proposed for Echo Avenue and Farm Lane. He is a resident and supports the proposed changes whole-heartedly.

Jamie Byron talked about safety concerns regarding increased traffic on Bartlett Street. She relayed several incidents that had occurred regarding pedestrian safety. She met with City staff a few weeks ago to talk about the issues. She stated residents are eager to help and asked the Committee for assistance in finding a solution.

David Palumbo has lived at 181 Echo Avenue since 1971. Mr. Palumbo stated traffic has increased considerably in the last five years. He expressed concern for pedestrian safety due to increased traffic. He spoke in support of closing Echo Avenue and making it a dead end. He believes it will protect the children, neighbors and handicapped residents in the area.

Chairman Roberts noted that three late emails were received. Kelly Hurd and Tom Hudson from 30 Brewster Street supported proposed changes. Anne Poubeau sent an email regarding traffic and pedestrian safety on Bartlett Street. Chairman Roberts also received a message on his answering machine about traffic on Bartlett Street.

Eric Eby received an email from Representative Peter Somssich in support of the Echo Avenue proposal.

VI. NEW BUSINESS:

A. Request for a loading zone between the hours of 9 a.m. and 5 p.m., 7 days a week, on Vaughan Street at 3S Artspace, by Martin Holbrook. Eric Eby stated he did not have a recommendation at this time. 3S Artspace requested the last three spaces on Vaughn St. be designated a loading zone between 9 a.m. and 5 p.m., 7 days a week. The spaces would be turned over to regular parking after 5 p.m. Eric Eby's recommendation was to refer it back to staff for further study and information gathering.

Harold Whitehouse stated that he would make the recommended motion, but wanted staff to report back by the next meeting. He stated he understood that staff had a large workload, but hoped that this could be addressed at the next meeting.

Public Works Director Rice noted that he would second the motion, but wanted to make an additional comment. He appreciated the next meeting caveat on the motion; however, Eric Eby is managing many different projects and is the lead staff assigned to PTS.

Public Works Director Rice spoke to the concerns he has heard regarding lack of parking in the area due to on-going construction. He said it might be something the Committee would want to defer until construction is completed in the area.

Harold Whitehouse questioned if the loading zone had to be 7 days a week. He encouraged Eric Eby to leave Sunday open for parking. Eric Eby responded that options were open and no decision had been made.

Mary Lou McElwain supported additional research and study before the Committee voted on any aspect of a loading zone due to traffic and parking restrictions in the area.

Public Works Director Rice noted that there was a study completed for the Maplewood Corridor from Congress Street to the bridge. It included the Raynes Street and Vaughn Street loop. Planning Director Walker confirmed that the report would be online that day. Public Works Director Rice requested the Construction Management and Mitigation Plan (CMMP) be posted to the City website. It would show the evaluation of the temporary one-way to accommodate the construction activity.

Shari Donnermeyer commented that it may make sense to meter the parking spaces and rent the spaces to 3S Artspace. She stated it was discussed at the site visit on Tuesday. Currently, the spaces are not metered and a vehicle can park up to 72 hours.

Harold Whitehouse moved to refer to staff for report back at the next meeting, if possible. Seconded by Public Works Director Rice. **Vote 9-0, to refer to staff for report back at the next meeting, if possible.**

Public Works Director Rice moved to allow public comment, seconded by Mary Lou McElwain. The motion passed unanimously.

Martin Holbrook, Director of Operations at 3S Artspace, and Maggie Osborn, owner of the new restaurant that will be opening in June, were present. Mr. Holbrook stated they thought the one-way designation had already been approved in combination with some jersey barriers. Public Works Director Rice responded that they were still working out the final details. Mr. Holbrook noted that if the one-way was approved and the jersey barriers were installed, they would hinder deliveries. He stated the whole road would be blocked if a delivery truck had to stop near the jersey barriers.

Ms. Osborn agreed with Mr. Holbrook's comments. She spoke to the all day parking by hotel employees in the spaces. She also requested the loading zone be designated 7 days a week so deliveries can be made on Sundays.

Chairman Roberts noted that there had been a discussion about metering the area. Public Works Director Rice responded that metering the area would definitely provide turnover and the topic was planned for a future meeting. He stated if there was a desire for the Committee to address it sooner, then it could be done. Ms. Osborn commented that it was time sensitive due to the restaurant opening the first week of June. Parking is her biggest concern as a new business owner.

