

A G E N D A N O T E S

Gorham Town Council Regular Meeting

July 2, 2019 – 6:30pm

Burleigh H. Loveitt Council Chambers

1. Public Hearing # 1 – Order # 9457

*****A typo in acreage was found on this item after the public hearing notice went out. After a quick conference call with our Town Attorney and Harvey's TIF consultant, it was agreed that the public hearing should still take place; however, the Town Council should table the order until the August meeting. A second public hearing will take place at the August 6, 2019 Regular Town Council Meeting where the Council can vote on the correct 13.03 acres (6.05 on public hearing notice). The concern is that the DECD at the state level might reject the public hearing on the basis of the typo and make the Town hold another public hearing in several months delaying the process. Holding a second public hearing in August would still adhere to the same timeframe for submission to the State.**

Public Hearing on the proposed order to authorize a TIF and credit enhancement agreement for Harvey Performance for 13.03 acres located off of Narragansett Street. The TIF would encompass the area of property being developed by Harvey Performance for a first phase 76,887 square foot building and an anticipated second phase of up to 36,000 additional square feet of manufacturing space. Harvey is currently an employer in the Gorham Industrial Park and will have approximately 100 jobs at this location, with more possible after an expansion. A ground breaking was held this past Tuesday at the site with construction expected to start next week.

The terms of the TIF will be for twenty years with the ability to extend for another ten more after that time. The credit enhancement agreement is proposed for 55% return to the company for their development and relocation costs while 45% is being committed to the Town of Gorham. Municipal funds are proposed to be allocated from the 13.03 acres site primarily for the development of Gorham's next industrial park while a smaller percentage may be used for on and off site improvements that benefit the development district.

With the current mil rate over twenty years of municipal revenues are projected to be approximately \$1,734,000 while the credit enhancement agreement will release approximately \$2,119,000 back to the developer. These figures are based on the current mil rate and as tax rates change from year to year these numbers will likely increase.

One significant component of a Tax Increment Financing District is that tax valuation is shielded from calculation formulas for revenue sharing, educational aid, and county tax. Over the course of the term of the TIF it is projected that at least \$2,171,037 will be shifted away from the Gorham taxpayers through the shielding of the tax valuation calculations. Additional information can be found on page 8 of the draft program.

This public hearing and order authorizes staff to finalize the application to the State of Maine for the TIF district and submit it for approval at a later date.

It is the recommendation of staff to enter into a TIF district for Harvey Performance as outlined in the attached draft development program w/exhibits.

2. Public Hearing # 2 - Order # 9458

Public hearing on a proposal to issue a renewal Liquor License to Southern Maine Community Recreation Center. (Admin. Spon.)

Staff report no issues with the application.

3. Public Hearing # 3 - Order # 9459

Public hearing on a proposal to issue a Large Outdoor Event License to Jason Tanguay, Gorham Athletics Boosters. (Admin. Spon.)

Staff report no issues with the application.

4. Public Hearing # 4 - Order # 9460

Public hearing on a proposal to amend the Land Use & Development Code to clarify the number of dwelling units allowed to be served on a private way. (Admin. Spon.)

This item amends the standards for private ways in the Land Use & Development Code to clarify the number of dwelling units allowed on a private way. The language in the agenda is from the Planning Board which has been reviewed by legal counsel. No public comment was given at the Planning Board and a memo from the Director of Community Development is attached.

5. Item # 9456

Action to consider supporting a resolution to create a fund to assist asylum seekers/refugees in the Greater Portland Area. (Councilor Philips Spon.)

Tabled from the June 18, 2019 Special Town Council Meeting. Since this meeting it has been brought to the attention of staff that USM will not be hosting up to 200 asylum seekers as was previously proposed.

6. Item # 9444

Action to consider the Ordinance Committee's recommendation that no action be taken on amending the Land Use & Development Code to allow mobile vending units at farmer's markets. (Ordinance Committee Spon.)

The Ordinance Committee has recommended that no action be taken with regards to amending the Land Use & Development Code to allow for mobile vending units (food trucks) at farmer's markets. After review and consultation with a town attorney, the Ordinance Committee became aware that food trucks could be allowed under current standards in the LUDC for events on municipal property and/or sponsored by the Town.

7. Item # 9461

Action to consider authorizing the Town Manager to extend the term of the Credit Enhancement Agreement with ODAT Realty Holdings, Inc. (Councilor Hartwell Spon.)

This order would authorize the Town Manager to extend the credit enhancement agreement for ODAT Realty Holdings, Inc. for an additional fifteen years from the TIF zone they current occupy which is in the process of being extended for another fifteen years. As proposed, the credit enhancement agreement would provide for 50% reimbursement of tax revenue paid during that period. Based on this year's mil rate, \$25,449.06 would be returned to the developer this year and approximately \$381,735 over the next fifteen years.

8. Item # 9462

Action to consider amending the Cable TV Ordinance. (Councilor Hager Spon.)

This order will send a draft amended version of the Cable TV Ordinance to the Ordinance Committee for review and recommendation. As part of our future negotiation efforts for our cable television franchise agreement, this ordinance will need to be updated to current legal and operating standards. A copy of the draft ordinance is attached.

9. Item # 9463

Action to consider authorizing the Town Manager to negotiate and enter into a new agreement with the Gorham Cooperative Preschool for use of a municipal building off at 28 Ballpark Road.
(Councilor Philips Spon.)

This order would authorize the Town Manager to negotiate and enter into a new lease agreement with the Gorham Cooperative Preschool for use of a municipally owned building located at 28 Ballpark Road. The preschool currently uses the building, but wishes to be able to sublease the building during off hours for educational purposes to help offset their operating and lease costs. A copy of the latest agreement is attached.

10. Item # 9464

Action to consider reviewing fees for curbside collection trash bags and tags. (Councilor Hartwell Spon.)

This order would instruct the Finance Committee to review and provide a recommendation to the Town Council on trash bag and tag collection fees. The last time the Town changed bag or tag fees was in 2008. A memo from the Public Works Director is attached.

11. Item # 9465

Action to consider authorizing the Town Manager to enter into an agreement to purchase and replace existing municipally leased street lights for conversion to LED lights. (Councilor Hartwell Spon.)

Over a year ago, the Town Council authorized a study through RealTerm Energy with the towns of Standish, Windham and Raymond for conversion of leased conventional street lights from Central Maine Power to municipally owned LED fixtures. As part of this project, 347 cobra head fixtures and 4 decorative fixtures would be replaced with GE LED fixtures. RealTerm Energy has provided their final recommendations for the conversion for the four municipalities, as well as provided competitively bid fixture installation prices and a savings analysis. \$245,000 was budgeted in FY18-19 for the conversion. Savings projections are better than anticipated with Gorham standing to save approximately \$48,000 a year, or 78% in electrical / leasing costs or a savings of over \$1.1 million in twenty years. Payback would range from 4 to 5 years depending on fixture replacement, smart light conversion options, etc. Fixtures would be 3000k, or a warmer light that is being fielded by neighboring towns.

This order would authorize the Town Manager to negotiate the contract and enter into an agreement for the replacement of the traditional lights with municipal-owned fixtures on terms that staff believes would be in the best interests of the Town. At this time, only four fixtures have been identified by staff as redundant to be removed and are located on each side of the Little River bridges on both routes 202 and 237.

12. Item # 9466

Action to consider instructing staff to research health, safety and operational standards for group homes and boarding houses for incorporation into the Land Use & Development Code or as a stand-alone ordinance.
(Councilor Hartwell Spon.)

This order would instruct staff to research through legal counsel and other means research, safety and operational standards for group homes and boarding houses in the Town of Gorham. A memo from Mark Bower on subject matter related to this subject is attached.

APPLICATION COVER SHEET

MUNICIPAL TAX INCREMENT FINANCING

A. General Information

1. Municipality Name: Town of Gorham		
2. Address: 75 South Street, Suite 1, Gorham, ME 04038		
3. Telephone: (207)222-1650	4. Fax: (207)839-5408	5. Email: eparaschak@gorham.me.us
6. Municipal Contact Person: Ephrem Paraschak, Town Manager		
7. Business Name: Harvey Performance Company		
8. Address: 29 Sanford Drive, Gorham, ME 04039		
9. Telephone: (207)272-5564	10. Fax:	11. Email: svatcher@harveyperformance.com
12. Business Contact Person: Steve Vatcher, VP Operations		
13. Principal Place of Business: Gorham, ME		
14. Company Structure (e.g. corporation, sub-chapter S, etc.): LLC		
15. Place of Incorporation: Delaware		
16. Names of Officers: Peter Jenkins (President & CEO) and Brian Lavelle (CFO/Secretary/Treasurer)		
17. Principal Owner(s) Name:		
18. Address:		

B. Disclosure

1. Check the public purpose that will be met by the business using this incentive (any that apply):		
<input checked="" type="checkbox"/> job creation	<input checked="" type="checkbox"/> job retention	<input checked="" type="checkbox"/> capital investment
training investment	<input checked="" type="checkbox"/> tax base improvement	<input checked="" type="checkbox"/> public facilities improvement
other (list):		
2. Check the specific items for which TIF revenues will be used (any that apply):		
real estate purchase	machinery & equipment purchase	training costs
debt reduction	other (list):	

C. Employment Data

List the company's goals for the number, type and wage levels of jobs to be created or retained as part of this TIF development project (*please use next page*). The new development is estimated to result in Harvey Performance Company retaining its current 103 employees in Gorham and adding 64 new employees through 2030. Employee counts are contained in the Tables below.

Headcount Projection By Year

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Executive, Professional and Technical	15	16	17	17	18	19	20	21	22	23	24
Administrative Support and Clerical	2	2	2	2	2	3	3	3	3	3	3
Sales and Service	0	0	0	0	0	0	0	0	0	0	0
Agriculture, Forestry and Fishing	0	0	0	0	0	0	0	0	0	0	0
Maintenance, Construction, Production, Transportation	86	90	95	100	105	110	115	121	127	133	140
Total	103	108	114	119	125	131	138	145	152	160	167

Incremental Jobs by Year

	Jobs Retained	2021 Adds	2022 Adds	2023 Adds	2024 Adds	2025 Adds	2026 Adds	2027 Adds	2028 Adds	2029 Adds	2030 Adds	Total Adds
Executive, Professional and Technical	15	0	1	1	1	1	1	1	1	1	1	9
Administrative Support and Clerical	2	0	0	0	0	0	0	0	0	1	0	1
Sales and Service	0	0	0	0	0	0	0	0	0	0	0	0
Agriculture, Forestry and Fishing	0	0	0	0	0	0	0	0	0	0	0	0
Maintenance, Construction, Production, Transportation	86	4	5	5	5	5	5	6	6	6	7	54
Incremental Jobs	103	4	6	6	6	6	6	7	7	8	8	64

STATUTORY REQUIREMENTS AND THRESHOLDS
Town of Gorham Municipal TIF District #10

SECTION A. Acreage Caps		
1. Total municipal acreage;	30,120.57	
2. Acreage of proposed Municipal TIF District; (existing District, no additional acreage proposed – currently meets 2% limit)	6.05	
3. Downtown-designation ¹ acres in proposed Municipal TIF District;	0	
4. Transit-Oriented Development ² acres in proposed Municipal TIF District;	0	
5. Total acreage [=A2-A3-A4] of proposed Municipal TIF District counted toward 2% limit;	6.05	
6. Percentage [=A5÷A1] of total acreage in proposed Municipal TIF District (CANNOT EXCEED 2%).	0.02%	
7. Total acreage of all <u>existing/proposed</u> Municipal TIF districts in municipality including Municipal Affordable Housing Development districts: ³ TIF #1 (Industrial Park): 27.81 acres (EXPIRED); TIF #2 (ODAT/Grondin): 28.1 acres (proposed amendment); TIF District #3 (Pettingill Ross): 6.48 acres; TIF District #4 (VIP): 2 acres; TIF District #5 (Gorham County Road) (EXPIRED): 57.2 acres; TIF District #6 (Nappi): 21.3 acres; TIF District #7 (Olde Canal): 56.7 acres; TIF #8 (Martin's Point): 19.94 acres; TIF District #9 (Sebago Brewing) 6.1 acres; and PROPOSED TIF District #10 (Harvey Performance Company) 6.05 acres.	Existing	140.62
	Proposed	6.05
	Total:	146.67
30-A § 5223(3) EXEMPTIONS⁴		
8. Acreage of an <u>existing/proposed</u> Downtown Municipal TIF district;	0	
9. Acreage of all <u>existing/proposed</u> Transit-Oriented Development Municipal TIF districts:	0	
10. Acreage of all <u>existing/proposed</u> Community Wind Power Municipal TIF districts:	0	
11. Acreage in all <u>existing/proposed</u> Municipal TIF districts common to ⁵ Pine Tree Development Zones per 30-A § 5250-I (14)(A) excluding any such acreage also factored in Exemptions 8-10 above:	0	
12. Total acreage [=A7-A8-A9-A10-A11] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit;	146.67	
13. Percentage of total acreage [=A12÷A1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%).	0.49%	
14. Real property in proposed Municipal TIF District that is:	ACRES	% [=Acres÷A2]
a. A blighted area;	0	0
b. In need of rehabilitation, redevelopment or conservation;	0	0
c. Suitable for commercial or arts district uses.	6.05	100%
TOTAL (except for § 5223 (3) exemptions a., b. OR c. must be at least 25%)		100%

¹ Before final designation, the Commissioner will seek advice from MDOACF and MDOT per 30-A § 5226(2).

² For Transit-Oriented Development (TOD) definitions see 30-A § 5222 sub-§§ 19-24.

³ For AH-TIF acreage requirement see 30-A § 5247(3)(B). Alternatively, Section B. must exclude AH-TIF valuation.

⁴ Downtown/TOD overlap nets single acreage/valuation caps exemption.

⁵ PTDZ districts approved through December 31, 2008.

STATUTORY REQUIREMENTS AND THRESHOLDS
Town of Gorham Municipal TIF District #10

SECTION B. Valuation Cap		
1. Total TAXABLE municipal valuation—estimate as of April 1, 2019;	\$1,614,976,215	
2. Taxable Original Assessed Value (OAV) of proposed Municipal TIF District as of March 31 preceding municipal designation—same as April 1 prior to such March 31;		
3. Taxable OAV of all existing/proposed Municipal TIF districts in municipality excluding Municipal Affordable Housing Development districts: TIF #1 (Industrial Park): \$939,920 (EXPIRED); TIF #2 (ODAT/Grondin): \$277,300 (proposed amendment); TIF District #3 (Pettingill Ross): \$933,100; TIF District #4 (County Rd/VIP): \$217,100; TIF District #5 (Gorham County Road) (EXPIRED): \$1,150,800; TIF District #6 (Nappi): \$136,130; TIF District #7 (Olde Canal): \$180,200; TIF #8 (Martin's Point): \$276,300; TIF District #9 (Sebago Brewing) \$0; and PROPOSED TIF District #10 (Harvey Performance Company) \$585,300.	Existing	\$2,020,330
	Proposed	\$583,300
	Total:	\$2,603,630
30-A § 5223(3) EXEMPTIONS		
4. Taxable OAV of an <u>existing/proposed</u> Downtown Municipal TIF district;	0	
5. Taxable OAV of all <u>existing/proposed</u> Transit-Oriented Development Municipal TIF districts:	0	
6. Taxable OAV of all <u>existing/proposed</u> Community Wind Power Municipal TIF districts:	0	
7. Taxable OAV of all <u>existing/proposed</u> Single Taxpayer/High Valuation ⁶ Municipal TIF districts:	0	
8. Taxable OAV in all <u>existing/proposed</u> Municipal TIF districts common to Pine Tree Development Zones per 30-A § 5250-I (14)(A) excluding any such OAV also factored in Exemptions 4-7 above:	0	
9. Total taxable OAV [=B3-B4-B5-B6-B7-B8] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit;	\$2,603,630	
10. Percentage of total taxable OAV [=B9÷B1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%).	0.16%	

COMPLETED BY	
NAME:	Alyssa C. Tibbetts
DATE:	June 26, 2019

⁶ For this exemption see 30-A §5223(3)(C) sub-§§ 1-4.

TOWN OF GORHAM
DEVELOPMENT DISTRICT #10
HARVEY PERFORMANCE COMPANY
MUNICIPAL DEVELOPMENT AND TAX INCREMENT FINANCING DISTRICT
DEVELOPMENT PROGRAM

Adopted by the Gorham Town Council: _____

Town of Gorham Municipal Development and Tax Increment Financing District #10
Harvey Performance Company
Development Program

Article I: Introduction and Summary of Benefits.

Section 1.01: Municipal Development District. The Town desires to create a municipal development and tax increment financing district consisting of a 6.05 acre property located at the intersection of Route 112 and Route 202 in the Town of Gorham, as depicted on Exhibit A-1 hereto, in order to expand and diversify the Town's tax base and improve its economy and public facilities. The Town hereby designates the Gorham Development and Tax Increment Financing District # 10, the "Harvey Performance Company Development District" (hereinafter the "District"), and adopts this Development Program (hereinafter the "Development Program"). This Development Program will provide the infrastructure and financial resources necessary for development of a new manufacturing facility within the District, as well as certain public improvements within and outside the District that will enable additional development within the Town, thereby expanding and diversifying the Town's tax base and improving its local economy.

Section 1.02. Benefits of the District. A. New Tax Dollars for the Town. The Town estimates that the value of the new development within the District will be \$11,000,000, which represents an increase in property valuation of \$10,585,700. This investment in new construction within the District is expected to generate an average of \$192,660 per year in new property tax revenues that will be used to encourage development within the District under a Credit Enhancement Agreement as set forth in Section 3.05 herein, pay costs of the Public Facilities, Improvements and Programs described in Section 2.03 herein and support the Town's efforts to expand and diversify its tax base.

B. Economic Development; New Jobs; Retention of Jobs. The District will facilitate the development of property in the Town, which will result in the creation of new jobs and the retention of existing jobs in the Town. The development within the District will likely result in a need for additional commercial services throughout Town, which will further enhance the Town's commercial tax base, as well as the job opportunities within the Town. The Public Facilities, Improvements and Programs described herein are also anticipated to create additional economic development and job opportunities within the Town.

C. Savings for Town from Shelter of New Tax Base Growth. Pursuant to the formulas adopted by the State of Maine in connection with Chapter 206 of Title 30-A, as amended, the Increased Assessed Value of a Development District is sheltered from the increased county taxes and loss of State aid to education and municipal revenue sharing that results when new development occurs without the creation of a Development District. Accordingly, the designation of the District and the development that occurs therein will result in more net tax revenue for the Town than would result if such development were to occur without the creation of the District. This is a significant benefit to the Town that enables the construction of the Public Facilities, Improvements and Programs, as well as the economic development initiatives described herein.

D. Public Facilities, Improvements and Programs. The District will provide the Public Facilities, Improvements and Programs described in Table #1 of Section 2.03 hereof, which will lead to further commercial development in the Town.

Article II. Development Program Narrative and Designation of the District.

Section 2.01: Statement of Means and Objectives. Harvey Performance Company (hereinafter the "Company") is a leading manufacturer of high-performance carbide cutting tools. The Company is currently headquartered in Rowley, MA with additional operations in Meridian, Idaho and Gorham, Maine. In 2015, the

Company acquired Helical Solutions of Gorham, Maine, including a 23,000 square foot manufacturing facility at 29 Sanford Drive in the Gorham Industrial Park that has been operated by Helical Solutions since 2003. Since the acquisition of Helical, the Company has continued to grow rapidly and now seeks to build a new manufacturing facility in Gorham that will include a 76,887 square foot building with an anticipated second-phase to accommodate expansion of up to 36,000 square feet.

The Town of Gorham desires to create new employment opportunities and commercial development in the Town, to improve, broaden and maintain a healthy tax base, to improve the economy of the Town and the State, to provide the impetus for new commercial development and to provide the facilities described in this Development Program. The Company's proposed development achieves all of the Town's goals and the Town anticipates that the facility will become a valuable asset and attractive resource for other economic development activities within the Town.

The Town anticipates that the development within the District will have significant impacts on the Town's infrastructure, such as roads, and create an increased demand for public services, such as public safety and public works. Accordingly, the Town expects that the new taxes generated from the increased assessed value of the development within the District will be used to fund economic development and public improvements related thereto and desires to accomplish the following goals by designating this District and adopting this Development Program:

- Maintain existing tax revenues;
- Enhance future tax revenues generated by new development throughout the Town;
- Create long-term, stable employment opportunities for area residents; and
- Attract businesses and promote the economic viability and sustainability of the general economy of the Town.