The Committee discussed construction vehicles parking in City parking spots, the increase in the number of requests made by businesses for loading zone parking and how the new garage will change the parking inventory.

B. Request to lower speed limit to 20 mph on Dodge Avenue, by Harold Sullivan.

Chairman Roberts noted that a site visit was conducted on Tuesday. Eric Eby stated the request came from residents of Dodge Avenue who are frustrated by people in the neighborhood driving faster than they consider reasonable. Eric Eby completed a preliminary investigation and noted most cars travel at 20 mph. He stated there were a few in the 25-30 mph range. By default the roadway is 30 mph although there are no signs posted.

Harold Whitehouse questioned if they could make this decision today without collecting additional data. Eric Eby responded that they had some speed data already that showed the average speeds were 20 mph. The Committee discussed posting a 25 mph speed limit sign.

Harold Whitehouse moved to put up a sign for 25 mph on Dodge Ave., seconded by Ronald Cypher.

Public Works Director Rice spoke to the motion. He did not support the motion, unless Eric Eby could support the evaluation with a warrant. Deputy City Manager Colbert Puff completely agreed with Public Works Director Rice. There was no reason for the Committee to forgo having a full evaluation done of the road, when there is time to complete it. Harold Whitehouse recognized more discussion was needed on this issue, and withdrew his motion.

Chairman Roberts agreed with the comments, but pointed out that the City has a traffic plan and this was designated a neighborhood street. Chairman Roberts agreed with tabling this issue for further discussion. He noted that if it saved time in the future to lower the speed limit on a similar situation without using City resources for further study, then the Committee could do that.

Ralph DiBernardo clarified that the City could not enforce a speed limit of 20 mph in the state of NH without citing a specific safety issue or a school zone. Police Captain Warchol confirmed that was correct. There needed to be a reason for the 20 mph. He also agreed with Public Works Director Rice's statements.

Harold Whitehouse moved to have staff collect data and report back at the next meeting if possible, seconded by Shari Donnermeyer. **Vote 9-0, to have staff collect data and report back at the next meeting, if possible.**

C. Request to expand No Parking area on Highland Street near Middle Street, by Jane Nilles. Chairman Roberts noted a site visit was conducted on Tuesday. He asked if there was discussion needed or if a motion could be made. Deputy City Manager Colbert Puff moved to have staff collect data and report back, seconded by Shari Donnermeyer. **Vote 9-0, to have staff collect data and report back.**

D. Electric vehicle charging station parking space regulations. Harold Whitehouse questioned if this issue should come before the Committee, or should staff decide this issue. Eric Eby clarified that it was a matter of deciding the time limits on the spaces, and enforcement. These items are part of the City Code of Ordinances, which the Committee votes on.

The Committee discussed the reasons why the second charging station was installed at Junkins Avenue and South Street and the costs associated with it. Parking Director Fletcher stated the cost for the two head unit was approximately \$7,500.

Chairman Roberts added that City Council wants to encourage the use of electric vehicles. This action would limit cars from staying in the parking spot for more than 4 hours.

Deputy City Manager Colbert Puff moved to approve parking regulations for electric vehicles, seconded by Harold Whitehouse. **Vote 9-0, to approve proposed parking space regulations for electric vehicles.**

VII. OLD BUSINESS:

A. Report back: Request to restrict parking along both sides of Thaxter Road within 150 feet of Islington Street, by Jesse Choquette. Eric Eby collected data with a traffic camera and watched how many people were parking and how long the queue was on Thaxter Road. Based on the data, Eric Eby's recommendation was to limit parking an additional 40 feet. Parking would be restricted 60 feet from the intersection of Islington Street on Thaxter Road. Chairman Roberts clarified that it was a half measure from what was requested. Eric Eby confirmed that was correct.

Ms. Donnermeyer questioned how many parking spaces would be taken away. Eric Eby responded that it would be taking away 2 spaces on one side and 1 space on the other side.

Public Works Director Rice moved to limit the No Parking area on both sides of Thaxter Road to within 60 feet of Islington Street, seconded by Deputy City Manager Colbert Puff.
Vote 9-0, to limit No Parking area on both sides of Thaxter Road to within 60 feet of Islington Street.

B. Report back: Frank Jones Neighborhood Turnpike connections. Mary Lou McElwain questioned if it was possible to separate the Echo Avenue closure and the Farm Lane change. Chairman Roberts confirmed that they could, but noted they should hear Eric Eby's report first.