A tax increment financing development district involves creation of a geographically defined district in the Town and the "capture" or reinvestment of some of the new increased or "incremental" tax revenues generated by new development and business expansion in the District to pay certain costs of development and certain costs of new public facilities, improvements and programs. In order to fulfill the goals outlined above, a portion of the property identified on the Town's Tax Map 39, Lot 2 and as depicted on Exhibit A-1 has been proposed as the Gorham Development and Tax Increment Financing District # 10, the "Harvey Performance Company Development District." This Development Program will serve the purpose of administering the District as a Municipal Development District and Tax Increment Financing District pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. The Development Program provides for economic development incentives called municipal tax increment financing similar to that previously adopted by a number of municipalities in the State. Upon approval by the Town Council of the Town designating the District and adopting this Development Program, the designation of the District and adoption of the Development Program will become final immediately, subject only to approval by the Maine Department of Economic and Community Development.

The Development Program will also provide for the Public Facilities, Improvements and Programs described in Section 2.03 hereof. Costs of the Public Facilities, Improvements and Programs described in Section 2.03 hereof will be financed by the tax increment revenues from the District. Adoption of this Development Program will lead to creation of the necessary public facilities within and directly related to the Development District that will provide appropriate infrastructure for development of the District. The Development Program thus will provide significant economic benefit to the Town by providing new public infrastructure that will facilitate additional commercial development. Such infrastructure and programs will help to expand and diversify the commercial tax base of the Town and to provide new employment opportunities in the Town.

The means and objectives of the Development Program thus are to encourage the development of the property within the District by the Company and to provide financing for the Public Facilities, Improvements and Programs made necessary thereby. The Town by adopting this Development Program finds that the Development Program described herein, consisting of the Public Facilities, Improvements and Programs, will provide substantial new employment opportunities, will significantly improve and broaden the Town's tax base and will improve the general economy of the Town.

Section 2.02: Brief Discussion of Financial Plan. The Financial Plan, as set forth in Article III hereof, consists of the cost estimates for the Development Program, the amount of public indebtedness to be incurred, the sources of anticipated revenues, a description of the terms and conditions of any agreements, contracts or other obligations related to the development program, estimates of increased assessed values of the District, the portion of the increased assessed value to be applied to the Development Program as captured assessed values and resulting tax increments in each year of the program and a calculation of the tax shifts resulting from designation of the tax increment financing district.

The District is expected to generate certain incremental or additional tax revenues, which will be captured or retained to pay the costs of this Development Program. The real property taxes assessed upon the Increased Assessed Value of property in the District (the "Tax Increment") will be captured or used by the Town under the Development Program to pay costs of the Public Facilities, Improvements and Programs described in Section 2.03 hereof. All tax revenues presently generated on existing property in the District will continue to be paid to the General Fund of the Town. The Development Program costs will be paid only from the Tax Increment on the increased assessed value in the District.

Adoption of this Development Program will lead to creation of the necessary public facilities within and directly related to the Development District that will provide appropriate infrastructure for development of the District.

Section 2.03: Public Facilities Descriptions. The Town finds that each of the Public Facilities, Improvements and Programs (the "Public Facilities, Improvements and Programs") described below, and the Project Costs thereof, will either directly or indirectly provide or encourage new employment opportunities within the Town or encourage and promote economic development that will broaden the Town's tax base and improve the general economy of the Town. The Development Program thus will provide financing for certain important Public Facilities, Improvements and Programs currently under consideration by the Town that are either related to the Development Program or are otherwise qualifying projects under Chapter 206 of Title 30-A of the Maine Revised Statutes. The Town will retain 100% of the Tax Increment from the District to finance the costs of the agreements authorized under Section 3.05 hereof and some or all of the costs of the following Public Facilities, Improvements and Programs:

TABLE NO. 1: POTENTIAL PUBLIC FACILITIES, IMPROVEMENTS AND PROGRAMS

<u>Project</u>	<u>Estimated Cost Over 20 Years</u>	<u>Statutory Citation</u>
(a) Construction of land, improvements, public ways, buildings, and structures for public or commercial use, and equipment for public use within the District.	\$200,000	30-A MRSA §5225(A)(1)(a)
(b) Costs of improvements to roads and infrastructure made outside the District, but directly related to or made necessary by the establishment or operation of the District.	\$200,000	30-A MRSA §5225(B)

(c) Costs related to construction, alteration or expansion of facilities not located in the District that are required due to improvements or activities within the District.	\$100,000	30-A MRSA §5225(B)(1)
(d) Funding for Economic Development programs, including funding of the Town's economic development director, Economic Development Department programming and operations, and acquisition of land and construction of infrastructure related to development of a new industrial park* outside the District to market the Town as a business location.	\$1,000,000	30-A MRSA §5225(1)(C)(1)
* TIF revenues will only be used for acquisition of land and construction of infrastructure related to industrial or commercial development of new industrial park.		
(e) Capital costs associated with new or expanded transit service related to economic development and environmental improvements within and outside the District, including, but not limited to, bus shelters, transit related structures, benches, signs and other transit-related infrastructure.	\$100,000	30-A MRSA §§(C)(2), (7)(a)
(f) Costs associated with new or existing recreational trails that have significant potential to promote economic development within and outside the District.	\$125,000	30-A MRSA §(C)(6)
Total Project Costs:	\$ 1,725,000	
Note: The following project cost categories have also been authorized in the following existing TIF Districts of the Town: (a) TIF #6 Nappi Distributors (b) TIF #9 Sebago Brewing; TIF #6 Nappi Distributors (d) TIF #9 Sebago Brewing; TIF #6 Nappi Distributors; TIF #8 Martin's Point; TIF #7 Olde Canal Business Park		

The projects currently under consideration to be undertaken pursuant to the Development Program are identified in Table No. 1 above. The Town recognizes that it needs to expand and diversify its tax base. In order to achieve these goals, the Town must provide new public infrastructure within the Town to facilitate new commercial development. This Development Program will provide revenues to fund only a portion of such costs. The specific Public Facilities, Improvements and Programs to be financed with the tax increment financing revenues will be approved through subsequent or separate action of the Town.

Section 2.04: Current and Proposed Uses of Private Property. The District consists of a portion of a larger parcel of land that is privately owned by Moody's Co-Worker Owned, Inc. The private property within the District is currently proposed to be developed to include the Company's new manufacturing facility contemplated herein. The District is located in the Town's "Narragansett Mixed-Use Development District," which is intended to promote high quality commercial, light industrial and specialty enterprises with sustainable growth in the Town's economic base and job opportunities, and permits development of property in the District consistent with this Development Program.

Section 2.05: Relocation Plan. No businesses or persons will be displaced or relocated as a result of the development activities proposed in the District.

Section 2.06: Transportation Improvements. Except for the Public Improvements contemplated by this Development Program, the existing transportation facilities of the Town will be adequate to accommodate the improvements contemplated by this Development Program.

Section 2.07: Environmental Controls. All environmental controls required by law shall apply to development in the District, including any applicable requirements of the Town of Gorham Zoning Ordinance and all applicable State and federal environmental laws and regulations.

Section 2.08: District Operation. The day-to-day operations of the District will require no substantial efforts by the Town other than staffing and programming of the economic development and planning offices and supporting staff funded by this Development Program to the extent described in Table 1 of Section 2.03 hereof.

Section 2.09: Program Duration. The duration of the District will be 20 years from the beginning of the first tax year (April 1, 2020; July 1, 2020 – June 30, 2021 fiscal year) after designation of the District and the effective date of the approval of the District by the Commissioner of the Maine Department of Economic and Community Development requested to be granted by April 1, 2020 and terminate June 30, 2040.

Section 2.10: Approval Considerations and Characteristics of the District.

A. Statutory Considerations for Approval. Before designating the District and before establishing this Development Program, the Town held a public hearing at which interested parties were given a reasonable opportunity to present testimony concerning the District and Development Program. The Town has considered any evidence presented at such public hearing. Notice of the hearing was given as evidenced by Exhibit E to this Development Program. Before designating the District and before establishing this Development Program, the Town determined and hereby finds and determines that the District created hereunder and this Development Program will contribute to the economic growth or well-being of the Town and to the betterment of the health, welfare or safety of the inhabitants of the Town, including employment opportunities, broadened and improved tax base and economic stimulus, constituting good and valid public purposes and any adverse economic effect on or detriment to any existing business is outweighed by the contribution made by the District and the Development Program to the economic growth or well-being of the Town and the betterment of the health, welfare and safety of its inhabitants, and the Town further makes the other findings and determinations as set forth in this Development Program and the Exhibits hereto.

B. Statutory Conditions for Approval; Physical Characteristics. The Town hereby finds and determines that the District satisfies the conditions imposed under Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, as a prerequisite to designation of the District, including those relating to the physical description of the District and to certain financial and statistical information as more particularly described in Exhibit A hereof:

(i) All of the land in the District is suitable for commercial uses and is in need of rehabilitation, redevelopment or conservation work and therefore at least 25%, by area, of the real property within the District meets at least one of the following statutory criteria: (1) must be a blighted area; (2) must be in need of rehabilitation, redevelopment or conservation work; or (3) must be suitable for commercial uses;

(ii) The total area of the District is 6.05 acres and thus such area represents 0.02 % of the total acreage of the Town (which total acreage is approximately 30,120.57 acres) and does not exceed 2% of the total acreage of the Town. The total area of the District and the total area of all other development districts in the Town (which combined total is 146.67 acres) is 0.49 % of the total acreage of the Town and thus does not exceed 5% of the total acreage of the Town;

(iii) The taxable Original Assessed Value of the District is \$583,300 and the taxable Original Assessed Value of all existing tax increment financing districts within the Town is \$2,020,330 and such combined amounts

of taxable Original Assessed Values thus represent 0.16% of the total value of taxable real property within the Town as of April 1st preceding the date of the designation of the District (\$1,614,976,215) and thus do not exceed 5% of the total value of taxable property within the Town as of April 1st preceding the date of the designation of the District (April 1, 2019).

Section 2.11: Designation of the District. The Town hereby designates the Gorham Development and Tax Increment Financing District # 10, the “Harvey Performance Company Development District” as a Municipal Development District and a Tax Increment Financing District. The area of the Town of Gorham shown as the Harvey Performance Company Development District on Exhibit A and as more particularly described in this Development Program is hereby designated as a development district and a tax increment financing district and such designation shall automatically become final and shall take full force and effect upon receipt by the Town of approval of the District by the Maine Department of Economic & Community Development, without the requirement of any further action by the Town, the Municipal Officers or any party. Plans depicting the District are attached hereto as Exhibit A-1 and Exhibit A-2, and the District is further described in Exhibit B.

Article III. Financial Plan.

Section 3.01: Cost Estimates for the Development Program. The estimated costs of the Public Facilities, Improvements and Programs are set forth in Section 2.03, Table No. 1.

Section 3.02: Amount of Indebtedness to be Incurred. The Town will not incur any indebtedness at this time in connection with the Development Program and is not hereby authorizing any specific future indebtedness at this time. However, the Town anticipates that it may elect at a future date to incur indebtedness to finance a portion of the Public Facilities, Improvements and Programs and is hereby authorized to do so subject to all necessary approvals for any such indebtedness or appropriations, including but not limited to the prior approval of the Town Council. The Town may also elect to enter into a Credit Enhancement Agreement pursuant to Section 3.05 hereof and the amounts to be paid thereunder shall be limited to reimbursements of taxes paid on incremental tax revenues.

Section 3.03: Sources of Anticipated Revenues. The source of the revenue to be used to pay the costs of this Development Program is the Tax Increment on the Increased Assessed Value of the District. Tax Increment means all Property Taxes assessed by the Town, in excess of any state, county or special district tax, upon the Increased Assessed Value of all real property in the District. Increased Assessed Value means the valuation amount by which the Current Assessed Value of the District exceeds the Original Assessed Value of the taxable real property in the District. Current Assessed Value means the taxable assessed value of the real property in the District certified by the municipal assessor as of April 1st of each year that the District remains in effect. Property Taxes means any and all ad valorem property taxes levied, charged or assessed against real property by the Town. Original Assessed Value means the taxable assessed value of the real property in the District as of March 31, 2019 (April 1, 2018). Attached hereto as Exhibit B is the anticipated form of certification of Original Assessed Value by the Assessor of the Town of Gorham in accordance with the requirements of Title 30-A § 5227 of the Maine Revised Statutes. All Property Tax on the Original Assessed Value shall continue to be deposited in the general fund of the Town.

Section 3.04: Estimated Increased Assessed Value; Portion Applied to Development Program. The Town hereby designates, as Captured Assessed Value, 100% of the Increased Assessed Value as the portion of the Increased Assessed Value to be applied or retained each year to pay costs of the Public Facilities, Improvements and Programs and any other costs authorized by this Development Program. The amount of the total Tax Increment that may be used each year to pay or reimburse the Town’s costs of the Public Facilities, Improvements and Programs is the entire Tax Increment of the entire District.

Exhibit D-1 sets forth: (i) the annual estimates of the Increased Assessed Value of the District resulting from implementation of the Development Program; and (ii) the estimated annual Tax Increment per year on the Increased Assessed Value following implementation of the Development Program, that will be used to finance the Public Facilities, Improvements and Programs.

A Development Program Fund shall be established by the Town consisting of a Project Cost Account and a Sinking Fund. The Development Program Fund Project Cost Account shall consist of the Town's Project Cost Account (the "Town's Project Cost Account"). All funds deposited into the Town's Project Cost Account will be used to pay costs of the Public Facilities, Improvements and Programs described in Section 2.02 hereof or will be deposited into the reserve fund(s) hereafter described. The Town will establish the Town Project Cost Account or a series of Town Project Cost Accounts for the Town, as one or more permanent municipal reserve funds created and administered pursuant to the provisions of Title 30-A Section 5801 of the Maine Revised Statutes, as amended, which funds shall be dedicated to the financing and payment of costs of the Public Facilities, Improvements and Programs. Upon each payment of Property Tax with respect to property in the District, the Town shall deposit to the Town Project Cost Account all of the Tax Increment. As the deposit and investment of funds in the Town Project Cost Account accrue and increase to a level which permits implementation of a portion of the Public Facilities, Improvements and Programs, the Public Facilities, Improvements and Programs will be undertaken and funded from such reserve fund(s). Accordingly, all Tax Increment deposited into the Town's Project Cost Account reserve fund(s) shall be deemed to have been expended and used to satisfy the obligations of the Town's Project Cost Account with respect to the Public Facilities, Improvements and Programs described in the Development Program when deposited into such reserve fund(s). If the Town determines to issue any bonds or indebtedness to pay for costs of the Public Facilities, Improvements and Programs, a development Sinking Fund account shall be created and amounts sufficient to satisfy all annual debt service on such bonds and indebtedness shall be transferred to such Sinking Fund from the Town's Project Cost Account.

Section 3.05: Description of Terms and Conditions of Agreements. The Town is hereby expressly authorized to enter into a Credit Enhancement Agreement with the Company or an affiliated entity that will set forth the terms and conditions under which the Town will reimburse the Company fifty-five percent (55%) of the property taxes paid by the Company on the Tax Increment within the District for each year of the term of the District as established in Section 2.09 of this Development Program. The Town may also enter into construction contracts and similar agreements relating to construction of the Public Facilities and Improvements described in Section 2.03 hereof.

Section 3.06: Calculation of Tax Shifts. In accordance with Maine statutes governing the establishment of tax increment financing districts, the table set forth below identifies the estimated tax shifts, as more particularly described in Exhibit D-2 hereto, which will result during the term of the District from the establishment of the District.

<u>Tax Shift Item</u>	<u>Estimated Average Annual Amount</u>	<u>Estimated Total Amount</u>
Educational Aid	\$ 89,767	\$1,795,335
County Tax	\$ 11,413	\$ 228,253
Revenue Sharing	<u>\$ 7,372</u>	<u>\$ 147,450</u>
Total:	\$108,552	\$2,171,037

Article IV: Municipal Approvals.

Section 4.01: Public Hearing. Before designating the District and adopting the Development Program, the Town Council, as the legislative body of the Town, held a public hearing. Notice of the hearing was published

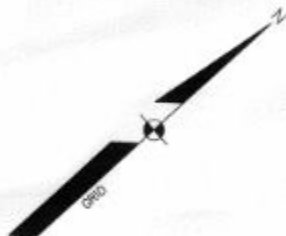
on _____, a date that was at least 10 days before the hearing, in _____, a newspaper of general circulation within the Town. A copy of the Notice of Public Hearing is attached hereto as Exhibit E. The Public Hearing was held in accordance with the requirements of 30-A M.R.S.A. § 5226 on July 2, 2019. At the public hearing, interested parties were given a reasonable opportunity to present testimony concerning the District and the Development Program.

Section 4.02: Authorizing Votes. The Town Council Orders, designating the District and approving this Development Program, as proposed for adoption by the Town Council of the Town at a meeting thereof duly called and held on July 2, 2019, are attached hereto as Exhibit F. The Town Manager is hereby authorized and directed, on behalf of the Town to execute and submit to the Commissioner of Economic and Community Development for approval such applications and further documentation as may be necessary or appropriate for final approval and establishment of this Development Program and financial plan pursuant to 30-A M.R.S.A. Chapter 206; and the Town Manager be, and hereby is, authorized and empowered, in his discretion, from time to time, to make such technical revisions to this Development Program for the District as he deems reasonably necessary or convenient in order to facilitate the process for review and approval by the Department of Economic and Community Development, so long as such revisions are not inconsistent with the basic structure and intent of this Development Program.

EXHIBIT A

PROPERTY DESCRIPTION AND CONFIGURATION OF DISTRICT

Gorham Development and Tax Increment Financing District # 10, the “Harvey Performance Company Development District,” is located in Gorham, Maine and includes the parcels shown on the maps of the District attached hereto as Exhibit A-1 (District view) and Exhibit A-2 (Town view), said parcels being further described in the Certificate of the Assessor (Exhibit B to this Development Program).

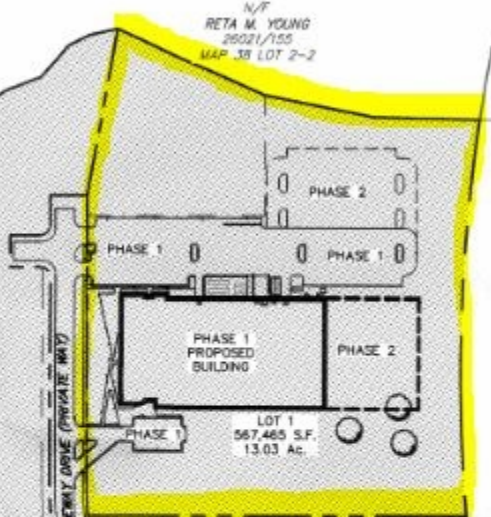


N/F
RETA M. YOUNG
26021/155
MAP 39 LOT 2-2

N/F
SOUTHERN MAINE
COMMUNITY RECREATION
26346/105
MAP 39 LOT 4

LOT 2
1,464,993 S.F.
33.63 Ac.

N/F
RETA M. YOUNG
26021/155
MAP 39 LOT 2-2



STATE ROUTE 112
(COBBLE BRASS)

LOT 2
1,464,993 S.F.
33.63 Ac.

NARRAGANSETT STREET (ROUTE-202)

N/F
REDESIGN ME LLC
33817/101
MAP 39 LOT 19

N/F
ROSEMARY & HENRY O.
JOHNSON
10146/145
MAP 39 LOT 21

N/F
REAL ESTATE HOLDINGS LLC
32925/167
MAP 39 LOT 22

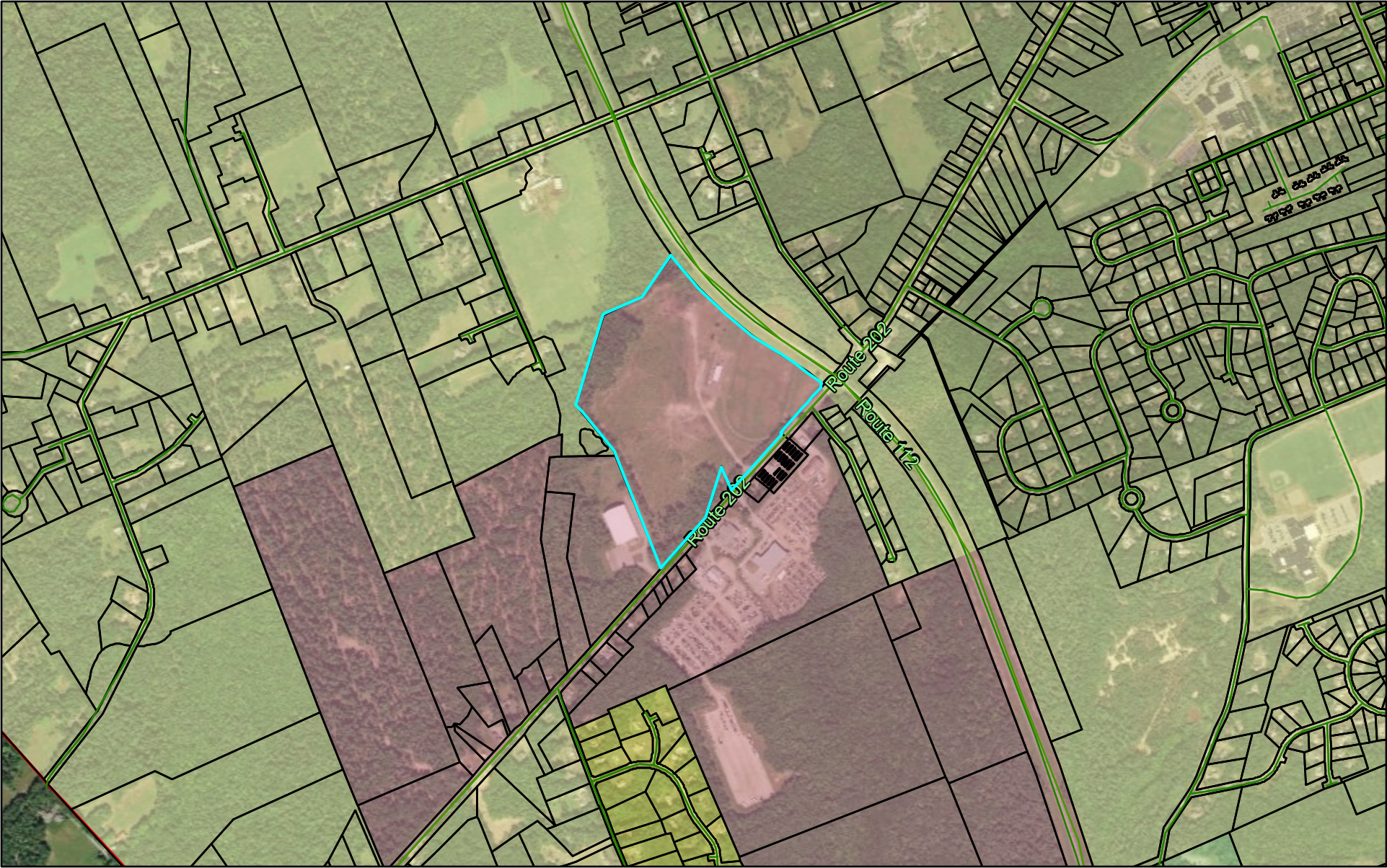
N/F
DYLAN R. RAYMOND
32795/59
MAP 39 LOT 26

N/F
DAVID S. KEENE
21663/26
MAP 39 LOT 27-8

N/F
SHAWN K. MOODY
6130/206
MAP 39 LOT 28

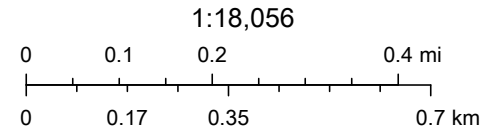
N/F
NATHAN E. MOODY
33915/80
MAP 39 LOT 40

EXHIBIT A-1



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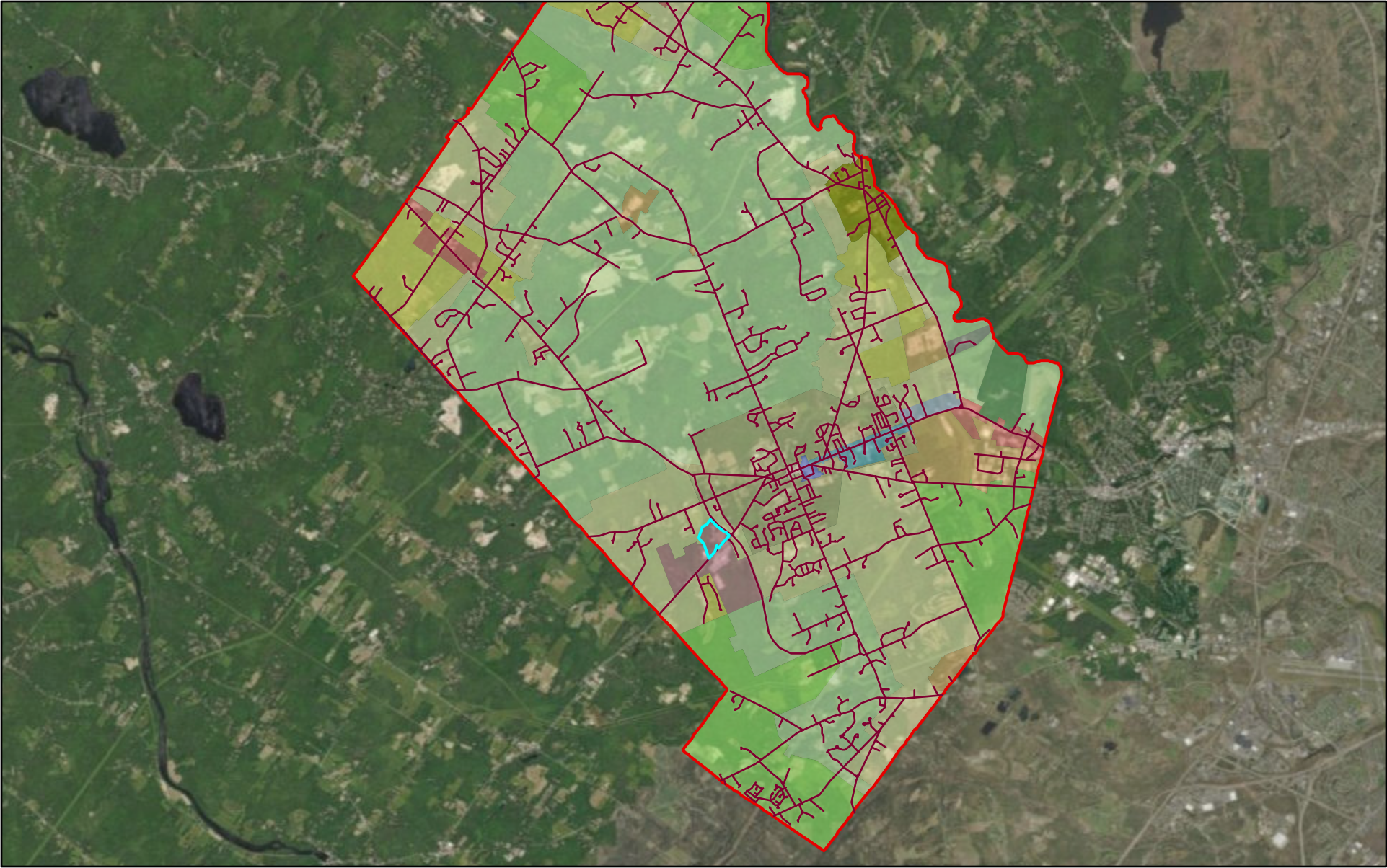
- | | | |
|-------------------|------------------------------|---|
| Major Road Labels | Gorham Town Boundary | R: Rural |
| Road Labels | Zoning - Zoning Districts | SR: Suburban Residential |
| Parcels | ND: Narragansett Development | SR-MH: Suburban Residential- Manufactured Housing |



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus

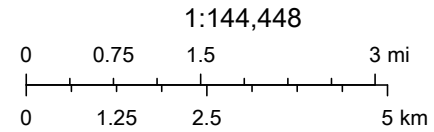
Public User
Town of Gorham

EXHIBIT A-2



6/18/2019 3:28:11 PM

- | | | |
|------------------------|-----------------------------|-----------------------------|
| — Road Labels | Zoning - Zoning Districts | I: Industrial |
| ▭ Gorham Town Boundary | CO: Commercial/Office | AI: Agricultural Industrial |
| | GVCD: Gorham Village Center | OCI: Olde Canal Industrial |



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus

EXHIBIT B

**TOWN OF GORHAM
CERTIFICATE OF ASSESSOR**

The undersigned assessor of the Town of Gorham, Maine, does hereby certify pursuant to the provisions of Title 30-A M.R.S.A. Section 5227 that the Original Assessed Value of the taxable real property within the boundaries of the Gorham Development and Tax Increment Financing District # 10, the "Harvey Performance Company Development District," as described in the Development Program for the District, was \$414,300 as of March 31, 2019 (April 1, 2018).

Map	Lot	Acreage	Original Assessed Value
39	2	6.05	\$414,300
TOTAL		6.05	\$414,300

IN WITNESS WHEREOF this Certificate has been executed as of this __ day of _____, 2019.

Renee Lachapelle, Municipal Assessor

EXHIBIT C

TAX SHIFT COMPUTATIONS

A tax increment financing district will result in certain tax shifts which result because the retained captured assessed value of the District will be excluded from the State Valuation of the property in the Town. These tax shifts are noted in three basis formulae which use local property tax valuation as a basis for calculation. These three formulas are:

- State Aid to Education
- Municipal Share of County Taxes
- Revenue Sharing

The computations are set forth in Exhibit D-1 and D-2. The following is the process used to derive each of these tax shifts.

EDUCATION TAX SHIFT: Computed by comparing State Department of Education Form ED 279 for the Town with and without retained CAV.

COUNTY TAX SHIFT: In order to compute this shift, we first obtained the most recent County State Valuation from the State Bureau of Taxation. We then determined the average Captured Assessed Value for the District over the life of the District. We then determined the Town's current share of the County Tax by dividing the current Town Valuation by the Current County Valuation. We then determined what the Town's Share of the County Tax would be if the new value from the District were added by the Town's Valuation without the creation of the District by dividing the sum of the current Town Valuation plus the average new value by the sum of the current County Valuation plus the average new value. The difference is the factor representing the percentage of the County Tax Shift. Next, we determined the estimated average annual county tax over the life of the district. To arrive at this number, the average change in County Tax for the last five years was determined and the percentage increase projected to the middle of the district's life. This projected tax was then multiplied by the factor developed above to determine the County Tax Shift.

REVENUE SHARING SHIFTS: The first step in determining the Revenue Sharing Tax Shifts was to obtain the total Municipal Revenue Sharing Amount from the State Treasurer. The five steps outlined in the following formula were then applied:

STEP ONE: $\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation}} = \text{Current Factor}$

STEP TWO: $\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation} + \text{Captured Assessed Value}} = \text{Adjusted Factor}$

STEP THREE: $\frac{\text{Current Factor}}{\text{Adjusted Factor}} = 1.X$

STEP FOUR: $1.X - 1.0 = .X$

STEP FIVE: $.X (\text{Total Municipal Revenue Sharing Amount}) = \text{Revenue Sharing Shift}$

EXHIBIT D-1

TAX REVENUE PROJECTIONS

Property Valuation: Gorham, ME - Harvey Performance - TIF Model						
TIF Year	Tax Year April 1	March 31 TIF Tax Year	Valuation	Annual Increment (increase sheltered above pre-TIF value)	Mill rate	Total Taxes to Be Paid on increment
Pre-TIF*	2019	2020	\$414,300	N/A	0.01820	
1	2020	2021	\$11,000,000	\$10,585,700	0.01820	\$192,660
2	2021	2022	\$11,000,000	\$10,585,700	0.01820	\$192,660
3	2022	2023	\$11,000,000	\$10,585,700	0.01820	\$192,660
4	2023	2024	\$11,000,000	\$10,585,700	0.01820	\$192,660
5	2024	2025	\$11,000,000	\$10,585,700	0.01820	\$192,660
6	2025	2026	\$11,000,000	\$10,585,700	0.01820	\$192,660
7	2026	2027	\$11,000,000	\$10,585,700	0.01820	\$192,660
8	2027	2028	\$11,000,000	\$10,585,700	0.01820	\$192,660
9	2028	2029	\$11,000,000	\$10,585,700	0.01820	\$192,660
10	2029	2030	\$11,000,000	\$10,585,700	0.01820	\$192,660
11	2030	2031	\$11,000,000	\$10,585,700	0.01820	\$192,660
12	2031	2032	\$11,000,000	\$10,585,700	0.01820	\$192,660
13	2032	2033	\$11,000,000	\$10,585,700	0.01820	\$192,660
14	2033	2034	\$11,000,000	\$10,585,700	0.01820	\$192,660
15	2034	2035	\$11,000,000	\$10,585,700	0.01820	\$192,660
16	2035	2036	\$11,000,000	\$10,585,700	0.01820	\$192,660
17	2036	2037	\$11,000,000	\$10,585,700	0.01820	\$192,660
18	2037	2038	\$11,000,000	\$10,585,700	0.01820	\$192,660
19	2038	2039	\$11,000,000	\$10,585,700	0.01820	\$192,660
20	2039	2040	\$11,000,000	\$10,585,700	0.01820	\$192,660
20-Year TIF Total			\$220,000,000	\$211,714,000		\$3,853,195
Prepared by Camoin Associates, www.camoinassociates.com						

EXHIBIT D-1

TAX REVENUE PROJECTIONS

Captured Assessed Value & TIF Revenue Projection Table - Gorham, ME - Harvey Performance - TIF Model							
TIF Year	Tax Year- April 1	Increased Assessed Value Real Prop.	Captured Valuation @100% of Value Captured	Projected Mill Rate	Total Projected New Taxes Captured	45% of Captured Revenue to Municipal Project Account	55% of Captured Revenue to Developer Project Account
1	2020	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
2	2021	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
3	2022	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
4	2023	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
5	2024	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
6	2025	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
7	2026	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
8	2027	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
9	2028	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
10	2029	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
11	2030	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
12	2031	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
13	2032	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
14	2033	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
15	2034	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
16	2035	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
17	2036	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
18	2037	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
19	2038	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
20	2039	\$10,585,700	\$10,585,700	18.20	\$192,660	\$86,697	\$105,963
20-Year TIF Total		\$211,714,000	\$211,714,000		\$3,853,195	\$1,733,938	\$2,119,257
Prepared by Camoin Associates, www.camoinassociates.com							

EXHIBIT D-2

TAX SHIFT ESTIMATES

Gorham, ME - Harvey Performance - TIF Model - Tax Shift Impact					
TIF Year	Tax Year- April 1	Total Tax Shift	Education Shift	Rev. Sharing Shift	County Tax Shift
1	2020	\$104,213	\$89,767	\$7,372	\$7,074
2	2021	\$104,550	\$89,767	\$7,372	\$7,411
3	2022	\$104,904	\$89,767	\$7,372	\$7,764
4	2023	\$105,274	\$89,767	\$7,372	\$8,135
5	2024	\$105,662	\$89,767	\$7,372	\$8,523
6	2025	\$106,068	\$89,767	\$7,372	\$8,929
7	2026	\$106,494	\$89,767	\$7,372	\$9,355
8	2027	\$106,940	\$89,767	\$7,372	\$9,801
9	2028	\$107,407	\$89,767	\$7,372	\$10,268
10	2029	\$107,897	\$89,767	\$7,372	\$10,758
11	2030	\$108,410	\$89,767	\$7,372	\$11,271
12	2031	\$108,947	\$89,767	\$7,372	\$11,808
13	2032	\$109,510	\$89,767	\$7,372	\$12,371
14	2033	\$110,100	\$89,767	\$7,372	\$12,961
15	2034	\$110,718	\$89,767	\$7,372	\$13,579
16	2035	\$111,366	\$89,767	\$7,372	\$14,226
17	2036	\$112,044	\$89,767	\$7,372	\$14,905
18	2037	\$112,755	\$89,767	\$7,372	\$15,615
19	2038	\$113,499	\$89,767	\$7,372	\$16,360
20	2039	\$114,279	\$89,767	\$7,372	\$17,140
20-Year TIF Total		\$2,171,037	\$1,795,335	\$147,450	\$228,253
20-Year TIF Avg.		\$108,552	\$89,767	\$7,372	\$11,413
Prepared by Camoin Associates, www.camoinassociates.com					

EXHIBIT E

**TOWN OF GORHAM
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Town of Gorham will hold a public hearing on July 2, 2019 at 6:30 p.m. at the Council Chambers at the Gorham Municipal Center, 75 South Street, Suite 1, Gorham, Maine, for the purpose of receiving public comments on the designation of its proposed Harvey Performance Company Municipal Development and Tax Increment Financing District and the adoption of a Development Program for the said District, pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

The proposed District would include the 6.05 acre site located at [REDACTED] (Tax Map 39, Lot 2) and would capture 100% of the increased assessed value of the property for a period of 20 years. 55% of the tax revenue from the incremental value would be returned to the developer of the property, Harvey Performance Company, to be applied to costs of development of the site and the remaining 45% would be retained by the Town to be used for various public improvements.

A copy of the proposed Development Program for the District is on file with the Town Clerk and may be obtained from and reviewed at the offices of the Town Clerk during normal business hours. All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at the hearing.

[SEE ATTACHED TEAR SHEET]

EXHIBIT F

**TOWN COUNCIL ORDERS
HARVEY PERFORMANCE COMPANY
MUNICIPAL DEVELOPMENT AND TAX INCREMENT FINANCING DISTRICT**

WHEREAS, the Town is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to adopt a Tax Increment Financing District and Development Program; and

WHEREAS, the Town has identified certain property within its commercial zoning district that is centrally located, underutilized and in need of redevelopment, and has received a proposal for the development of said property by an existing commercial property owner; and

WHEREAS, adopting and implementing the proposed District and Development Program will provide opportunities for significant new commercial development within the Town and new employment opportunities for residents of the Town and surrounding communities, and will improve and broaden the tax base of the Town and improve the general economy of the Town, the region and the State of Maine; and

WHEREAS, the Town has held a public hearing on the proposed Town of Gorham Municipal Development and Tax Increment Financing District #10, the Harvey Performance Company Development District, (the "District") in accordance with the requirements of 30-A MRSA §5226(1) upon at least ten (10) days prior notice published in a newspaper of general circulation within the Town; and,

WHEREAS, the Town desires to designate the proposed District and adopt the proposed Development Program as presented to the Town Council this day and as has been on file in the Town Clerk's Office at Town Hall; and

WHEREAS, it is anticipated that the Commissioner of the Maine Department of Economic and Community Development ("DECD") will approve the designation of the District and adoption of the Development Program;

NOW THEREFORE, the Town Council hereby Orders as follows:

Section 1. The Town Council hereby finds and determines that:

(a) Adoption and implementation of the District and the Development Program will generate substantial economic benefits for the Town and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitute a good and valid public purpose and will contribute to the economic growth or well-being of the inhabitants of the Town or to the betterment of the health, welfare or safety of the inhabitants of the Town; and

(b) The Town Council has considered all evidence presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that adoption and implementation of the District and the Development Program will not result in a substantial detriment to any existing business in the Town, and any adverse economic effect of the District and the Development Program on any existing business in the Town is outweighed by the contributions expected to be made by the projects and improvements described in the District and

the Development Program to the economic growth or well-being of the Town or to the betterment of the health, welfare or safety of the inhabitants of the Town.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the Town Council hereby designates the proposed Town of Gorham Municipal Development and Tax Increment Financing District #10, the “Harvey Performance Company Development District”, as presented to the Town Council.

Section 3. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the Town Council hereby adopts the Development Program for the Harvey Performance Company Development District in the form presented to the Town Council.

Section 4. The foregoing designation of the District and adoption of the Development Program shall automatically become final and shall take full force and effect upon approval of the District and Development Program by the Commissioner of the State of Maine Department of Economic and Community Development (DECD), without requirement of any further action by the Town, the Town Council, or any other party.

Section 5. Pursuant to the provisions of 30-A M.R.S.A. §5227, the percentage of the Increased Assessed Value to be retained as Captured Assessed Value in the District and the term of said District is confirmed as set forth in the Development Program.

Section 6. The Town Manager be and hereby is authorized and directed, on behalf of the Town of Gorham, Maine, to submit to the Commissioner of DECD for review and approval, pursuant to the requirements of 30-A M.R.S.A. §5226(2), the application and such other documentation as may be necessary or appropriate for the final approval of this District and the Development Program. The Town Manager is further authorized and empowered, at his or her discretion from time to time, to make such technical revisions to the District or the Development Program for the District, or to the scope, cost or description of the public improvements to be financed with the portion of tax increment revenues generated by the District and retained by the Town as described in the Development Program, as the Town Manager deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and Development Program by DECD, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

Section 7. The Town Manager be and hereby is authorized, empowered and directed to enter into the Credit Enhancement Agreement contemplated by the Development Program, in the name of and on behalf of the Town, such agreement to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as the Town Manager may approve, the Town Manager’s approval to be conclusively evidenced by his or her execution thereof.

This Order shall take effect immediately upon adoption.

EXHIBIT G

Attested Minutes of Public Hearing
Town Council July 2, 2019 Meeting
(See attached)

CREDIT ENHANCEMENT AGREEMENT

THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2019, between the Town of Gorham, Maine (the “Town”), a municipal body corporate and politic and a political subdivision of the State of Maine, and Harvey Tool Company, LLC (d/b/a/ Harvey Performance Company), a Massachusetts limited liability company (the “Developer”).