Eric Eby noted that the report contained a recommendation to close Echo Avenue at the Turnpike. He stated it could not be done further up at the Ford Dealership driveway because there is a house there that still needs to get out to the road without going through the dealership. This would allow vehicles to travel down from Woodbury Avenue and get to that house. Eric Eby understood that if Echo Avenue is closed it could divert traffic to Farm Lane. That is why there is another recommendation to make Farm Lane a one-way. Eric Eby proposed to try this for a six-month period to see how it worked. It would be monitored and evaluated. It would be something that could easily be removed if there were any problems. Eric Eby would work with the DOT on what type of treatment they would like to see in that location.

Mary Lou McElwain noted that the reason she asked to split the two was because today they had heard from several businesses that had been established 30-40 years ago. In the past they had heard from neighbors only. Mary Lou McElwain wanted to separate Echo Avenue, which was the neighborhood issue from Farm Lane, which seemed to be the businesses issue.

Chairman Roberts requested a motion to separate the voting. Mary Lou McElwain moved to separate the voting of Echo Avenue from Farm Lane, seconded by Shari Donnermeyer.

Deputy Fire Chief Heinz clarified whether or not the Committee voted to close Echo Avenue for six months, and noted that there were insufficient details about how that would be done. Public Works Director Rice responded that the original motion when it was combined with Farm Lane was to close it. Mary Lou McElwain pointed out that they should be considered separately because there are business considerations. There was agreement that it was acceptable, so it was separated.

Eric Eby noted the roadway would probably be closed with jersey barriers because it's temporary and signs would be covered to close the exit. Deputy Fire Chief Heinz noted that it affects the Fire Department, and how it is closed matters to them. The Committee

discussed separating the action items. Mary Lou McElwain moved to split the two decisions, seconded by Public Works Director Rice. **Vote 9-0, to separate the action item into two separate motions.**

Mary Lou McElwain moved to close Echo Avenue for a 6-month period, seconded by Public Works Director Rice.

Deputy Fire Chief Heinz questioned what that closure would look like. Eric Eby responded that it would be based on a discussion with DOT because it is their roadway. The closure needs to comply with their standards and safety rules. Deputy Fire Chief Heinz requested to be involved in the closure discussions. Chairman Roberts commented that Deputy Fire Chief Heinz said at the hearing they were comfortable going in from the Woodbury Avenue side. Deputy Fire Chief Heinz responded that was correct, but also noted that the concerns of the Fire Department needed to be on the record. Public Works Director Rice clarified that the study was to measure the impact of the closure, not whether or not they would close it. Deputy Fire Chief Heinz confirmed that was correct. Public Works Director Rice noted that as they move forward with the details of the closure and what DOT accepts, they would work closely with Fire and Police as well.

Deputy Fire Chief Heinz asked Ms. Walker if there was anything in best practices that talked about long dead end streets being a good process or is a best practice more of a grid layout? Ms. Walker responded in general you try not to have long dead end streets.

Public Works Director Rice moved to suspend the rules to allow for public comment on Echo Avenue, seconded by Harold Whitehouse. The motion passed unanimously.

Jennifer McCafferty supported the pilot project. Ms. McCafferty advised that summer was coming and the GPS sends more traffic through the neighborhood. It would be good to see something in place in a timely manner.

Steve Mower wanted to reinforce that this was an off-ramp from a highway. This change would be creating a long dead end road. It would also prevent traffic from coming in at a high speed into a residential neighborhood.

Bruce Osborn thought the road should be made a dead end before construction began on the Woodbury Avenue Bridge. He stated the road cannot handle all the traffic.

Cathy Cosgrove lives at the intersection of Woodlawn Circle and Echo Ave. Ms. Cosgrove appreciated the Committee's consideration and looked forward to the trial. Ms. Cosgrove echoed Ms. McCafferty's comments that they were hopeful something could happen before summer starts.

Chuck McMahon asked Planning Director Walker for feedback on best practices regarding exiting from a turnpike into a residential neighborhood. Mr. McMahon acknowledged that this was a trial closure, but encouraged the Committee to consider this closure to be long-term.

Vote 9-0, to fully close Echo Avenue at the Turnpike as a pilot project for six months.