WITNESSETH THAT

WHEREAS, the Town designated the Harvey Performance Company Municipal Development and Tax Increment Financing District (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote at a Town Council meeting held on **July 2, 2019**, and pursuant to the same Town Council meeting action adopted a development program and financial plan for the District (the “Development Program”), and

WHEREAS, the Maine Department of Economic and Community Development (“DECD”) has reviewed and approved the District and the Development Program by letter dated _____, and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the Town and the Developer, and the Town approved the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to such Town Council meeting approval, and the Town and the Developer desire and intend that this Credit Enhancement Agreement be and constitute the Credit Enhancement Agreement contemplated by and described in the Development Program;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS; INTERPRETATIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

“Agreement” shall mean this Credit Enhancement Agreement between the Town and the Developer.

“Capital Program” shall mean the proposed development in the District by the Developer as described in the Development Program.

“Captured Assessed Value” means the amount of Increased Assessed Value retained in the District in each Fiscal Year during the term of this Agreement. It is the parties’ intention that one hundred percent (100%) of the Increased Assessed Value shall be utilized to finance the Project Costs of the Town and the Developer described in the Development Program in each year that this Agreement shall remain in effect.

“Current Assessed Value” shall mean the assessed value of the property in the District, as certified by the municipal assessors as of April 1st of each year of the term of this Agreement.

“Developer” means Harvey Tool Company, LLC (d/b/a Harvey Performance Company), a Massachusetts limited liability company.

“Developer’s Project Cost Account” means the Developer’s Project Cost Account established and maintained pursuant to Article II hereof and the Development Program.

“Development Program” means the “Harvey Performance Company Municipal Development and Tax Increment Financing District Development Program,” which is the development program for the District, as adopted by the Town of Gorham at a Town Council meeting held on July 2, 2019, and approved by DECD effective [REDACTED].

“Development Program Fund” means the development program fund described in the Financial Plan section of the Development Program.

“District” means the Harvey Performance Company Municipal Development and Tax Increment Financing District approved by the Town on July 2, 2019, pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, and approved by DECD effective [REDACTED].

“Financial Plan” means the financial plan described in Article III, the “Financial Plan” section of the Development Program.

“Fiscal Year” means July 1 to June 30 of each year or such other fiscal year as the Town may from time to time establish; for purposes of this Agreement, the first Fiscal Year or Fiscal Year 1 means the Fiscal Year commencing July 1, 2020 and ending June 30, 2021.

“Increased Assessed Value” means the valuation amount by which the Current Assessed Value of the property in the District exceeds the Original Assessed Value. If the Current Assessed Value is equal to or less than the Original Assessed Value, there is no Increased Assessed Value.

“Original Assessed Value” means the assessed value of all taxable real property comprising or located within the District as of March 31, 2019 (\$0), as the same may be adjusted from time to time in accordance with Section 3.7 hereof.

“Project” means the Capital Program within the District as described in the Development Program.

“Project Costs” means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 of Title 30-A of the Maine Revised Statutes and included in the Capital Program described in the Development Program.

“Property Taxes” means any and all ad valorem real property taxes levied, charged or assessed against the property in the District by the Town, or on its behalf.

“Qualified Investments” shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

“Tax Increment” means the Property Taxes assessed by the Town, in excess of any state, county or special district tax, upon the Captured Assessed Value of the property within the District.

“Tax Increment (Developer’s Share)” means that portion of the Tax Increment, for each year during the term of this Agreement, with respect to property in the District, which are to be deposited by the Town into the Developer’s Project Cost Account, to the extent provided in Section 3.1(b) of this Agreement and paid to the Developer pursuant to this Agreement. The Tax Increment (Developer’s Share) for each year of the term of this Agreement shall be calculated as follows: First, the amount of the Tax Increment shall be determined by subtracting the real Property Tax for such year on the Original Assessed Value from the total real Property Tax for such year on the Current Assessed Value for such year; Second, 0.55 shall be multiplied by the Tax Increment, and the product thereof shall constitute the Tax Increment (Developer’s Share) for such year.

“Tax Payment Date” means the date(s) on which Property Taxes levied by the Town are due and payable.

“Town” means the Town of Gorham, Maine.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

ARTICLE II: **DEVELOPER'S PROJECT COST ACCOUNT AND FUNDING REQUIREMENTS**

Section 2.1. Creation of Development Program Fund. The Town hereby confirms the creation and establishment of a segregated fund in the name of the Town designated as the "Harvey Performance Company Municipal Development and Tax Increment Financing District Program Fund" (the "Development Program Fund") pursuant to, and in accordance with the terms and conditions of, the Development Program. The Development Program Fund shall consist, as described in the Development Program, of a Project Cost Account. The Development Program Fund Project Cost Account shall consist of and be separated into two subaccounts or funds consisting of the Developer's Project Cost Account and the Town's Project Cost Account. All funds in the Town's Project Cost Account shall be the sole and exclusive property of the Town and shall not be subject in any way to the terms or provisions of this Agreement.

Section 2.2. Liens. The Town shall not create, except as otherwise provided in this Agreement, any liens, security interests or encumbrances of any nature whatsoever with respect to the Developer's Project Cost Account, other than the interest of the Developer granted under this Agreement in and to the amounts on deposit in the Developer's Project Cost Account, provided, however, nothing herein shall prohibit creation of real and personal property tax liens on the Developer's property in accordance with, and entitled to the priority provided under, Maine law and any trustee process, attachment and judgment liens and other liens obtained in accordance with applicable law.

Section 2.3. Deposits into Project Cost Account. The Town shall deposit into the Developer's Project Cost Account, within 15 days after each payment of Property Tax and other taxes described in Section 3.1 hereof during the term of this Agreement an amount equal to that portion thereof constituting the Tax Increment (Developer's Share) for the period or year to which the payment relates and shall allocate the amount so deposited to fund fully and pay the payments due to Developer under Article III of this Agreement. All interest and earnings on the Tax Increment and on amounts in the Developer's Project Cost Account prior to and after deposit thereof into the Developer's Project Cost Account shall be the sole property of the Town and shall be transferred to the General Fund of the Town free and clear of any interest of the Developer under this Agreement.

Section 2.4. Monies Held in Trust. Subject to the terms of this Agreement, all monies required to be deposited into the Developer's Project Cost Account to fund payments to Developer under the provisions hereof and the provisions of the Development Program (excluding all interest and investment earnings thereon), shall be held by the Town, in trust, for the benefit of the Developer in accordance with the provisions of this Agreement.

Section 2.5. Investments. Monies in the Developer's Project Cost Account may be invested and reinvested in Qualified Investments as determined by the Town. The Town shall have discretion regarding the investment of such monies, provided such monies are invested in

Qualified Investments. As and when any amounts so invested are needed for disbursements, the Town shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The Town shall have the sole and exclusive right to designate the investments to be sold and to direct the sale or conversion to cash of investments made with monies in the Developer's Project Cost Account.

ARTICLE III: **PAYMENT OBLIGATIONS**

Section 3.1. Credit Enhancement Payments.

(a) The term of this Agreement shall commence on the date of the first Fiscal Year and shall end on June 30, 2040. Commencing with the first Fiscal Year, the Town agrees to pay to the Developer within 30 days following each Tax Payment Date or the date payment of Property Tax is actually received by the Town with respect to property in the District, whichever is later, payments equal to the Tax Increment (Developer's Share) for each such Fiscal Year of the Town during the term of this Agreement, provided that such payments by the Town shall not be due and payable unless the Developer, on or before the date on which such payment is due from the Town to the Developer or simultaneously therewith, has paid to the Town the amounts due under Section 3.8 of this Agreement.

(b) Notwithstanding Section 3.1(a), the amounts payable thereunder shall be due and payable only if: (i) all real property taxes and assessments and all personal property taxes that are due and payable with respect to all of the property in the District have been paid in full, and (ii) all real property taxes and assessments and all personal property taxes that are due and payable with respect to any other real and personal property owned by the Developer, its successors and assigns, in the Town have been paid in full, and (iii) all amounts due and payable under Section 3.8 of this Agreement have been paid in full. If any of such property taxes or other amounts due under this Agreement are not paid when due, the property taxes actually paid by Developer, its successors and assigns shall, first, be applied to taxes due on account of Original Assessed Value, second to any personal property taxes with respect to any personal property located in the District, third to all amounts due under Section 3.8 of this Agreement, fourth, to any real property taxes and personal property taxes with respect to property of the Developer, its successors and assigns located outside of the District and, fifth, to make the deposits to the Developer's Project Cost Account. If such property taxes and assessments and other amounts are not paid when due, the Town may withhold and suspend all payments under this Agreement until such property taxes and assessments and other amounts due hereunder are paid in full. In addition, if the Developer institutes any tax abatement proceeding with respect to any property in the District, the Town may withhold and suspend all payments of the Tax Increment (Developer's Share) with respect to the amount of value of the items of property subject to the abatement proceeding, and shall deposit the withheld amount into a separate escrow account. Upon final action and completion of such abatement proceeding, the proper amount (based on the results of the abatement proceedings) held in escrow account shall be paid to the Developer.

(c) The Developer agrees that all payments made by the Town to the Developer pursuant to this Agreement will be used and applied to either pay debt service on indebtedness

incurred to finance “Project Costs” as that term is defined under Maine law and as described in the Development Program or used to pay directly, amortize or reimburse Developer for payment of qualified Project Costs. The Town shall be required to make payments under this Agreement only upon receipt of satisfactory documentation that the amounts are being paid for Project Costs, which documentation shall be in the form of properly completed certificates, executed by the Developer in the form attached hereto as Schedule A.

Section 3.2. Failure to Make Payment. In the event the Town should fail to, or be unable to, make any of the payments required under the foregoing provisions of this Article III, the item or installment so unpaid shall continue as a limited obligation of the Town, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Developer shall be entitled to initiate an action against the Town to specifically enforce its obligations hereunder, including without limitation the Town’s obligations to deposit the Tax Increment (Developer’s Share) into the Developer’s Project Cost Account established thereunder and to make the required payments to Developer.

Section 3.3. Manner of Payments. The payments provided for in this Article III shall be paid directly to the Developer in the manner provided hereinabove for the Developer’s own use and benefit by check drawn on the Town.

Section 3.4. Obligations Unconditional. Except as otherwise provided in this Agreement or as required by applicable law, the obligations of the Town to make the payments described in this Agreement shall be absolute and unconditional, and the Town shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, irrespective of any defense or any rights of setoff (except as otherwise provided in this Agreement), recoupment or counterclaim it might otherwise have against the Developer, other than by reason of and to the extent provided in a final judgment by a court of competent jurisdiction or by reason of an order of trustee process or attachment. The Town hereby acknowledges that the Developer has the right to enforce the contractual obligations of the Town under this Agreement and that the governmental immunity of the Town does not apply to actions to enforce its contractual obligations; provided however, that nothing herein shall constitute a waiver of the Town’s tort immunity or any other governmental immunities.

Notwithstanding the foregoing, the Town reserves the right to terminate this Agreement upon receipt of a final judgment by a court of competent jurisdiction to the effect that this Agreement or the Development Program (or the designation of the District) adopted in connection herewith or any payment made thereunder or hereunder is or would be illegal or invalid or not properly authorized. Such termination shall not, however, affect the Developer’s obligation to defend and indemnify the Town, which obligations shall survive any such termination. In addition, the Town may set off any amount found by the court of competent jurisdiction to be due to the Town from the Developer or from the owner of the property in the District. Except as provided in this Agreement, including subsection 3.1(b), Section 3.8 and Article VIII of this Agreement, the obligations of the Town to make payments hereunder shall be absolute and irrevocable, irrespective of any rights of set-off, recoupment or counterclaim.

Section 3.5. Limited Obligation. The Town's obligations under this Agreement, including the Town's obligations of payment hereunder shall be limited obligations of the Town payable solely from the Tax Increment (Developer's Share) actually paid with respect to Property in the District as determined under Section 3.1(b) hereof and actually received by the Town and required to be deposited in the Developer's Project Cost Account in accordance with the terms of this Agreement and pledged therefor under this Agreement. The Town's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from such Tax Increment (Developer's Share) actually paid with respect to Property in the District and actually received by the Town. This Agreement shall not directly or indirectly or contingently obligate the Town, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, except to the extent of the pledge of the Developer's Project Cost Account established under this Agreement.

Section 3.6. Calculation. The Town and the Developer shall maintain records which are adequate to calculate the Tax Increment (Developer's Share), and shall cooperate with each other in making such calculations. Annually, within 30 days of the payment of Property Tax by Developer, the amount of Tax Increment (Developer's Share) shall be calculated for that year. If the Developer does not object to such calculations within 120 days of receipt thereof or of any payment of Tax Increment (Developer's Share) for such year, the calculations shall be final and binding on Developer.

Section 3.7. Revaluation. In the event there is a Town-wide revaluation of taxable property within the Town, the Captured Assessed Value shall be adjusted in proportion to the Town-wide change in property values resulting from such revaluation, subject to review and approval of the Maine Department of Economic and Community Development.

Section 3.8. Developer's Obligations. The Developer shall pay to the Town the following amounts:

(a) The Developer shall pay or reimburse the Town for all reasonable out-of-pocket fees, expenses and other charges of the Town and its outside consultants, including the Town's attorneys and other consultants, in connection with the preparation, review, negotiation, approval, execution, administration, enforcement and carrying out of this Agreement and the preparation, review and approval of the Development Program.

(b) The Developer agrees to defend, indemnify, pay, reimburse and hold the Town, its Town Councilors, officers, agents and employees, harmless from any and all claims, suits, liabilities, actions, proceedings and expenses, including, without limitation, attorneys fees and expenses and accountant's fees and expenses, arising out of this Agreement, the Development Program or any claim of illegality or invalidity of this Agreement or the Development Program or the Town's approval of the District, this Agreement or the Development Program or out of the Town's preparation and participation in this Agreement or the Development Program.

(c) Developer covenants and agrees that, in the event that title to any property in the District is hereafter transferred to any entity exempt from the payment of Property Taxes, including, without limitation, any charitable corporation or the State of Maine or any agency or authority thereof, then the owner of the such property in the District, as a covenant running with the land, shall be obligated to pay to the Town each year during and after the expiration or termination of this Agreement, an amount equal to 100% of the Property Taxes that would be assessed by the Town on the property in the District, as if and under the assumption that the property in the District were fully taxable and owned in fee by Developer and not exempt from Property Taxes.

The amounts due under this Section 3.8 may be set off or deducted from any amount due to Developer under this Agreement, and if not so deducted, shall be due and payable within 30 days of written notice from the Town to the Developer. Notwithstanding any other provision of this Agreement, the provisions of this Section 3.8 shall survive any expiration or termination of this Agreement.

ARTICLE IV: **PLEDGE AND SECURITY INTEREST**

Section 4.1. Pledge of Developer's Project Cost Account. In consideration of this Agreement and for the purpose of securing payment of the amounts provided for hereunder to the Developer by the Town, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the Town's covenants and agreements contained herein, the Town does hereby grant a security interest in and pledge to the Developer the Developer's Project Cost Account and all sums of money and other securities and investments therein, subject, however, to the setoff rights of the Town set forth in this Agreement. This pledge and the provisions of Section 2.4 hereof shall not apply to any interest and investment earnings on the Developer's Project Cost Account, all of which shall be the absolute property of the Town, free and clear of any interest of the Developer.

Section 4.2. Perfection of Interest. The Town shall cooperate with the Developer, if requested in writing by Developer, in causing appropriate financing statements and continuation statements naming the Developer as pledgee of all such amounts from time to time on deposit in the Developer's Project Cost Account to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder.

Section 4.3. Further Instruments. The Town shall, upon the reasonable request of the Developer, from time to time, execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the Town or require any payment or expense by the Town (unless paid by Developer) or discharge either party or change any provision of this Agreement.

Section 4.4. No Disposition of Developer's Project Cost Account. Except as permitted hereunder, the Town shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Developer's Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5. Access to Books and Records. All books, records and documents in the possession of the Town relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund and the Developer's Project Cost Account shall at all reasonable times be open to inspection by the Developer and its agents. All books, records and documents of the Developer reasonably necessary to the verification of Project Costs shall at all reasonable times be open to inspection by the Town and its agents.

ARTICLE V: DEFAULTS AND REMEDIES

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default": (a) any failure by the Town or the Developer to pay any amounts due hereunder (including any failure of Developer to pay any amounts due under this Agreement) when the same shall become due and payable except as provided in subsection (c) below; (b) any failure by the Town to make deposits into the Developer's Project Cost Account as and when due; or (c) any failure by the Town or the Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the Town or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; provided, however, that this subsection (c) shall not be construed to include Developer's failure to pay property taxes for any reason as an Event of Default hereunder.

Section 5.2. Remedies on Default. Whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to terminate this Agreement or to enforce any rights or remedies available hereunder or under applicable law.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any shall be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Event of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other

appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Tax Laws. The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the Town, by entering into this Agreement, is not excusing any non-payment of taxes by Developer. Without limiting the foregoing, the Town and the Developer shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Developer's property and on property in the District.

ARTICLE VI: **TERM AND TERMINATION**

Section 6.1. Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the performance of all obligations on the part of the Town and the Developer hereunder or upon any earlier termination as provided in this Agreement. Notwithstanding any other provision of this Agreement, if Developer fails to pay to the Town any amount due under Section 3.8 of this Agreement, and such failure continues for a period of thirty (30) days, the Town may terminate this Agreement, in which event this Agreement shall be of no further force or effect, except that the Developer shall remain obligated to pay such other amounts due under this Agreement.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the Town and the Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII: **ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST**

Section 7.1 Consent to Pledge and/or Assignment. The Town hereby acknowledges that it is the intent of the Developer to pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Developer to make such assignment or pledge. Recognizing this intention, the Town does hereby consent and agree to the pledge and assignment of all the Developer's right, title and interest in, to and under this Agreement (provided that such collateral assignment shall be effective only as long as the assignee holds a first mortgage on the property in the District) and in, and to the payments to be made to Developer hereunder, to a bank or other financial institution regularly engaged in making commercial loans as collateral or security for financing the Development Program, on one or more occasions during the term hereof. The Town agrees to execute and deliver any assignments, pledge assignments, consents or other confirmations on terms reasonably satisfactory to the Town (including that any pledge or secured party succeeding to Developer's rights hereunder assume in writing, in form satisfactory to the Town, the obligations of Developer under this Agreement) required by the prospective pledgee or assignee,

including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledge or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.2. Other Assignments. The Developer shall also have the right and obligation to transfer and assign its rights under this Agreement to any person or entity that acquires title to the property in the District, provided, that (a) such owner assumes in writing, in form satisfactory to the Town, the obligations of Developer under this Agreement; and (b) prior to any such assignment, Developer shall obtain the written consent of the Town. In making any request for such written consent of the Town, the Developer shall submit such information as the Town may reasonably request relating to the identity of the proposed assignee and their plans regarding use of the property in the District. Such consent shall not be unreasonably withheld, delayed or continued. In the event that such written consent is not given, upon transfer of title to the property in the District, this Agreement and all rights of Developer, its successors and assigns under this Agreement shall terminate.

Section 7.3. Conditions. Notwithstanding Section 7.1 and Section 7.2, the Developer shall not have the right to transfer and assign all or any portion of its rights in, to and under this Agreement, except to the then owner of, or holder of a first mortgage on, the property in the District.

ARTICLE VIII: **MISCELLANEOUS**

Section 8.1. Successors. In the event of the dissolution of the Town or the Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Town and the Developer any right, remedy or claim under or by the reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the Town and the Developer.

Section 8.3. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal and invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability of Officials of the Town. No covenant, stipulation, obligation or agreement of the Town contained herein shall be deemed to be a covenant,

stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the Town in his individual capacity and neither the members of the Town Council of the Town nor any official, officer, employee or agent of the Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Notices. All notices, certificates, requests, requisitions or other communication by the Town or the Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the Town:

Town of Gorham Maine
75 South Street, Suite 1
Gorham, ME 04038

If to the Developer:

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8. Amendments. This Agreement may be amended only with the written consent of the parties hereto.

Section 8.9. Benefit of Assignees or Pledges. The Town agrees that this Agreement is executed in part to assist the Developer in obtaining financing for the Project and accordingly all covenants and agreements on the part of the Town as to the amounts payable hereunder are hereby declared to be for the benefit of any such assignee or pledgee from time to time of the Developer's right, title and interest herein.

Section 8.10. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Town and the Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.11. Disputes and Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment (Developer's Share), estimated amounts of the Tax Increment (Developer's Share), estimated development costs and other estimates. The Town and the Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way: (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to Developer's property for purposes of ad valorem property taxation or any tax abatement proceeding or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

IN WITNESS WHEREOF, the Town and the Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

Town of Gorham

By: _____
Its

Harvey Tool Company, LLC

By: _____
Its

Schedule A

Request for Payment

The undersigned Harvey Tool Company, LLC, a Massachusetts limited liability company with a place of business in Gorham, Maine (the “Developer”) does hereby request payment in the amount of \$_____ from the Town of Gorham out of the Developer’s Project Cost Account established under the Development Program of the Harvey Performance Company Municipal Development and Tax Increment Financing District and do hereby certify to the Town of Gorham that the amount requested will be used to pay Project Costs as that term is defined in Chapter 206 of Title 30-A of the Maine Revised Statutes, as follows: [check applicable provisions]

☐

Direct payment of Project Costs in the amount of \$_____; and/or

☐

Reimbursement to the Developer for Project Costs previously incurred, in the amount of \$_____

There are attached hereto invoices showing the incurring by the undersigned of Project Costs in the amounts set forth above. None of these invoices have been the subject of a previous request for payment from the Developer Project Cost Account.

The Developer further certifies that all of such Project Costs constitute Project Costs as defined in the Credit Enhancement Agreement, dated as of _____, 2019, between the Town of Gorham and the undersigned, and that the Developer has complied with all terms, conditions and covenants of such Agreement and that no default or event of default exists under said Agreement.

Dated: _____

Harvey Tool Company, LLC

By: _____
Its

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008 (Regular Mail)
10 WATER STREET, HALLOWELL, ME 04347 (Overnight Mail)
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES <input type="checkbox"/> NO <input type="checkbox"/>	

PRESENT LICENSE EXPIRES: 8-27-19

NEW application: ☐ Yes ☒ No

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection (New Licensees/ Ownership Changes Only) Date : _____ Business hours: _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL, FOOD OPTIONAL (Class I-A) ☐ BED & BREAKFAST (Class V)
☐ GOLF COURSE (Class I,II,III,IV) ☐ TAVERN (Class IV) ☐ QUALIFIED CATERING
☐ OTHER: _____ ☐ SELF-SPONSORED EVENTS

(QUALIFIED CATERERS ONLY)

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name:			Business Name (D/B/A)		
Southern Maine Community Recreation Center			Gorham Sports Center		
APPLICANT(S) –(Sole Proprietor)		DOB:	Physical Location:		
			215 Narragansett St.		
DOB:		City/Town	State	Zip Code	
		Gorham	ME	04038	
Address			Mailing Address		
			Same As Above? <input checked="" type="checkbox"/>		
City/Town	State	Zip Code	City/Town	State	Zip Code
Telephone Number		Fax Number	Business Telephone Number		Fax Number
			207-839-6767		207-839-6900
Federal I.D. #			Seller Certificate #: 1132451		
			or Sales Tax #: 26-0776999		
Email Address:			Website:		
info@gorhamsportscenter.com			gorhamsportscenter.com		

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____

2. State amount of gross income from period of last license:

ROOMS \$ 0 FOOD \$ 13,000 LIQUOR \$ 8,000

Non-Profit Org.

3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees. *

4. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

5. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License # _____ Name of Business _____

Physical Location _____ City / Town _____

6. If manager is to be employed, give name: Tyler Maroon

7. Business records are located at: 215 Narraugansett St. Gorham, ME 04038

8. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐

9. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Tyler Maroon	[REDACTED]	Portland, ME
11. Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Name: Tyler Maroon	City: Gorham	State: ME
Name: Tyler Maroon	City: Saco	State: ME
Name: Tyler Maroon	City: Standish	State: ME

12. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

15. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

* 16. Describe in detail the premises to be licensed: (On Premise Diagram Required) Indoor sports facility/
field with small concessions stand.

17. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

18. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1.5

Which of the above is nearest? Church

19. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: Kennebunk Savings Bank - mortgage

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

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

Dated at: Gorham, ME on June 13, 2019
Town/City, State Date

PLEASE SIGN IN BLUE INK

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I Spirituous, Vinous and Malt \$ 900.00

CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00

CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00

CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00

CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00

CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class III Malt & Vinous Only \$ 440.00

& IV CLASS III & IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00

CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt - Class A Lounge \$2,200.00

CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt - Restaurant Lounge \$1,500.00

CLASS XI: Restaurant/Lounge; and OTB.

SELF-SPONSORED EVENTS: Qualified Caterers Only \$ 700.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer. All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

This application must be completed and signed by the Town or City and mailed to:

Bureau of Alcoholic Beverages and Lottery Operations

Division of Liquor Licensing and Enforcement

8 State House Station, Augusta, ME 04333-0008 (Regular address)

10 Water Street, Hallowell, ME 04347 (Overnight address)

Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).][2003, c. 213, §1 (AMD) .]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD) .]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD) .]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW) .]

[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP) .]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD) .]

[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license. [1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

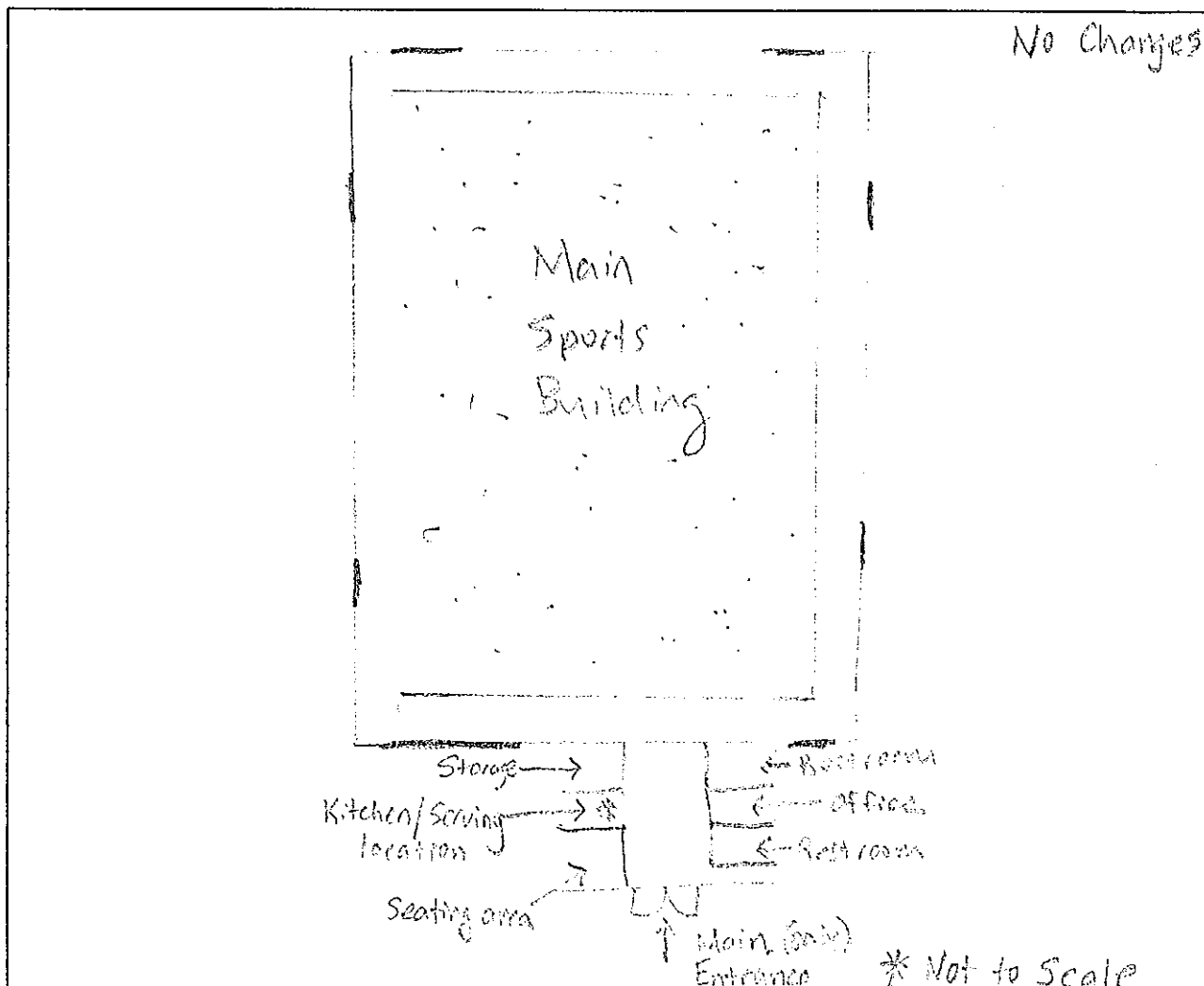
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347 (overnight)
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov



ON PREMISE DIAGRAM (Facility Drawing/ Floor Plan)

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

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas with the following: • Entrances • Office area • Kitchen • Storage Areas • Dining Rooms • Lounges • Function Rooms • Restrooms • Decks • All Inside and Outside areas that you are requesting approval.





Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: Southern Maine Community Recreation Center
2. Doing Business As, if any: Gorham Sports Center
3. Legal Entity's FEIN #: 26-0776999
4. Date of filing with Secretary of State: 4/17/2007 State in which you are formed: ME
5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

* Non-Profit Volunteer
Board of Directors

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
John Burghardt	[REDACTED]	[REDACTED]	Board President	0
Naomi Anderson Schucker	[REDACTED]	[REDACTED]	Secretary	0
Mike Richman	[REDACTED]	[REDACTED]	Board Member	0
Eric Peterson	[REDACTED]	[REDACTED]	Board Member	0

(Stock ownership in non-publicly traded companies must add up to 100%.)

7. If Co-Op # of members: _____ (list primary officers in the above boxes)



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

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Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: _____
2. Doing Business As, if any: _____
3. Legal Entity's FEIN #: _____
4. Date of filing with Secretary of State: _____ State in which you are formed: _____
5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
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* Non-Profit Volunteer
Board of Directors

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
David Maroon			Board Member	0
Matt McCleary			Board Member	0
Ben Smith			Board Member	0

(Stock ownership in non-publicly traded companies must add up to 100%.)

7. If Co-Op # of members: _____ (list primary officers in the above boxes)

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States? ☐ Yes ☒ No

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

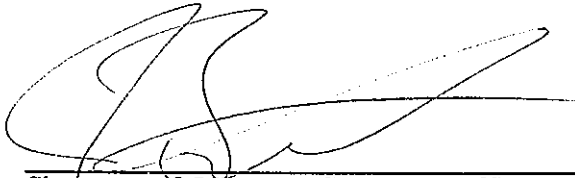
Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

PLEASE SIGN IN BLUE INK



Signature of Owner or Corporate Officer

6.12.2019

Date

John Burgheroff

Print Name of Owner or Corporate Officer

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov



Laurie Nordfors <lnordfors@gorham.me.us>

Gorham Sports Center

Robert Lefebvre <rlefebvre@gorham.me.us>
To: Laurie Nordfors <lnordfors@gorham.me.us>

Wed, Jun 19, 2019 at 10:19 AM

fire is all set

[Quoted text hidden]

[Quoted text hidden]



NOTICE: Under Maine's Freedom of Access ("Right to Know") Law, documents - including emails - in the possession of public officials about Town business are considered public records. This means if anyone asks to see it, we are required to provide it. There are very few exceptions. We welcome citizen comments and want to hear from our constituents, but please keep in mind that what you write in an email is not private and will be made available to any interested party.



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Dan Jones <djones@gorham.me.us>
To: Laurie Nordfors <lnordfors@gorham.me.us>

Wed, Jun 19, 2019 at 10:31 AM

No concerns.

Chief Daniel Jones
Gorham Police Department
270 Main Street
Gorham, ME 04038
(207) 222-1665
djones@gorham.me.us

DISCLAIMER: This e-mail and any file or attachment transmitted with it, is only intended for the use of the person and/or entity to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the recipient of this message is not the intended recipient or otherwise responsible for delivering the message to the intended recipient, be notified that any disclosure, distribution or copying of this information is strictly prohibited. If you received this communication in error, destroy all copies of this message, attachments and/or files in your possession, custody or control and any other copies you may have created, and notify the sender at the above listed telephone number or e-mail address.

On Wed, Jun 19, 2019 at 10:15 AM Laurie Nordfors <lnordfors@gorham.me.us> wrote:

[Quoted text hidden]



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[Quoted text hidden]



Laurie Nordfors <lnordfors@gorham.me.us>

Re: Gorham Sports Center

1 message

Sharon Laflamme <slaflamme@gorham.me.us>
To: Laurie Nordfors <lnordfors@gorham.me.us>

Thu, Jun 20, 2019 at 9:12 AM

No Taxes are due to the Town

Sharon

Sharon LaFlamme
Finance Director
Town of Gorham
[75 South Street, Ste., 1](#)
[Gorham, ME 04038](#)
207-222-1611
slaflamme@gorham.me.us

On Wed, Jun 19, 2019 at 10:15 AM Laurie Nordfors <lnordfors@gorham.me.us> wrote:

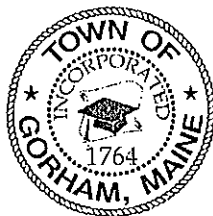
Good Morning,
Gorham Sports Center has applied for their renewal liquor license. Please let me know if you have any concerns with them.

Thanks,
Laurie

Laurie K Nordfors, CCM
Town Clerk
Registrar of Voters
Motor Vehicle Agent
Assistant Tax Collector
Town of Gorham
[75 South Street](#)
[Gorham, ME 04038](#)
207-222-1670
fax - 207-839-5036



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APPLICATION FOR A LARGE OUTDOOR EVENT LICENSE

1. Name of Applicant: Jason Tanguay Date of Birth: 11/19/1973
2. Home Address of Applicant: [REDACTED]
3. Business Address of Applicant: Gorham High School, 41 Morrill Ave., Gorham, ME
4. Telephone Number of Applicant:
Home [REDACTED] Business 222-1100 e-mail jason.tanguay@gorhamschools.org
5. Name of business that will be using the license: Gorham Athletics Boosters
6. Nature of business of license applicant: cross country race behind Narragansett Elementary
7. Has the applicant ever had a license to conduct the business described above revoked? No
If yes, please describe the circumstances involved: _____

8. Has the applicant or any appropriate officers ever been convicted for a Class A, B, C or D crime? No If yes, please describe the circumstances involved. _____

9. Address of property and name of landowner where Event will take place
Field behind Narragansett Elementary and the Chick Property which contains the Claire Drew Trails
10. Date(s) of event Saturday, September 14, 2019 Hours of operation 7am until 5pm
11. Estimate of number of attendees 1,000 Basis for estimate average number at other races
12. Name and telephone # of contact person who will be responsible and can be contacted by the Town during the event Mike Griffin is the meet director during the event and his number is (207) 837-4346 and the site director is Jason Tanguay and his number is (207) 459-4833

13. Please attach the following to this application:

1. A written descriptive plan, showing that facilities are provided at the site of the Large Outdoor Event including:

A. waste disposal facilities

B. firefighting equipment and personnel

C. water supplies

D. first-aid facilities

E. communication facilities

F. parking available

G. police or security guards

2. A letter of authority from landowners whose property will be used for the event. As well as letter(s) of approval from any landowner whose property may be used for parking.

I have already filled out the Chick Property Permit to use the trails.

3. A nonrefundable \$100 fee.

Applicant Jason Tanguay

Date June 17, 2019

Distribution:

Police Chief _____

Code Enforcement Officer _____

Fire Chief _____

Health Officer _____

License granted _____

Here are more details for number 13 on the large event license.

- Waste disposal facilities = The Gorham Athletics Boosters will be providing trash cans on the site for the race that day and also be removing them.
- Water supplies = We will be bringing jugs of water and ice to have available for the athletes who compete that day. Our booster group will also be selling bottled water.
- First-aid facilities = We will have one athletic trainer on site that day.
- Communication facilities = There will be the site director, Jason Tanguay (cell number 459-4833), and the meet director, Mike Griffin (cell number 837-4346), who will be present at the meet the entire time it will be going on so they can be contacted with any questions or concerns.
- Parking available = We have gotten permission from Gorham Savings Bank to use their lot on Wentworth Drive off of Route 202 and also St. Anne's Church across from Narragansett Elementary School to use their parking lots.
- Police or security guards = I have talked to Mike Nault of the Gorham Police Department and he will schedule one police officer to be on duty for the meet.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/19/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Batchelder Bros. Insurance 851 Main Street Sanford, ME 04073	CONTACT NAME:	Julie McComish		
		PHONE (A/C, No, Ext):	(207) 324-2060	FAX (A/C, No):	(207) 324-0305
		E-MAIL ADDRESS:	j.mccomish@batchelderbros.com		
		INSURER(S) AFFORDING COVERAGE			NAIC #
		INSURER A: PEERLESS INS CO			24198
INSURED	GORHAM ATHLETIC BOOSTERS PO BOX 55 GORHAM, ME 04038	INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
		INSURER F:			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		GL4547960	09/14/2018	09/14/2019	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COM/PROP AGG	\$ 2,000,000
								\$
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB EXCESS LIAB DED RETENTIONS						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE	OTH-ER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Cross Country Race
Town of Gorham, Roman Catholic Bishop of Portland, Galilee Baptist Church of Gorham, and Gorham Savings Bank are listed as additional insureds as respect to the General Liability and required by contract.

CERTIFICATE HOLDER

CANCELLATION

Town of Gorham - Gorham Municipal Center 74 South Street Suite 1 Gorham, ME 04038	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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Town of Gorham Planning Department

Thomas M. Poirier, *Director of Community Development*
tpoirier@gorham.me.us

GORHAM MUNICIPAL CENTER, 75 South Street, Gorham, ME 04038

Tel: 207-222-1620

TO: Ephrem Paraschak, Town Manager

FROM: Thomas M. Poirier, Town Planner *TPW*

SUBJECT: Private Way Amendment

DATE: June 10, 2019

At the Planning Board's May 6, 2019 Planning Board meeting the Board forwarded (7 ayes) the amendment to the private way ordinance as amended by the Planning Board. The ordinance amendment proposed by the Town Council is shown black, underlined, and struck through with the Planning Board's recommended changes are shown **bolded, underlined, and struck-through**.

The Planning Board's changes to the proposed ordinance amendment are meant to clarify language about the number of dwelling units allowed for each private way and is the language proposed by the Town Attorney.

Public Comment: No public comments were given at the meeting.

AMENDMENT TRACKING

DESCRIPTION	COMMENTS	STATUS
Town Council Meeting	The Town Council forwards the item to the Planning Board for a public hearing and recommendations. (7 ayes)	January 2, 2018
Planning Board Meeting	The Planning Board forwarded the item to the Planning Board's Ordinance Committee for review and recommendations.	March 5, 2019
Planning Board Ordinance Committee Meeting	The Planning Board's Ordinance Committee reviewed the language and proposed some changes to clarify a couple of provisions.	April 26, 2019
Planning Board Meeting: Public Hearing	The Planning Board moved (7 ayes) recommendation of the proposed ordinance amendment with changes by the Planning Board.	May 6, 2019

Proposed Ordinance Language

CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE

SECTION 2-5 – MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS

H. STANDARDS FOR PRIVATE WAYS

The Planning Board may approve the use of private ways to provide access to individual lots of land provided that the following conditions are met:

Planning Board Recommendation: Sandwich Board/ A-frame Signs

- 1) ~~Each lot having access from a An approved private way may be improved with no more than two dwelling units and related accessory buildings and uses serve a combination of dwelling units/lots identified below:~~

1 lot gravel private way -- 1 lot with a single family house

2-6 gravel private way -- ~~total combination of 6 lots and/or dwelling units~~ Up to 6 lots, with no more than 6 total dwelling units served by the private way.

7- 10 paved private way -- ~~total combination of 10 lots and/or dwelling units~~ Up to 10 lots, with no more than 10 total dwelling units served by the private way.

TOWN OF GORHAM CABLE TELEVISION ORDINANCE

Section 1. Designation of Ordinance.

This Ordinance shall be known as the Town of Gorham Cable Television Ordinance, and is adopted by the Town Council pursuant to 30-A M.R.S.A. § 3008 and pursuant to the home rule authority granted to municipalities by 30-A M.R.S.A. § 3001 and by the Constitution of Maine, Article VIII, Part Second.

Section 2. Definitions.

For the purposes of this Ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and vice versa. The word "shall" is always mandatory and not merely directory.

2.1 “Access” or “Access Cablecasting”: Cablecasting on the Cable System’s access channels for the following purposes: (i) non-commercial and non-discriminatory use by the public; (ii) carriage of non-commercial educational programs or information; and (iii) non-commercial use for governmental purposes in accordance with the Cable Act.

2.2 “Access Channel(s)”: A video channel(s) which the Company shall make available to the Town of Gorham, without charge, for the purpose of transmitting programming by/for members of the public, Town departments, boards and agencies, public schools, educational, institutional, non-profit and similar organizations in accordance with the Cable Act.

2.3 “Affiliate” or “Affiliated Person”: An entity that owns or controls is owned or controlled by, or is under common ownership with a Cable Operator, herein defined as “Company”.