Deputy City Manager Colbert Puff moved to postpone action on Farm Lane until the results of the pilot project were completed and evaluated, seconded by Mary Lou McElwain.

Police Chief Warchol clarified that they would be monitoring Farm Lane during the six-month study, but wanted to make one thing clear and go on record. If this becomes a major issue before the 6 months were up, then they need to reconvene as a Committee and discuss the issue. Deputy City Manager Colbert Puff agreed. Public Works Director Rice added that during the trial, Eric Eby would be looking at other treatment options for the area as well.

The Committee discussed the closure of the Woodbury Avenue Bridge and the official detour route. Eric Eby stated he would be working with DOT regarding increased traffic and traffic calming measures. Chairman Roberts added that he was in favor of interim measures to help slow traffic in that area. Eric Eby commented that DPW would be putting edge lines in next week on Bartlett Street to make the roadway feel narrower.

Vote 9-0, to postpone action on Farm Lane until the pilot project on Echo Avenue is completed and results are evaluated.

C. Report back: Islington Street at Albany Street crosswalk and bump-out. Harold Whitehouse moved to include the crosswalk and bump-out as part of the Islington Street corridor reconstruction project, seconded by Ronald Cypher.

Chairman Roberts questioned when that project was going to start, and if it would be feasible to do this for the summer on a temporary basis? Eric Eby responded that the Islington Street project would not start for several months. A schedule would be determined once a contractor had been chosen. He did not anticipate any construction starting this summer. Chairman Roberts questioned what the expense would be to put it in temporarily. Eric Eby responded that it would involve staff time and approximately \$1,000.00 in materials. Chairman Roberts amended the motion to do it on an interim basis for the summer.

Mary Lou McElwain questioned how extensive the bump out would be, and noted concern for cyclists going around it. Eric Eby explained how the temporary bump-out would be installed. Deputy City Manager Colbert Puff noted that it was her understanding that DPW perceives this as a relatively small solution that can be implemented in a timely manner, and seconded Chairman Roberts' amendment.

Deputy Fire Chief Heinz clarified that they were voting on the bump-out and crosswalk just in front of White Heron Tea and Coffee. Eric Eby confirmed that was correct. **Vote 9-0, to include crosswalk and bump-out as part of the Islington Street corridor**

reconstruction project and construct a temporary crosswalk and bump-out on an interim basis beginning this summer.

D. Report back: Langdon Street and Brewster Street parking and traffic flow. Eric Eby noted that they were following up on recommendations that the Committee made about parking on Langdon St. He performed more traffic counts and looked at the traffic flow on Brewster and Langdon. Residents have also complained that parking is happening on both sides of Langdon and Brewster and blocking traffic. He stated there are no parking restrictions on either side in the ordinances. He stated this is a matter of clearing up the parking and making recommendations based on the traffic flow. Brewster is very narrow with parking on one side. He stated the parking needed to be addressed immediately and it wouldn't have an effect on the two-way or one-way flow. There could be a public meeting to discuss the traffic flow changes.

Public Works Director Rice moved to allow public comment, seconded by Chairman Roberts. The motion passed unanimously.

Paul Winkley has worked for Regan Electric for 26 years and has a good understanding of the traffic flow in and out of the company. A camera was put up to study the traffic in the area. The flow in and out of the company is up Langdon. The recommendation for no parking stops at 91 Langdon St. The two parking spaces outside of 91 Langdon St. is the real issue for getting in and out of Regan Electric with the large bucket trucks and trucks with trailers. Mr. Winkley asked that the no parking be extended to north of 81 Langdon St. to allow them to facilitate getting large vehicles in and out of the property. Eric Eby responded that they didn't have any video evidence on the camera footage of Mr. Winkley's observations but his request made sense.

Deputy City Manager Colbert Puff noted that the sample motion was to have a public meeting, and that request came from a member of the public. Before the Committee makes any decisions they should afford the public the ability to weigh in on all of these issues.

Deputy City Manager Colbert Puff moved to schedule a public meeting on the proposed changes, seconded by Mary Lou McElwain.

Harold Whitehouse requested to have the public hearing in Conference Room A so it could be televised. Chairman Roberts clarified that it would take place at the next PTS meeting.

Vote 9-0, to schedule a public discussion on proposed changes at the next meeting.