2.4 “Alphanumeric”: Consisting of a combination of letters and numbers, used in reference to keyboards permitting communication in such form and in reference to Channels or Programs transmitting information in such form.

2.5 “Area Outage”: An area outage occurs when cable or equipment is damaged, fails or otherwise malfunctions (collectively called malfunctions”), and ten or more Subscribers receiving services from that section of cable or that equipment receive unusable or no service as a result of that malfunction.

2.6 “Basic Service”: The minimum service transmitted to all Subscribers which includes, at a minimum, (1) all signals of domestic television broadcast stations entitled to “must carry” status under FCC rules, (2) any Public, Educational and Governmental programming required by a Franchise Agreement to be carried on

the basic tier, and (3) any additional video programming signals added to the basic tier by the Company in its sole discretion.

2.7 “Broadcast”: Over-the-air transmission by a television station.

2.8 “Cable Act”: The Cable Communications Policy and Communications Act of 1984, as amended by the Cable Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as further amended.

2.9 “Cablecast”: Programming (exclusive of broadcast signals) carried on the Cable System.

2.10 “Cable Programming Service”: Any video programming provided over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than (1) video programming carried on the Basic Service tier, and (2) video programming offered on a pay-per-channel or pay-per-program basis.

2.11 “Cable Service”: The one-way transmission to Subscribers of video programming or other programming services, together with Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services.

2.12 “Cable System”: A facility serving the Town, which is owned, constructed, installed, operated and maintained by Company, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service, including video programming, to multiple Subscribers within a head-end service area as defined in accordance with Section 602 of the Cable Act. Such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services; or (d) an open video system that complies with section 653 of this title, or (e) any facilities of any electric utility used solely for operating its electric utility systems.

2.13 “Channel” or “Video Channel”: A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel (as defined by the FCC by regulation).

2.14 “Company”: Any Person or Persons owning, controlling, operating, managing or leasing a Cable System within the Town, pursuant to this Ordinance,

and pursuant to any Franchise granted to it by the Town. This term shall include any lawful successor(s) to the interest of such Person or Persons where consent to such successor(s) is approved under the provisions of this Ordinance and under any applicable terms of a Franchise Agreement entered into pursuant to this Ordinance.

2.15 “Completion of Construction”: That point when the Company has provided written documentation to the Town that a Cable System serving Gorham has been fully upgraded in accordance with any applicable requirements of this Ordinance and a Franchise Agreement, and service has been made available to Subscribers and potential Subscribers pursuant to the Franchise Agreement.

2.16 “Contractor or Subcontractor or Agent”: Any person or entity who or which directly or indirectly works for or is under the direction of “The Company” for the purpose of installation or repair of any portion of the Company’s Cable system in the Town.

2.17 “Converter”: A special tuner or device attached to the Subscriber’s television set which expands reception capacity and/or unscrambles coded signals distributed over the Cable System.

2.18 “Designated Access Provider”: The entity or entities which may be designated from time to time by the Town to provide PEG access to the residents of the Town of Gorham.

2.19 “Downstream Channel”: A Channel over which signals travel from the Cable System Headend or Subheadend to an authorized recipient of programming.

2.20 “Downstream Transmissions”: Signals traveling from a Cable System distribution point to an authorized location.

2.21 “Drop” or “Cable Drop”: The interconnection between each home or building and the feeder line of the Cable System.

2.22 “FCC”: The Federal Communications Commission or any successor agency.

2.23 “Feeder Cable”: The cable, connected to trunk cable, from which cable television signal service is distributed to Subscribers, as distinguished from trunk cable (which distributes cable television service throughout the Franchise area) and drop cable.

2.24 “Franchise Authority”: The Gorham Town Council.

2.25 “Franchise”: The non-exclusive Cable Television License to be granted to the Company to include the right, privilege and franchise to construct, operate and maintain a Cable System, and appurtenances or parts thereof, in the Streets, roads, alleys, and other Public Ways of the Town.

2.26 “Franchise Agreement”: The contract entered into between the Company and the Town governing the terms and conditions of the Company’s use of the Franchise granted to the Company.

2.27 “Gross Annual Revenues”: Revenue of any form or kind received by the Company from the carriage of Cable Service including, without limitation: the distribution of any Cable Service over the System; Basic Service monthly fees; all other Cable Service fees; fees paid for pay and/or pay-per-view services, installation, reconnection, downgrade, upgrade and any other similar fees; fees paid for channels designated for commercial use; converter, remote control and other equipment rentals, and/or leases and/or sales; all home shopping service(s) revenues; and advertising revenues. Gross Annual Revenue shall not include any taxes or fees other than franchise fees on services furnished by the Company imposed directly on any Subscriber or user by any governmental unit and collected by the Company for such governmental unit. In the event that an Affiliate is responsible for advertising on the Cable System in the Town, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues excluding commissions and/or applicable agency fees, paid to the Company by an Affiliate for said Affiliate’s use of the Cable System for the carriage of advertising. It is the intention of the parties here to that Gross Annual Revenues shall only include such revenue of Affiliates and/or Persons relating to the provision of Cable Service over the Cable System and not the gross revenues of any such Affiliate(s) and/or Person(s) itself, where unrelated to Cable services. Gross Annual Revenue shall be computed in accordance with Generally Accepted Accounting Principles.

2.28 “Headend”: A company owned or leased facility through which Broadcast and cablecast signals are electronically acquired, translated, or modified for distribution over the Cable System.

2.29 “Interactive Service”: Any service that offers to Subscribers the capability of both transmitting and receiving Signals of any kind.

2.30 “Leased Channel” or “Leased Access”: A video and/or audio or data Channel which the Company shall make available pursuant to Section 612 of the Cable Act.

2.31 “Local Origination”: Local programming produced by the Company.

2.32 “Origination Point”: A connection to the cable system which is provided to allow for live or recorded programming to be transmitted from that location

Upstream to the Head-end and from there Downstream to the Subscribers over one or more access channels, also referred to in this Agreement as a return feed.

2.33 “Other Programming Service”: Services that the Company may make available to all Subscribers generally.

2.34 “Outlet”: An interior cable connection that connects a Subscriber or User to the Cable System.

2.35 “Parent”: When used in reference to the Company, any Person holding direct or indirect ownership or control of thirty percent (30%) or more of the rights of control of the Company; and any Person holding such ownership or control of a Parent to the Company.

2.36 “Pay Cable” or “Premium Service”: Optional additional Program services, provided to Subscribers at a monthly charge in addition to the charge for Basic Service.

2.37 “Pay-Per-View”: Programming delivered for a fee or charge to Subscribers on a per-program or time basis, in addition to the charge or fee to Subscribers for Basic Service, or for such other service tier required by applicable law.

2.38 “PEG”: The acronym for Public, Educational and Governmental, used in conjunction with Access Channels, support and facilities.

2.39 “Person”: Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concert.

2.40 “Public Building”: All State-accredited public schools, police and fire stations, public libraries, Town Hall, and other public buildings owned or leased by the Town, but shall not include buildings owned by the Town but leased to third parties or buildings such as storage facilities at which government employees are not regularly stationed.

2.41 “Video Programming”: Programming provided by, or generally considered comparable to Programming provided by, a television broadcast station.

2.42 “Signal”: Any transmission of electromagnetic or optical energy that carries Cable Services from one location to another.

2.43 “State”: The State of Maine.

2.44 “Street” or “Public Way”: The surface of, and the space above and below, any public Street, highway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, Public Way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Town in the Town which shall entitle the Company to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. “Street” or “Public Way” shall also mean any easement now or hereafter held by the Town within the Town for the purpose of public travel, or for utility or public service use dedicated for public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Company to the use thereof for the purposes of installing or transmitting the Company’s Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System. Reference herein to “Public Way” or “Street” shall not be construed to be a representation or guarantee by the Town that its property rights are sufficient to permit its use for any purpose, or that the Town shall gain or be permitted to exercise any rights to use property in the Town greater than those already possessed by the Town.

2.45 “Subheadend”: A signed distribution point for part of the Cable System linked to the Headend by fiber optic cable, coaxial supertrunk or microwave, and also referred to as a “Hub.”

2.46 “Subscriber”: Any person, firm, corporation, or other entity who or which elects to subscribe to for any purpose, a Cable Service provided by the Company by means of, or in connection with, the Cable Television System.

2.47 “Subscriber Network”: The 750 MHz bi-directional-capable network to be owned and operated by the Company, over which Cable Service(s) can be transmitted to Subscribers.

2.48 “Town”: The Town of Gorham organized and existing under the laws of the State of Maine and all territory within its existing and future territorial corporate limits.

2.49 “Two-way Capability”: The ability to transmit audio and video signals upstream and downstream on the Cable System.

2.50 “Upstream Channel”: A Channel over which signals travel from an authorized location to a Cable System distribution point.

2.51 “Upstream Transmissions”: Signals traveling from Subscribers or other originating points on the Cable System to a cable distribution point.

Section 3. Franchise Required.

No Person, firm or corporation shall install, maintain or operate within the Town or any of its Public Ways or Streets or other public areas any equipment or facilities for the operation of a Cable System unless a Franchise Agreement authorizing the use of said Public Ways or Streets or areas has first been entered into pursuant to the provisions of this Ordinance and unless said Franchise Agreement is in full force and effect.

Section 4. Franchise Agreement.

4.1 The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interest of the Town and its residents with one or more Cable Companies for the operation of a Cable System(s) within the Town, including the granting of non-exclusive Franchise Agreements for the operation thereof.

4.2 Prior to issuing a request for proposals to any Cable Company for Franchise Agreements or renewals, the Town shall hold a public hearing or conduct some other process to determine any special local needs or interests with respect to Cable Service and shall allow a reasonable period for public comment on the request for proposals.

4.3 Franchise Agreement applications, including renewal applications, and any submittals in response to a request for proposals or solicitation of bids and related documents, are public records. Upon the filing of such documents, the Town shall provide reasonable notice to the public that such documents are open to public inspection during reasonable hours.

4.5 Each Franchise Agreement between the Town and a Company shall contain, at a minimum, the following provisions:

- (a) A statement of the area or areas to be served by the Company;
- (b) A line extension policy;
- (c) A provision for renewal, the term of which may not exceed fifteen (15) years;
- (d) Procedures for the investigation and resolution of Subscriber complaints by the Company;
- (e) An agreement to comply with the requirements of 30-A M.R.S.A. §3010 regarding consumer rights and protection and any amendments thereto;

- (f) A franchise fee to be paid by the Company to the Town in accordance with Section 9 of this Ordinance;
- (g) A provision for access to, and facilities to make use of, one or more local PEG Access Channels;
- (h) A provision for the assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon applications for initial and renewal Franchise Agreements;
- (i) A provision whereby the Company agrees to defend, indemnify and hold harmless the Town and its agents from claims and liabilities arising out of the Company's construction, ownership, operation, maintenance, repair and control of the Cable System; and
- (j) Any other terms and conditions that are in the best interests of the Town.

Section 5. Town's Retained Rights and Authority.

5.1 Right to Grant Additional Franchises. The Town expressly reserves the right to grant other such Franchises in the Town of Gorham on such terms as it deems appropriate and to operate a Town-owned Cable System.

5.2 Eminent Domain. No privilege or power of eminent domain is bestowed upon a Company by the granting of a Franchise.

5.3 Exercise of Police Power. All rights and privileges associated with the grant of any Franchise are subject to the police power of the Town to adopt and enforce local laws, ordinances, rules and regulations necessary to the health, safety and general welfare of the public. Expressly reserved to the Town is the right to adopt, in addition to the provisions of any Franchise Agreement, this Ordinance and any other existing laws, ordinances and regulations (collectively "laws"), such additional laws as it may find necessary in the exercise of its police power. Any conflict between the terms of any Franchise Agreement and any present or future exercise of the Town's police and regulatory powers, including this Ordinance, shall be resolved in favor of the latter.

5.4 Use of Public Ways. The right to use and occupy the Streets, Public Ways and public places granted in any Franchise Agreement shall not be exclusive, and the Town reserves the right to grant similar or other uses of the said Streets, Public Ways and public places to any Persons at any time during the term of any Franchise Agreement.

5.5 Conflict With Public Works. The rights and privileges associated with the grant of any Franchise shall not be in preference or hindrance to the right of the Town or any other governmental agency, improvement district or other authority having jurisdiction, to perform or carry on any public works or public improvement, including without limitation any Streets and Public Ways. Should a Company's Cable System in any way interfere with the construction, maintenance or repair of such public works or improvements, including without limitation any Streets and Public Ways, the Company shall, at its own expense, protect or relocate its Cable System or part thereof, as directed by the Town or other authority having jurisdiction.

5.6 Removal and Relocation. The Town shall have the power at any time to order and require a Company to remove or relocate any pole, wire, cable or other structure machinery or equipment located within a public way that is dangerous to life or property. In the event that a Company, after notice, fails or refuses to act within a reasonable time, the Town shall have the power to remove or relocate the same at the sole cost and expense of the Company.

Section 6. Bonds and Insurance.

6.1 Performance Bond to Town. Upon the award of any Franchise, and annually thereafter during the entire term of the Franchise, a Company shall maintain in full force and effect at its own cost and expense a performance bond in the amount of at least \$100,000 to guarantee the faithful performance by the Company of all of its obligations under its Franchise Agreement. The performance bond shall be so conditioned that in the event that the Company shall breach any one or more material provisions of this Ordinance or of the Franchise Agreement, and subsequent to any notice and opportunity to cure provision of this Ordinance and/or the Franchise Agreement, the Town may recover from the surety any penalties assessed in accordance with Section 10 of this Ordinance and any damages or costs suffered or incurred by the Town as a consequence of such breach. Said conditions shall be a continuing obligation during the entire term of the Franchise Agreement. Not less than thirty (30) days' prior notice to the Town shall be provided of the Company's or the surety's intention to cancel, materially change, or not to renew the performance bond or security fund. Failure to post a bond on a timely basis shall constitute a violation of a material provision of this Franchise Agreement.

6.2 Insurance. Company shall maintain during the full term of this Franchise Agreement such insurance as will protect it and The Town from any claims which may arise directly or indirectly or result from Company's ownership, construction, repair, operation or maintenance of Company's cable system serving Gorham, whether such activities are performed by Company, or by anyone for whose acts Company may be liable, under the following policies:

- (a) Workers' Compensation and any other legally required employee benefits, shall be supplied in such amounts as required by law;
- (b) Property insurance, all risk, replacement cost basis, on all insurable Company assets in the Town;
- (c) Commercial General Liability insurance shall be supplied in the following amount: combined single limit for bodily injury, personal injury, death or property damage in the amount of at least \$3,000,000 per occurrence;
- (d) Excess liability (in umbrella form) in the amount of at least \$5,000,000; and
- (e) Automobile liability insurance in the amount of at least \$1,000,000 per occurrence.

6.3 Non-waiver. Neither the provisions of this Section, nor any bonds accepted by the Town pursuant hereto, nor any damage recovered by the Town thereunder, shall be construed to excuse unfaithful performance by the Company or limit the liability of the Company under this Ordinance or the Franchise Agreement for damages, either to the full amount of the bond or otherwise.

Section 7. Application.

7.1 Any application for a cable television Franchise in the Town must contain the following information, except that in the case of a renewal Franchise, only the information listed under this Section 7.1(a) through 7.1(b)(1), 7.1(b)(2) and 7.1(b)(3) shall be required:

- (a) The name, address, and telephone, number of the applicant.
- (b) The most recent 10-Q or 10-K of the Company or its ultimate parent company as filed with the Securities and Exchange Commission. In the event the Company does not, at the time of application, file 10-Q or 10-K filings with the Securities and Exchange Commission, it shall instead file a detailed statement of the corporate or other business entity organization of the applicant and any other information required by the Town, including without limitation:
 - (1) The names and business addresses of all officers and directors of the applicant.
 - (2) The names and business addresses of all officers, Persons and entities having, controlling, or being entitled to have or

control 15% or more of the ownership of the applicant and each Parent, Affiliate or subsidiary of the applicant and the respective ownership share of each such person or entity.

- (3) The names and addresses of any Parent, Affiliate or subsidiary of the applicant; namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement of the nature of any such Parent, Affiliate or subsidiary business entity, including but not limited to Cable Systems owned or controlled by the applicant, its Parent, Affiliate and subsidiary and the areas served thereby.
 - (4) A detailed description of all previous experience of the applicant in providing Cable Service and in related or similar fields.
 - (5) A detailed and complete financial statement of the applicant, its Parents, Affiliates and its subsidiaries, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Town Council, setting forth the basis for a study performed by such lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed Cable System in the Town, or a statement from a certified public accountant certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed Cable System in the Town.
 - (6) A statement identifying, by place and date, any other cable television Franchise(s) awarded to the applicant, its Parent, Affiliate or subsidiary, the status of said Franchise(s) with respect to completion thereof; the total cost of completion or such Cable System(s); and the amount of applicant's and its Parent's, Affiliate's or subsidiary's resources committed to the completion thereof.
- (c) In the case of an application for an initial Franchise for a new Cable System serving the Town, the applicant shall provide a detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

- (1) A detailed map indicating all areas proposed to be served, and a proposed construction time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, and the time of commencement of construction and anticipated operation date.
- (2) A statement or schedule setting forth all proposed classifications of rates and charges to be made against Subscribers and all rates and charges to be made against Subscribers and all rates and charges as to each of said classifications, including installation charges and service charges and deposit agreement.
- (3) A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those contained in the FCC's regulations, 47 C.F.R. §§ 76.601, *et seq.*, as may be amended from time to time, and shall in addition comply with Section 13 herein.
- (4) A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any Subscriber and between the applicant and any lessee of any Channel, including provisions for reimbursement in the event of interruption of service.
- (5) A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any Persons, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the contract.
- (6) A detailed statement setting forth in its entirety the proposed Cable System design. Such statement shall include proposals concerning system architecture, Channel capacity, Channel uses, access, programming facilities, studio location, point to point service, two-way service, Subscriber privacy, and interconnection.
- (7) Such other information as required by the Town at the time of the Franchise application.

7.2 Notice. No Franchise, including any Franchise renewals, will be granted hereunder without notice to the public and a public hearing pursuant to Section 8.3 of this Ordinance.

Section 8. Contract Term; Renewal.

8.1 Term. Any Franchise awarded by the Town Council under this Ordinance shall be for a term of not more than fifteen (15) years.

8.2 Renewal. Any renewal of a Franchise shall be upon such terms and conditions as the Town and the Company may mutually agree upon in accordance with the Cable Act and applicable federal law. Such renewal shall be for a period of not more than fifteen (15) years from the expiration of the previous Franchise.

8.3 Public Hearing. Before authorizing the issuance of any Franchise or renewal of a Franchise, the Town Council shall review, in accordance with federal law, the applicant's legal, financial and technical qualifications, the proposed agreement's ability to meet current and future cable-related needs and interests of the Town in light of the costs of meeting those needs and interests, and the adequacy and feasibility of the applicant's qualifications to operate a Cable System within the Town, and shall conduct a public hearing thereon with at least seven (7) days' advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed Franchise or renewal.

8.4 Requests for Information. Any Company operating a Cable System in the Town shall maintain adequate personnel and resources to respond to requests from the Town for renewal information and review of draft franchise agreements in a timely manner. Failure to respond in a timely manner shall be considered a violation of this Ordinance.

Section 9. Fees.

9.1 Franchise Fee. As compensation for the rights and privileges associated with any Franchise awarded pursuant to the provisions of this Ordinance, the Company shall pay to the Town a franchise fee based on a percentage of the Company's Gross Annual Revenues, in accordance with federal law. The franchise fee may be changed by the Town on 90 days' notice to the Company, but not more frequently than once each calendar year, to an amount within the then-applicable maximum allowed under federal law.

9.2 Method of Computation. Payments due the Town under the terms of the Ordinance shall be computed quarterly as of March 31, June 30, September 30 and December 31 for the preceding three months and shall be paid on or before the forty-fifth calendar day from each said computation date at the office of the Town Treasurer during regular business hours. The Town shall be furnished a

statement with each payment, prepared by a financial representative of the Company, and verified as correct, reflecting the total amount of Gross Annual Revenues generated by all activities within the Town, and the above charges, deductions and computations, for the three month payment period covered by the payment. The Company shall prepare and maintain financial information and records in accordance with generally accepted accounting principles and generally accepted auditing standards in the cable television industry. At the Town's option, the information provided by the Company shall be subject to audit by an outside firm of certified public accountants selected by The Town. Any such audit shall be at the Town's expense except unless such audit shall disclose an underpayment of any franchise fees of more than four percent (4%) payable for the period of the audit, in which event the Company shall reimburse the Town for the expense of such audit. Repeated failure to pay the franchise fee on a timely basis may be grounds for revocation of the Franchise under this Ordinance. Interest shall accrue on any and all overdue franchise fees at the rate of twelve percent (12%) simple interest per annum.

9.3 Rights of Recomputation. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the Town may have for further or additional sums payable as a franchise fee under this Ordinance or for the performance of any other obligation hereunder. However, there shall be an accord and satisfaction with respect to any payment not subject to an audit within thirty-six (36) months following the close of the fiscal year to which such payment relates.

Section 10. Penalties.

10.1 Assessment. If a Company fails to comply with any provision of this Ordinance, the Town may assess the Company a monetary penalty in accordance with the Schedule of Penalties set forth in Section 10.8-10.12 below. Such assessment shall not constitute a waiver by the Town of any other right or remedy it may have under this Ordinance or the Franchise Agreement, or under any other applicable law, including, without limitation, its right to recover from the Company such additional damages, losses, costs and expenses as may have been suffered or incurred by the Town by reason of or arising out of such breach of this Ordinance or the Franchise Agreement; provided, that any penalties collected by the Town from the Company pursuant hereto shall be applied against, and reduce accordingly, the amount of any recoveries due the Town pursuant to this sentence for the failure to perform for which such penalties were assessed.

10.2 Notification. Upon the Town's assessing a penalty pursuant to Section 10.1 above, notice of such assessment shall be sent to the Company, with a concise statement of the reasons therefor.

10.3 Procedures.

- (a) Within ten (10) days after receipt of a notice pursuant to Section 10.2 above, the Company may request a hearing before the Town Council. In the event of such a request, the Town shall provide thirty (30) days' written notice of the public hearing to the Company.
- (b) During the public hearing, Company shall have the right to appear and be heard, including the opportunity to present evidence, question witnesses, if any, and the hearing shall follow the procedures set forth for public hearings before the Town Council.
- (c) Following the hearing, the Town Council shall determine (i) whether a failure or violation has occurred; (ii) whether such failure or violation is excusable; and (iii) whether such failure or violation has been or will be cured by the Company; and (iv) the appropriate remedy for the failure or violation.
- (d) If the Town Council determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a reasonable schedule satisfactory to the Town Council or that the failure is excusable, such determination shall conclude the matter, unless Company fails to comply with the schedule for cure.
- (e) The Company shall have the right to appeal any decision of the Town Council under this Section within thirty (30) days of the date of the decision or ruling to the Maine Superior Court pursuant to M.R. Civ. P. 80B.

10.4 Payment. Except as provided in Section 10.3 above, the Company shall pay the full amount of any penalty to the Town within ten (10) days after receipt of a notice pursuant to Section 10.2 above and the cure period has expired.

10.5 Default. Subsequent to the notice and opportunity to cure provision herein, upon failure of the Company to make timely payment of an assessed penalty, the Town may recover the amount of any such penalty from the performance bond or security fund pursuant to Section 6.1 of this Ordinance. Failure of the Company to make timely payment of an assessed penalty is a violation of this Ordinance.

10.6 Disposition. Amounts received by the Town as penalties assessed against a Company may be used by the Town for any purpose it deems fit.

10.7 Schedule of Penalties. Pursuant to Section 10.1, 10.2 and 10.3 above, the following monetary penalties shall apply, and liability therefore shall accrue from the date of receipt of notice pursuant to Section 10.2 above, and upon failure to

cure within the time period specified below, if any opportunity to cure is provided.

10.8 Minor Per-Day Penalty. The penalty for the following violations shall be \$50.00 per day until the violation is cured:

- (a) Abandonment of service or a portion of that service without having obtained the written consent of the Town Council or having provided the Town with at least six (6) months' prior written notice of abandonment.
- (b) Failure to maintain the Company's required insurance pursuant to Section 6.2, with the penalty beginning thirty (30) days after Company receives written notification of the violation.
- (c) Failure to make timely payment of the franchise fee pursuant to Section 9, with the penalty beginning thirty (30) days after Company receives written notification of the violation.
- (d) Violation of the privacy restrictions in Sections 12.7(d) of this Ordinance. This penalty shall be assessed with the penalty beginning seven (7) days after Company receives written notification of the violation.
- (e) Failure to restore damaged property within the specified period pursuant to Section 11.11, with the penalty beginning five (5) days after Company receives written notification of the violation.
- (f) Failure to make and maintain records as required by Section 13.6 with the penalty beginning thirty (30) days after Company receives written notification of the violation. This penalty shall be assessed for each such record not maintained.
- (g) Failure to obtain and maintain the performance bond or security fund pursuant to Section 6.1 with the penalty beginning thirty (30) days after Company receives written notification of the violation.
- (h) Failure to remove, relocate or protect the Company's system pursuant to Sections 5.5, 5.6 and 11.17 with the penalty beginning seven (7) days after Company receives written notification of the violation.
- (i) Failure to eliminate objectionable interference pursuant to Section 11.18 with the penalty beginning fourteen (14) days after Company receives written notification of the violation.

- (j) Failure to provide reports within the time required by Section 18 assessed for each report not provided with the penalty beginning fourteen (14) days after Company receives written notification of the violation.
- (k) Failure to comply with Section 13.5 Rebate or Credit for Service Loss.

10.9. Per Subscriber Penalty. The penalty for the following violations shall be \$5.00 per Subscriber affected by the violation per day until the violation is cured:

- (a) Failure to respond to a request for repair or adjustment within the time required by Section 13.4. This penalty shall begin twenty-four (24) hours after the Town notifies the Company in writing of the violation.
- (b) Failure to commence service to a Subscriber within the time required by Section 14 beginning two (2) days after the Town notifies Company in writing of the violation.
- (c) Failure to pay a refund due a Subscriber upon termination within the time required by Section 15.6. This penalty shall begin five (5) days after the Town notifies the Company in writing of the violation.
- (d) Failure to respond to a billing complaint within the time required by Section 16.3. This penalty shall begin two (2) days after the Town notifies the Company in writing of the violation.
- (e) Failure to respond to a service complaint within the time required by Section 16.4. This penalty shall begin two (2) days after the Town notifies the Company in writing of the violation.
- (f) Failure to pay a rebate or apply a credit for service loss within the time required by Section 13.5. This penalty shall begin 5 days after the Town notifies the Company in writing of the violation.

10.10. Major Per Day Penalty. The penalty shall be \$500.00 for the following violations beginning sixty (60) days after the Town notifies the Company in writing of the violation until the violation is cured.

- (a) Failure to complete any system rebuild as required by Section 11.1 and the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance is achieved.

- (b) Failure to make service available to unserved areas within the time required by this Ordinance and the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance is achieved.
- (c) Failure to provide access channels, facilities and equipment funding as required by this Ordinance and the terms of the Franchise Agreement. This penalty shall be assessed per day until compliance.

10.11. Violation of Subscriber Privacy. The penalty for a violation of Section 12.7(e) is \$1,000 per occurrence of selling or disclosing subscriber lists, viewing habits or personally identifiable information (and not per day or per affected subscriber).

10.12. Failure to Provide Emergency Override Capabilities. The Cable System shall incorporate emergency audio override capabilities in accordance with FCC Emergency Alert System (EAS) standards and as required by Section 11.3. The penalty for a failure of the system to perform as described in the event of a public emergency or vital public information situation, shall be \$1,000 assessed per occurrence, except to the extent the Cable System is rendered non-functional due to damage caused by factors outside of the Company's reasonable control.

10.13. Force Majeure. The Company shall not be assessed any penalties under this Ordinance for any delay or failure to comply with the provisions of the Ordinance if doing so is prevented by Act of God, the inability to secure materials despite the use of all commercially reasonable efforts by the Company, flood, storm, fire, explosions, strikes, riots, wars whether or not declared, insurrections, epidemics, or any law, rule or act of any court of competent jurisdiction or instrumentality of government or any other occurrence outside of the control of the Company when using all commercially reasonable efforts.

10.14. Further Recourse. In addition to the foregoing penalties, upon the failure, refusal or neglect of the Company to cause any work or other act required by law or by this Ordinance or the Franchise Agreement to be properly completed in, on, over or under any Street or Public Way within any time prescribed, the Town may (but shall not be required to) cause such work or other act to be performed or completed in whole or in part and upon so doing shall submit to the Company an itemized statement of the costs thereof. The Company shall, within thirty (30) days after receipt of such statement, pay to the Town the entire amount thereof.

Section 11. Construction and Operation of Facilities

11.1 Design. Except as otherwise provided for in the Franchise Agreement, any Cable System serving Gorham shall in any event be designed and built for technical quality in conformance with the highest state of the art in the cable television industry for Cable Systems of comparable size. Not later than one year from the effective date of the Franchise, the Cable System shall be designed and built for operation at a minimum of 750 MHz and a minimum eighty (80) video channel capacity, with full bi-directional capability. All downstream and upstream channels shall be activated by such date.

11.2. Emergency Power. The Cable System shall incorporate equipment capable of providing standby powering of the Headend and all Subheadends for a minimum of four hours.

11.3. Emergency Override. The Cable System shall incorporate emergency audio override capabilities in accordance with FCC Emergency Alert System (EAS) standards.

11.4. Subscribers' Antennae. Notwithstanding a required disconnection of a Subscriber's existing broadcast antennae and downloads to receivers connected to the Cable System, the Company shall not remove or suggest to the Subscriber the removal of such antennae and downloads. The Company shall furnish to each Subscriber so requesting, at reasonable cost, an A/B switch permitting the Subscriber to change from cable reception to home antenna reception, and back, at the option of the Subscriber. Installation of such switches at the time of initial installation of service to a Subscriber shall be without charge other than for such purchase cost.

11.5. Switching. The Headend or Subheadend shall have the capability of accepting programming on the upstream channels of the Cable System and simultaneously transmitting such programming on the downstream channels of the Cable System.

11.6. VCR/Cable Compatibility. In order that Subscribers to the Cable System have the capability to simultaneously view and tape any channel and set their VCR to record multiple channels remotely, the Company shall provide to any Subscriber, upon request, an A/B switch, installed at reasonable cost.

11.7 General Construction Requirements. In the construction, reconstruction, maintenance and repair of the Cable System, the Company shall utilize materials of good and durable quality and shall perform or cause to be performed all work so associated with the system in a safe, thorough and reliable manner.

11.8. Live Programming Origination Points. To facilitate live programming within the Town of Gorham each Company shall install Origination Points at the

public buildings and public locations as are designated in the Franchise Agreement.

11.9. Compliance With Regulations. All work, including all working conditions and facilities, associated with the construction, operation, maintenance, repair and removal of the Cable System shall comply with:

- (a) All applicable Federal and State laws, rules and regulations;
- (b) All applicable laws, codes, ordinances, rules and regulations of the Town; and
- (c) The National Electric Code, National Electrical Safety Code, the National Cable Television Association Standard Code, and the National Safety Code.

11.10. Town Rights. The Town reserves the right to inspect all construction and installation work and to make such tests as it shall deem necessary to ensure compliance with applicable laws, codes, ordinances and regulations and with provisions of this Ordinance and the applicable Franchise Agreement, and may order corrections of any violations.

11.11. Restoration of Damage. The Company, at its sole expense, shall restore all damage to property, both public and private, caused by the construction, operation, maintenance or repair of the Cable System, so as to return the damaged property to a condition as good as before the damage was done. Such restoration shall be made as soon as practicable after completion of work necessitating the restoration, and shall be done in a manner approved by the owner or tenant in possession. In no event shall such restoration be made later than ten (10) days, weather permitting and subject to force majeure, after the Company's receipt of notification from the owner of the property so damaged unless otherwise mutually agreed by the Company and the property owner; provided, that if any such damage involves streets, water-mains, storm or sanitary sewers, or other public facilities, such damage shall be repaired within forty-eight (48) hours or as soon as practicable. If the Company fails to make such restoration on a timely basis, the Town may fix a reasonable time for such restoration and repairs and shall notify the Company in writing of the restoration and repairs required and the time fixed for performance hereof. Upon failure of the Company to comply within the specified time period, the Town may cause proper restoration and repairs to be made and the Company shall pay the reasonable expense of such work upon demand by the Town.

11.12. Identification. Each Company shall ensure that all of its vehicles are clearly identified to the general public as being associated with the Company, and that all of its employees, and the employees of any agents or contractors, who enter upon private property wear an employee identification card issued by the

Company, which card shall bear a picture of said employee and shall be worn in a conspicuous place.

11.13. Public Ways Hazards. Any openings or obstructions in streets or other municipal or public property made by any Company shall be guarded and protected at all times by the placement of adequate barriers, fences, boarding or other protective devices at the sole expense of the Company. During the periods of dusk and darkness, the protective devices shall be clearly designated by warning lights.

11.14. Location of Physical Facilities. Within sixty (60) days after the effective date of any Franchise Agreement, including any renewal agreement, the Company shall provide the Town with strand maps of the Town of Gorham clearly showing the location of all distribution lines (indicating underground, where applicable), tower, antennae, receivers, headend, and sub-headends. Revised and corrected strand maps shall be submitted to the Town not later than ninety (90) days after such changes or additions are made.

11.15. Cable Location. Insofar as practicable, the distribution system (trunk and feeder cable) shall run along public rights-of-way. Where the cable or wire facilities of all public utilities are installed underground, the Company shall install its cable distribution system underground. Vaults and pedestals shall be suitably landscaped, such landscaping to be subject to the approval of the owner or tenant in possession, which approval shall not be unreasonably withheld. In all areas where public utility lines are aerially placed, if subsequently during the term of the Franchise Agreement all such utility lines are relocated underground pursuant to applicable law under the Town's police powers, the Company shall similarly relocate its cable distribution system underground at its sole expense. Wherever possible, the distribution system shall use the existing facilities of the public utilities. Poles shall not be installed for the sole purpose of supporting a portion of the distribution system without written justification and approval of the Town, which approval shall not be unreasonably withheld, pursuant to the Town's law, ordinances, rules and regulations.

11.16. Location of Construction. All lines, cables and distribution structure, and equipment, including poles and towers, erected, installed or maintained by any Company within the Town of Gorham shall be located so as not to obstruct or interfere with the proper use of Streets and Public Ways and to cause minimum interference with the rights of property owners who abut any of the said Streets and Public Ways, and not to interfere with existing public utility installations. A Company shall not place new poles, towers or other obstructions in Streets or Public Ways, or relocate existing poles, towers or other obstructions, without first obtaining the Town's approval, which approval shall not be unreasonably withheld. A Company shall have no vested right in any location, and the Company shall remove such construction at its own cost and expense whenever the Town determines that there is a restriction, obstruction or interference with the

operation or location or any future operation or location of said Streets or Public Ways.

11.17. Grade or Location Changes. If at any time during the term of a Franchise the Town shall elect to alter, or change the grade or location of any Street, or shall engage in any construction, reconstruction, widening, repairs or other public works in, on or under the Streets, any Company shall, upon reasonable notice by the Town, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures (“Fixtures”) at its own expense, and in each instance comply with the Town’s standards and specifications.

11.18. No Interference. A Company shall not place Fixtures above or below ground where the same will interfere with any gas, electricity, telephone fixtures, water hydrants, or other utility use, and all such Fixtures placed in or upon any Street shall be so placed as to comply with all requirements of the Town or other applicable authority, and fully comply with local regulations, including zoning ordinances. Each Cable System shall be constructed, operated and maintained so that there will be no objectionable interference with television reception, radio reception, telephone communications or other electronic installations in the Town of Gorham or with the operation of any public fire, police, rescue or safety communications system. Should any such interference occur, the Company shall promptly eliminate it.

11.19. Temporary Relocation. A Company shall, on request of any Person holding a permit issued by the Town or other appropriate authority, temporarily move its Fixtures to permit the moving or erection of buildings or other objects, with the expense of any such temporary removal to be paid in advance by the Person requesting same, and the Company shall be given reasonable notice to arrange for such temporary relocation. A Company shall bear any expense to temporarily move its Fixtures to permit the moving or erection of Town- owned or constructed buildings or other public infrastructure.

11.20. Tree Trimming. Each Company shall have the authority to trim any trees upon and overhanging the Town’s Streets or Public Ways to the minimum extent necessary to prevent the branches of such trees from coming in contact with the wires and cables of the Cable System; provided that, except for incidental trimming done by the Company employees in the course of performing their other duties, any tree trimming done by the Company shall be subject, in all respects, to the Town’s prior approval. Except in an emergency, the Company will notify the abutting property owner(s) prior to starting tree trimming work. In performing tree trimming, the Company shall employ best management practices, shall use its best efforts to avoid any unnecessary damage or injury to trees, and shall comply in all respects with any Town ordinances governing tree trimming. Except for incidental trimming performed by a Company’s employees in the course of performing their other duties, the Town may elect to perform tree trimming

directly or by agents under the Town's supervision and direction, at the Company's expense.

11.21. Drops. In areas where the cable distribution is located underground, drop connections to Subscriber's structure shall be underground; in other areas the drop connection shall be aerial unless the Subscriber requests underground installation and elects to pay the cost thereof. Insofar as practicable, the Company shall adhere to the Subscriber's desire with regard to point of entry of the drop connection into the structure. Within the Subscriber's structure, drop or cable runs shall be made as unobtrusively as possible. Each drop shall be grounded at the Subscriber's structure, or, at the Company's option, at such other location as may be permitted by the National Electrical Safety Code.

11.22. Zoning and Building Codes. Any and all construction performed by or under the auspices of the Company, and any and all facilities used or operated by the Company, shall comply with all applicable zoning and building ordinances, codes or laws of the Town.

11.23. Contractors, Subcontractors and Affiliates. All contractors, subcontractors and affiliates of a Company must be properly licensed under all applicable federal, state and local laws and regulations. Each Company shall be solely and completely responsible for all acts or omissions of any such contractor, subcontractor or affiliate, or any employee or agent of any such contractor, subcontractor or affiliate in the construction, reconstruction, installation, maintenance, operation or removal of the Company's cable system.

11.24. Completion of Work by the Town. Upon failure of a Company to commence, pursue or complete any work required by this Ordinance, other applicable law or by the provisions of the Franchise Agreement in any Street or other public place within the time prescribed and to the satisfaction of the Town, the Town may, at its option, cause such work to be done with reasonable expenditures therefore and the Company shall pay to the Town the cost thereof in the itemized amounts reported by the Town to the Company within thirty (30) days after receipt of such itemized report.

11.25. Lockout Key. Each Company shall make available to any Subscribers so requesting, for lease or sale, a "parental control device" or "lockout key" which will permit the Subscriber, at his or her option, to eliminate comprehensible reception of any or all of the Basic Service or pay cable Channels. If requested, a lockout key will be installed within twenty (20) days of request.

Section 12. Operation, Service and Maintenance of System.

12.1 Each Company shall construct, maintain and operate its Cable System safely and render efficient service to Subscribers during the term of any Franchise.

12.2 Each Company shall construct, upgrade, install, operate, maintain and remove its Cable System in conformance with Occupational Safety and Health Administration regulations, the Maine Electrical Code, the National Electric Code, the NCTA Safety Manual, the National Electric Safety Code, the Bell Telephone System Code of Pole Line Construction, the rules and regulations of the FCC, all building and zoning codes, and all land use restrictions as they may now exist or may be amended or adopted hereafter.

12.3 Any tower constructed for use in a Company's Cable System shall comply with the standards contained in "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", TIA/EIA-222-F as published by the Telecommunications Industry Association, 2500 Wilson Blvd., Arlington, VA 22201.

12.4 Installation and physical dimensions of any tower constructed for use in a Company's Cable System shall comply with all appropriate Federal Aviation Agency regulations, including, but not limited to, "Objects Affecting Navigable Airspace", 14 C.F.R. §§ 77.1, *et seq.*, as may be amended from time to time.

12.5 Any antenna structure used, in a Company's Cable System shall comply with "Construction, Marking, and Lighting of Antenna Structures", 47 C.F.R. §§ 17.1, *et seq.*, as may be amended from time to time.

12.6 Each Company shall install and maintain its wire, cable, mixers and other equipment in accordance with the requirements of the generally applicable ordinances of the Town as may be amended, and in such a manner which shall not interfere with any installations of the Town or any public utility serving the Town.

12.7 Privacy.

- (a) The Company shall respect the rights of privacy of every Subscriber of the Cable Television System and, pursuant to applicable federal law, shall not violate such rights through the use of any device or Signal associated with the Cable Television System, and as hereafter provided.
- (b) The Company shall comply with all privacy provisions contained in this Ordinance and all other applicable federal and State laws including, but not limited to, the provisions of Section 631 of the Cable Act.
- (c) The Company shall be responsible for carrying out and enforcing the Cable System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy.