E. Report back: Intersection of Middle Street and State Street. Eric Eby commented that this was part of the request to remove metered parking spaces on State Street earlier this year. They also looked at the intersection of State Street and Middle Street to see if

there was anything they could do to help slow traffic making the right turn from Middle Street onto State Street. That corner is a tight radius and there is not a lot of volume coming around it. There is no way to tighten it up any more and still allow vehicles to make that turn. Eric Eby recommended no changes to that corner at this point.

Mary Lou McElwain moved to follow Eric Eby's suggestion, seconded by Deputy City Manager Colbert Puff. **Voted 9-0, to approve staff recommendation to make no changes.**

F. Report back: Chairman Robert's parking space suggestions. Chairman Roberts stated this action item was important because it added parking where it did not previously exist and each metered space downtown generates about \$3,000 a year. He stated being able to add more parking in a safe manner is a positive thing to do.

Eric Eby looked at each suggestion and addressed them in his report back. The first is on Fleet St. in between State St. and Court St. There is no parking on either side now, but if the centerline was moved, parking could be installed on the TD Bank parking lot side of the street. Approximately 5 spaces could be added. The issue is that across State St. on the other section of Fleet St., there is already parking on the other side of the street. The parking would be switching from one side to the other side as you go through the intersection. It would also be creating an offset centerline, so if cars don't shift to the right they could have a potential head-on collision. However, the distance is wide enough and speeds are low enough it would not be a primary concern. It would work from that standpoint, but there are other issues. The street is a major connection for fire trucks to get through from the station. Deputy Fire Chief Heinz commented that this was a non-starter for the Fire Department. Every event action plan produced by Fire and Police exercises Fleet St. as a way to get from Fire Station 1 to Congress St. and to Hanover St. Harold Whitehouse agreed with the Deputy Chief. Safety is an important issue.

Public Works Director Rice questioned what the clear space was between the parking stalls and the curb. Eric Eby responded that its 22 feet from the spaces to the other curb. Chairman Roberts noted that there was already parking on Fleet St. after Congress St. He stated it would not be narrowing the street because there is parking there. Deputy Fire Chief Heinz agreed but noted that this has been designated a City core slow street. He stated every action plan we have now leaves Fleet St. open for emergency vehicles to get to the other side of the city. Deputy Fire Chief Heinz suspected that the snowplows, trash trucks and delivery vehicles would have similar issues.

Chairman Roberts clarified that when a fire truck came out of the station onto Fleet St. they would be in the left lane. Deputy Fire Chief Heinz confirmed that was correct and noted that it was already hard for them to maneuver. Chairman Roberts noted that the proposed parking would be on the right lane. If they were in the left lane they wouldn't be near the right curb. Deputy Fire Chief Heinz responded that he's been driving fire trucks around the city for 29 years and does not support the change. Police Captain Warchol added that the area on Fleet St. has a lot of traffic that comes off of State St. on to Fleet St. Considering that traffic, fire trucks turning left would be greatly impacted if parking was on the road. Chairman Roberts questioned if some spaces could be added on the

Deer St./Hanover St. side of Fleet St. on the second block. Fleet St. is already narrowed by other spaces. He stated if the Fire and Police Staff were concerned about the first block then it could be moved to the second block. Deputy Fire Chief Heinz responded that they would have concerns for the second block. There is a large reconstruction project on the Franklin block. He stated the State St. fire had ladder trucks set up on all 4 corners. There was one on Church St. because there just wasn't enough room on the street.

Harold Whitehouse proposed delaying discussion until next month. Deputy Fire Chief Heinz acknowledged Chairman Roberts suggestion for compromise and asked if it was possible to reduce the spots from 5 to 2. Public Works Director Rice clarified Deputy Fire Chief Heinz was talking about the first two spots. Deputy Fire Chief Heinz responded that he was thinking about the spots in the middle. They need room for cars to get out of the way. He suggested two spaces mid-block as a compromise. Chairman Roberts clarified that the question would be what's easiest for traffic flow and the Fire Department. Eric Eby responded that the further they are pulled away from the intersection the better.

Public Works Director Rice moved to revisit this proposal and come back next month with a recommendation, seconded by Ronald Cypher. **Vote 9-0, to postpone action item until next month's meeting.**

VIII. INFORMATIONAL:

- A. Parking revenue report line item explanation, and tax rate offset, by Parking Director Ben Fletcher. Chairman Roberts noted that the explanation of the parking revenue was in the packet. Public Works Director Rice suggested that Mary Lou McElwain address questions offline with Parking Director Fletcher. No action was required by the Committee.
- B. Rectangular Rapid Flash Beacon (RRFB) installation at Miller Avenue and Lincoln Avenue. No action was required by the Committee.
- C. Zagster bike share 2018 update, by Planning Director Juliet Walker. This was postponed to next month's meeting.
- D. Neighborhood Traffic Calming Program, by Planning Director Juliet Walker. This was postponed to next month's meeting.
- E. Parking meters on Vaughan Street, Raynes Avenue, Islington Street, State Street, and Parrott Avenue. This was postponed to next month's meeting.
- F. Emails regarding Bartlett Street and Cate Street area. This was postponed to next month's meeting.
- G. PTS open action items. No action was required by the Committee.

Harold Whitehouse commented that action items have increased in volume and more people are attending the meetings. He questioned if PTS meetings should be held twice a month. He also mentioned that the public often suggests adding speed bumps, which aren't allowed at the state level unless it's a privately operated road.

IX. ADJOURNMENT – at 9:35 a.m., VOTED to adjourn.

Respectfully submitted by:

Becky Frey
PTS Recording Secretary

M. Christine Dwyer
600 Broad Street, Portsmouth NH

To: Council Colleagues
From: Chris Dwyer
RE: Fees for Prescott Park Licensees
Date: May 15, 2018

Based on the questions that were posed last week by Councilors and the concerns raised by the Gundalow Company, I don't think we are ready as a Council to set 5-year fees for the licensees in the park. Personally, I think basing the fees on the budgets or revenues of the organizations is a complicated approach to understand and verify and I'm not yet sure that it is a solid or fair way to proceed. Given the late hour of the meeting at which we learned about and discussed the approach at the last meeting, I don't think we had enough of a discussion to feel comfortable with the basis for fees.

However, I don't want to suggest delaying the vote on the licenses because I think almost all other aspects of the licenses are ready to go. Given the time of the year, I think it's important that we move forward with the licenses. But I'd like to suggest that we take more time with the fee determination by approving a one-year fee for each of the licensees at this point in time with the idea that fees for subsequent years will be reviewed and could potentially be subject to revision. It may well be that after further study we determine that the five-year fee schedule as proposed is appropriate.

I'd like to suggest that the Mayor appoint a short-term task force to work with City staff on the basis for fees for use of City properties, including the three licenses. I recognize that "one size" will never "fit all" for setting fees for property use given the variation in the properties. But I do think as Councilors we need to at least better understand the basis for determination.

DRAFT

SCHEDULE D: PUBLIC BENEFIT & CONSIDERATION

General Purpose. In acknowledgement of the City's costs in operating Prescott Park and in balance with the benefits to the public of the Licensee programming, the Licensee and the City agree to the following consideration paid to the City in order to reduce the required annual operational subsidy for the Park.

The amounts shown below are due on July 1st-1, 2018 (one-half of total amount due) and September 1st-1, 2018 (one-half of total amount due) for Year 1 of this Agreement.

~~Year 1: \$X (See following pages) Year 1: \$20,000~~

~~Year 2: \$25,000~~

~~Year 3: \$30,000~~

~~Year 4: \$35,000~~

~~Year 5: \$40,000~~

The annual consideration paid under this agreement for Year 2 through Year 5 shall be further studied following execution of this agreement. Consideration paid under this Agreement for Year 2 through Year 5 shall be determined through amendment of this agreement, with the goal of establishing the following years' consideration levels by March 1, 2019 to facilitate financial planning for Licensee and the City.

In the event no amendment is agreed to by March 1, 2019, the City Manager with the approval of the City Council shall set the consideration level for Year 2 through Year 5.

The City recognizes that exigent circumstances (such as extraordinary wet weather conditions or other emergency causing prolonged disruption to operations) may occur, which significantly impact the Licensee's ability to pay the amount listed above. Accordingly, the City Manager is authorized to negotiate a lower figure for the affected year.

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Year 1: \$1,500

The annual consideration paid under this agreement for Year 2 through Year 5 shall be further studied following execution of this agreement. Consideration paid under this Agreement for Year 2 through Year 5 shall be determined through amendment of this agreement, with the goal of establishing the following years' consideration levels by March 1, 2019 to facilitate financial planning for Licensee and the City.

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Year 1: \$20,000

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The amount shown below are due on July 1, 2018 (one-half of total amount due) and September 1, 2018 (one-half of total amount due) for Year 1 of this Agreement.

Year 1: \$7,500

The annual consideration paid under this agreement for Year 2 through Year 5 shall be further studied following execution of this agreement. Consideration paid under this Agreement for Year 2 through Year 5 shall be determined through amendment of this agreement, with the goal of establishing the following years' consideration levels by March 1, 2019 to facilitate financial planning for Licensee and the City.

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The City recognizes that exigent circumstances (such as extraordinary wet weather conditions or other emergency causing prolonged disruption to operations) may occur, which significantly impact the Licensee's ability to pay the amount listed above. Accordingly, the City Manager is authorized to negotiate a lower figure for the affected year.

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The event features the latest in alternative fuels, advanced vehicle technologies and petroleum reduction strategies.

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Opening Remarks: ***NH Senator David Watters***

Keynote Speaker: ***Jamie Page Deaton, Managing Editor of U.S. News & World Report's Best Cars rankings***

Discussion Panel:

Alternative Fuel Fleets: What's here & what's coming to NH!

Discussion Panel:

Preparing & Planning for Electric Vehicle Charging Stations: Public, Municipal & Workplace Charging

Breakout Sessions:

****Procurement Programs & Funding Opportunities***

****Alternative Fuel Fleet Modifications & Fuel Storage***

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PORTSMOUTH, NH

TOTAL POPULATION

21,233

POPULATION DENSITY

1,300

TOTAL AREA (sq. miles)

15.6

OF LOCAL BICYCLE FRIENDLY BUSINESSES

0

OF LOCAL BICYCLE FRIENDLY UNIVERSITIES

0

10 BUILDING BLOCKS OF A BICYCLE FRIENDLY COMMUNITY

| | Average Silver | Portsmouth |
|---|----------------|------------|
| Arterial Streets with Bike Lanes | 45% | 5 |
| Total Bicycle Network Mileage to Total Road Network Mileage | 30% | 11 |
| Public Education Outreach | GOOD | SOME |
| % of Schools Offering Bicycling Education | 43% | 60 |
| Bike Month and Bike to Work Events | GOOD | GOOD |
| Active Bicycle Advocacy Group | YES | YES |
| Active Bicycle Advisory Committee | YES | NO |
| Bicycle-Friendly Laws & Ordinances | SOME | GOOD |
| Bike Plan is Current and is Being Implemented | YES | YES |
| Bike Program Staff to Population | PER 70K | 10,616 |

CATEGORY SCORES

| | |
|---|------|
| ENGINEERING <i>Bicycle network and connectivity</i> | 3/10 |
| EDUCATION <i>Motorist awareness and bicycling skills</i> | 3/10 |
| ENCOURAGEMENT <i>Mainstreaming bicycling culture</i> | 3/10 |
| ENFORCEMENT <i>Promoting safety and protecting bicyclists' rights</i> | 2/10 |
| EVALUATION & PLANNING <i>Setting targets and having a plan</i> | 3/10 |

KEY OUTCOMES

| | Average Silver | Portsmouth |
|---|----------------|------------|
| RIDERSHIP <i>Percentage of daily bicyclists</i> | 3.5% | 2.10 |
| SAFETY MEASURES CRASHES <i>Crashes per 10k daily bicyclists</i> | 180 | 121 |
| SAFETY MEASURES FATALITIES <i>Fatalities per 10k daily bicyclists</i> | 1.4 | 0 |



KEY STEPS TO SILVER



- » Appoint an official Bicycle Advisory Committee (BAC) to create a systematic method for ongoing citizen input into the development of important policies, plans, and projects.
- » Implement the new bike plan.
- » Continue to expand the on and off street bike network, especially along arterials, through the use of different types of bicycle facilities. On roads where automobile speeds exceed 35 mph, it is recommended to provide protected bicycle infrastructure.
- » It is essential to make both motorists and cyclists aware of their rights and responsibilities on the road. Continue to expand your public education campaign promoting the share the road message.

- » Encourage local businesses to provide discounts for customers arriving by bicycle or promote existing bicycle discount programs.
- » Ensure that police officers are initially and repeatedly educated on traffic law as it applies to bicyclists and motorists. Ask police officers to target both motorist and cyclist infractions to ensure that laws are being followed by all road users. Ensure that bicycle/motor vehicle crashes are investigated thoroughly and that citations are given fairly.