- (d) Except as otherwise permitted by applicable law, the Company shall not tap, monitor, arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, Signal, input device, or subscriber Outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber; provided, however, that the Company may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying System integrity, checking for illegal taps, controlling return-path transmission, or billing for Pay Services. The Company shall report to the affected parties any instances of monitoring or tapping of the Cable Television System, or any part thereof, of which it has knowledge, whether or not the Company has authorized such activity, other than as permitted herein. The Company shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes. The Franchisee shall destroy all subscriber information of a personal nature after a reasonable period of time except as authorized not to do so by the affected Subscriber.
- (e) Except as otherwise permitted by applicable law, the Company shall not sell, disclose, or otherwise make available, or permit the use of, lists of the names or addresses of its Subscribers or any list or other information which identifies by name or address, Subscribers viewing habits, to any Person or agency for any purpose whatsoever without the prior written consent of the Subscriber; provided that the Company may make such lists available to Persons performing services for the Company in connection with lawful business purposes hereunder (e.g. a billing service) where the availability of such lists is necessary to the performance of such services. A Subscriber may withdraw said consent by providing written notice to the Company. Every Company shall provide annual notice to each Subscriber of the right to withdraw such authorization. In no event shall such authorization be obtained as a condition of service or continuation thereof, except as necessary to adequately provide particular services.
- (f) Upon request, the Company shall make available for inspection by a Subscriber at a reasonable time and place all personal subscriber information that the Company maintains regarding said Subscriber. A Subscriber may obtain from the Company a copy of any or all of the personal subscriber information regarding him or her maintained by the Company.
- (g) A Subscriber may challenge the accuracy, completeness, retention, use or dissemination of any item of personal subscriber information. Such challenges and related inquiries about the handling of

subscriber information shall be directed to the Company's General Manager.

12.8 Performance Standards

- (a) **Technical Standards.** Subject to Section 10.13 above, all signals, including PEG signals, carried on a Cable System shall be transmitted to Subscribers without material degradation and with a quality no less than that prescribed by rules of any Federal or State regulatory agencies having jurisdiction. Anything contained in a Franchise Agreement to the contrary notwithstanding, the technical specifications, operation and performance of the system shall, at minimum, conform at all time to the specifications established by any Federal or State regulatory agencies having jurisdiction thereof, and such specifications existing on the effective date hereof, whichever is of the higher quality.
- (b) **Performance Testing.** At such time as the performance monitoring and testing, conducted pursuant to requirements of any Federal or State regulatory agencies having jurisdiction, provides evidence that the Cable System's transmissions do not meet the prescribed standards, the performance monitoring and testing shall be repeated for all segments of the Cable System which do not meet such prescribed standards, upon completion of the necessary repair or adjustment, notwithstanding the lack of such requirement by the Federal or State agencies, and a report of the second test submitted to the Town; provided, that the Company shall not be required to furnish any such reports with respect to technical problems discovered in the course of the Company's routine maintenance testing, except as may be specifically requested by the Town in each instance. The Company shall provide and keep accurately calibrated test equipment on hand at all times for the testing of all services and operational standards outlined in this Franchise Agreement.

Section 13 – Maintenance and Repair.

13.1 Maintenance Policy. Each Company shall promulgate and adhere to a preventative maintenance policy directed toward maximizing the reliability (mean-time-between-malfunctions) and maintainability (mean-time-to-repair) of its Cable System with respect to its delivery of Cable Service to Subscribers at or above the performance standard set forth herein. Whenever it is necessary to interrupt service for the purpose of making scheduled maintenance or repairs, adjustments, installations or other maintenance activities, the Company shall do so at such a time as will cause the least inconvenience to Subscribers. Except in an emergency, and except for interruptions of five minutes or less which may occur during the course of normal maintenance, and except during the rebuild of

the Cable System, service is to be interrupted for planned or scheduled maintenance or repairs between the hours of midnight and 7:00 a.m. where practicable.

13.2 Repair. Each Company shall maintain a repair department comprising qualified technicians, service vehicles and equipment to provide prompt and efficient repair service within the parameters set forth below.

13.3 Notice. Except in an emergency, and except for interruptions of five minutes or less, each Company shall give Subscribers at least 24 hours' notice of any planned interruption of service for purposes of maintenance or repair. In an emergency, a Company shall give such notice as is reasonable in the circumstances. Notice given on the alphanumeric channels on Basic Service shall be considered sufficient. During any rebuild of the Cable System, a Company shall not be required to provide 24 hour notice of any interruption of service if such interruption is the direct result of rebuild work. However, a Company shall be required to provide written notification to Subscribers of planned rebuild work schedules and when Subscribers may experience service interruptions. The Company shall use its best efforts to minimize the length of any service outage due to a rebuild.

13.4 Repair Procedure. Each Company shall have a toll free telephone number listed in the local area and so operated that requests for repairs or adjustments can be received at any time, twenty-four (24) hours per day, seven (7) days per week. A recording device or answering service may be used during non-business hours. A Company's responses to such requests shall occur no later than 24 hours after the Company's receipt of such a request; provided, the response time for service complaints other than complaints of no or unusable service shall be computed excluding Sundays and holidays.

A Company shall respond within four (4) hours to any area outage that occurs between the hours of 7:00 a.m. and 10:00 p.m. of any day, and by not later than the following 11:00 a.m. to any area outage that occurs between 10:00 p.m. and 7:00 a.m. If a Company responds to a service complaint as herein required and the Subscriber is not satisfied that the problem giving rise to the original complaint has been resolved, the Subscriber shall notify the Company thereof within forty eight (48) hours of the repair visit by the Company personnel, and the Company shall have an additional period of twenty-four (24) hours within which to correct the problem. If such second complaint is made to the Town instead of the Company, the Company shall have a period of twenty-four (24) hours after receipt of oral or written notice from the Town within which to make the correction. The requirements for maintenance and repair shall not apply to Subscribers' television or radio receivers or other Subscriber-owned equipment.

13.5 Rebate or Credit for Service Loss. Upon request, for every loss of service in excess of six (6) continuous hours, the Company shall grant a pro rata

rebate or credit of the regular monthly charge to the Subscriber. In the event a Subscriber reports a loss of service to the Company, and such outage exceeds six (6) continuous hours, the Company shall grant the credit or rebate whether or not the Subscriber specifically requests it. The credit shall be pro-rated by multiplying the applicable monthly service rate by a fraction whose numerator equals the number of days of the outage and whose denominator equals the number of days in the month of the outage. In no case shall the refund be less than twenty-four (24) hours' credit. For purposes of this paragraph, loss of Basic Service shall be considered a Subscriber's receipt of less than two-thirds of the respective available channels, and loss of pay Cable Service shall be considered the loss of signal on any pay Channel. The Company shall give the Subscriber a credit no later than the next billing cycle. The Company shall include on each Subscriber bill for service, a notice regarding the Subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with this Section. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the Company to request the pro rata credit or rebate for service interruption. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the Customer bill in boldface type.

13.6 Records. Each Company shall maintain records of all oral and written complaints regarding quality of service, equipment malfunctions, billing procedure, and similar matters that requires further action on the part of the Company. Such records shall show the exact date and time of receipt of all such customer complaints, identifying the Subscriber, the nature of the complaint and the exact time action was taken by the Company in response thereto, together with a description of such action. Each Company shall also maintain a record of all whole or partial system outages, including the date, approximate time and duration, type and probable cause of each outage, except for outages caused by routine testing or maintenance. Such records shall be available at the Company's local office for at least two (2) years, for inspection by the Town as it may from time to time request, during regular business hours and upon reasonable notice, subject to any privacy restrictions imposed by law. The Company shall, within ten (10) days after receiving a written request therefore, send a written report to the Town with respect to any complaint. Such report shall provide a full explanation of the investigation, finding(s) and corrective steps taken.

Section 14 - Time of Installation.

Service to any Subscriber served by a standard aerial Drop shall commence by not later than seven (7) business days after service is requested; service to any Subscriber served by a standard underground Drop shall commence by not later than forty-five (45) days after service is requested unless additional time is required by severe weather or other circumstances outside of Company's control. The Company shall exert every reasonable effort to commence service to a Subscriber served by a non-standard Drop as expeditiously as possible. A standard Drop, for which the Subscriber shall be charged the Company's standard installation fee, is a drop running not more than one hundred

fifty (150) feet from feeder cable to the Subscriber's structure; provided, that any installation which requires Company to cross a street underground shall be considered a non-standard installation. An aerial Drop in excess of one hundred fifty (150) feet in length shall be considered a non-standard installation. If the Company schedules an appointment with a Subscriber for an installation, repair or other service call, and the Company fails to arrive at the Subscriber's premises within one (1) hour of the scheduled time or scheduled window of time (which window shall not exceed four (4) hours) for reasons not caused by the Subscriber unless rescheduled in advance by the Company, the Company shall, in the case of an appointment for a standard installation, make no charge to the Subscriber for the standard installation, and in the case of a repair or other service call, shall apply a minimum twenty dollar (\$20.00) credit to the Subscriber's account to reduce the cost of any make-up or late repair or service call.

Section 15 – Subscriber Rates and Charges.

15.1 Regulation. The Town shall have the right to regulate charges to Subscribers for Cable Service to the extent allowed by law.

15.2 Rate or Service Discriminations: Special Classifications. No Company shall subject any person to any prejudice or disadvantage, preference or advantage in connection with rates, charges, service facilities, rules or regulations. Nothing herein shall prohibit the establishment of a graduated scale of rates for classified schedules to which any Subscribers within such classification shall be entitled.

15.3 Connection Charges. Subscribers shall be assessed no special connection charges other than standard installation charges for cable drops from any Company's distribution plant up to one hundred fifty (150) feet. Subscribers requiring drops over one hundred fifty (150) feet shall be charged only for the incremental cost of extending the drop beyond one hundred fifty (150) feet.

15.4 Rates and Programming.

- (a) Each Company shall give the Town and each Subscriber thirty (30) days' written notice of any change in Subscriber rates or charges. At the Town's request, exercised by the Town giving the Company at least ten (10) days' notice thereof, the Company shall attend, and respond to questions, at any public meeting held by the Town concerning the rate increase. Notice to Subscribers of rate changes shall be by mail. Each Company shall also provide each Subscriber at least annually with a detailed explanation of downgrade and upgrade policies and the manner in which Subscribers may terminate Cable Service. Subscribers shall have at least thirty (30) days from receipt of notification of any rate increase to either downgrade service or terminate altogether without any charge.

- (b) Each Company shall give the Town and each Subscriber thirty (30) days written notice of any change, including additions or deletions, or change in Channel position, in the programming carried on the Cable System, as well as any re-tiering of such programming, and any other changes in the programming service offered by each Company. At the request of the Town, with at least ten (10) days' notice, each Company shall meet with the Town at a public meeting to discuss programming issues and options and to hear and consider the input of the Town and the public.
- (c) Each Company shall use its best efforts to provide a wide diversity of programming options to its Subscribers. Each Company shall provide the following broad categories of programming:
 - (1) public broadcasting programming;
 - (2) educational programming;
 - (3) news programming;
 - (4) music programming;
 - (5) sports programming;
 - (6) children's programming;
 - (7) religious programming;
 - (8) arts and/or cultural programming; and
 - (9) family programming.
- (d) Rate schedules shall be provided to Subscribers annually.

15.5 Billing Practices. Each Company shall set forth, in writing its billing and collection practices and policies, and procedures for ordering changes in or termination of services and refund policies, and shall furnish a copy thereof to each new Subscriber and to the Town, and thereafter to the Town and all Subscribers at such time as there is a change in such policies.

15.6 Pro-Rated Service. In the event a Subscriber's service is terminated, monthly charges for service shall be pro-rated on a daily basis and, where advance payment has been made by a Subscriber, the appropriate refund shall be made by the Company to the Subscriber within thirty (30) days of such termination.

15.7 Disconnection for Non-Payment. The Company shall have the right to disconnect a Subscriber for failure to pay an overdue account; provided, that:

- (a) The Company's billing practices and policy statement set forth the conditions under which an account will be considered overdue;
- (b) At least twelve (12) days prior to the proposed disconnection, the Company mails to the Subscriber written notice of intent to disconnect for delinquency in payment;
- (c) The Subscriber's account is at least sixty (60) days delinquent at the time said notice is mailed, and
- (d) The disconnection occurs at least twelve (12) days, and not more than sixty (60) days, after the mailing of the above written notice.

15.8 Notice of Rates and Programming. All rates and charges associated with the provision of Cable Service and the lease of Channel space shall be published. A written schedule of all such rates currently in effect, including special and promotional rates, shall be available and obtainable in person or by mail upon request during business hours at each Company's business office.

- (a) At least once each calendar year, each Company shall provide to each Subscriber and the Town a complete schedule of all services, rates and charges for Cable Service provided by the Company and of the programming offered and channel alignment. Such information shall also be provided to all new or prospective Subscribers prior to installation or commencement of service.
- (b) Such information shall be written in plain English and shall include, but shall not be limited to, the following: all services, tiers and rates, deposits, if applicable, installation costs, additional television set installation charges, service upgrade or downgrade charges, stolen or lost converter charges, charges for lockout devices and for connecting video cassette recorders to the Cable System.

15.9 General Customer Service. In addition to the provisions of this Ordinance, each Company shall comply with any and all customer service standards provided under Maine law, Federal law, FCC regulations, including those regulations found at 47 C.F.R. § 76.309, and as promulgated by the cable industry (such as NCTA standards), as well as with the provisions of the applicable Franchise Agreement. To the extent there is any conflict in the requirements of this Ordinance, the Franchise Agreement, State and federal law, FCC regulations and/or cable industry standards, the strictest of such standards shall govern.

Section 16 – Subscriber Complaints.

16.1 Complaint Policy. Any Company issued a Franchise under this Ordinance shall promulgate, within one hundred twenty (120) days of issuance, a written policy statement setting forth the procedure for reporting and resolving Subscriber complaints, and shall furnish a copy thereof to each new Subscriber and to the Town, and thereafter, annually, to the Town and all Subscribers. Such notice shall comply in all respects with the Cable Act, FCC Regulations, Maine law and this Ordinance.

16.2 Company Response. Each Company shall receive Subscriber complaints at its business office serving the Town and shall handle all such complaints promptly but in no event later than as set forth below.

16.3 Billing Complaints. In the case of a billing complaint, the Company shall respond to the complainant no later than five (5) business days following receipt of the complaint.

16.4 Service Complaints. In the case of a service complaint not requesting repair or adjustment, the Company shall respond to complainant within five (5) business days following receipt of the complaint.

Section 17. Preferential or Discriminatory Practices Prohibited.

The Company shall not, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to any prejudice or disadvantage.

Section 18. Reports and Records.

18.1 General Report Filing Requirements. The Town may require each Company to maintain and file such reports, contracts and statements which are reasonably necessary to monitor compliance with this Ordinance and the Franchise Agreement, including but not limited to ownership, accounting, auditing and operating statements, engineering reports, and other data, which the Town shall deem necessary or appropriate to administer the provisions of this Ordinance.

Records to be available for inspection and review by the Town shall include, but not be limited to:

- (a) All correspondence among the Company and any of his agents, and all regulators or other government agencies pertaining to the operation of the Cable System in the Town necessary to monitor compliance.
- (b) All reports, applications, and other documents sent to, or required by, any government agency pertaining to the operation of the Cable System in the Town necessary to monitor compliance.

- (c) All oral and written complaints received by the Company or its agents from the Subscribers in the Town for the preceding two (2) years of the term of the Franchise, and the disposition thereof.
- (d) All financial records reasonably necessary to determine compliance with and carry out the provisions of this Ordinance and any Franchise Agreement necessary to monitor compliance.

18.2 Annual Report. No later than April 1 of each year during the term of a Franchise Agreement, each Company shall submit an annual report to the Town for the prior calendar year, which report shall include at a minimum:

- (a) Total number of Subscribers in Gorham, including a breakdown of Subscribers taking basic Cable Service, Cable Programming Service and premium services as of December 31 of the prior calendar year.
- (b) The increase or decrease in the number of Subscribers over the prior calendar year for Gorham.
- (c) A specific description of any line extensions in Gorham in the prior calendar year.
- (d) Any price or programming changes in the prior year.
- (e) A description of any technological upgrades or enhancements in Cable Service over the past year.
- (f) A listing of any system outages in Gorham over the prior year in excess of one hour, including the affected locations, the date, time, duration, cause of the outage, and steps taken to address the outage.
- (g) A summary of customer complaint records for the prior year, including an identification of any significant customer service issues raised in Gorham in the prior year and any resolution or changes in service resulting.

After delivery of the Annual Report, each Company shall, at the request of the Town, attend a meeting with the Town to review and discuss any issues or questions raised in the grantor's review of the Annual Report.

18.3 Supplemental Reporting. Upon written request of the Town, the Company shall provide, not more than annually a report listing the following:

- (a) A summary of the most recent FCC proof of performance tests and measurement records interpreted in laymen's language describing the Cable System's compliance or lack of compliance with the

FCC Technical Standards set forth in 76 C.F.R. §§ 76.601, *et seq.*, as may be amended from time to time, identifying any instances of non-compliance and describing all measures taken or under way to achieve compliance;

(b) A list of any material violations by the Company of the technical rules of the FCC, including but not limited to violations of rules and regulations regarding signal quality and safety during the past 12 months, and describing all measures taken or underway to achieve compliance; and

(c) A copy of the Company's most recent S.E.C. Forms 10 K and 10Q.

Section 19. Rights Reserved to the Town.

19.1 Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the Town to acquire the property of the Company, either by purchase or through the exercise of the right of eminent domain and nothing herein contained shall be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the Town's right of eminent domain.

19.2 Neither the awarding of a Franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the Town.

19.3 The Town Manager is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of the Company under this Ordinance on behalf of the Town.

19.4 The Town shall have the right to inspect all construction of installation work for a Cable System and to make such inspections as it shall find necessary to insure compliance with the terms of this Ordinance, and Franchise awarded pursuant hereto, and any other pertinent provisions of the law.

19.5 Upon revocation or denial of a renewal under the formal process of the Cable Act of any Cable Franchise, the Town shall have the right to require the Company to remove at its own expense all portions of the Cable System from all Streets and Public Ways within the Town.

19.6 Nothing in this Ordinance or the Franchise shall encumber or prohibit the Town from the collection of property taxes, of whatsoever kind, allowed by state law.

Section 20. Rules, Regulations and Procedures.

20.1 The Town Council shall, either directly or through its designees, conduct public hearings and issue such appropriate orders as it may deem necessary to

enforce the provisions of this Ordinance, including the revocation of a Franchise and the assessment of penalties for violations, as well as to correct any deficiencies in the operation of the Cable System.

20.2 Any such order adopted by the Town Council shall not be in conflict with any orders adopted by the Federal Communications Commission (FCC) for the operation of such Cable Systems, except that unless preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations.

20.3 As part of its enforcement authority, the Town Council has the authority to bring legal action for damages, penalties and for injunctive relief on behalf of the Town against a Company. In the event that the Town brings a legal action to enforce the provisions of this Ordinance or the Franchise Agreement, and the Town prevails in the action, the Town shall be entitled to recover its costs, including reasonable attorney's fees, incurred in the prosecution of any such action.

20.4 The Company shall have the right to appeal any decision of the Town Council under this Ordinance within thirty (30) days of the date of the decision or ruling to the Maine Superior Court pursuant to M.R. Civ. P. 80B.

Section 21. Revocation.

21.1 Notice and Hearing. The Town Council may revoke any Franchise awarded pursuant to the provisions of this Ordinance and federal law upon thirty (30) days written notice to the Company and after hearing, in the event that the Company:

- (a) violates any material provision of its Franchise Agreement, where such violation remains uncured for a period of thirty (30) days;
- (b) ceases to provide service over the Cable System or fails to restore service after ninety-six (96) consecutive hours of interrupted service except in cases of force majeure or when approval of such interruption is obtained from the Town;
- (c) fails to provide or maintain in full force and effect the insurance coverages and the performance bond as required by this Ordinance and under the terms of the Franchise Agreement, where such violation remains uncured for a period of thirty (30) days;
- (d) violates any rule, order or determination of the Town made pursuant to the Franchise Agreement or this Ordinance where such violation remains uncured for a period of thirty (30) days; or
- (e) violates any other provision of law.

21.2 Procedures. The Town shall follow the following procedures in revoking a franchise:

- (a) The Town shall provide the Company with notice of intention to revoke the Franchise. The written notice shall be sent by certified or overnight mail and shall describe in reasonable detail the specific violations alleged to have occurred.
- (b) The Company shall have thirty (30) days from receipt of the notice either to correct the alleged violation or dispute the Town's allegations in writing. In the event that, by nature of the alleged violation, such violation cannot be cured within such thirty (30) day period, the parties shall meet in good faith and agree to a reasonable cure schedule.
- (c) If the Company disputes the Town's allegations, the Town Council shall conduct a public hearing within thirty (30) days of receipt of notice that the Company disputes the allegations. The hearing shall follow the procedures set forth for public hearings before the Town Council and the Company shall have the right to present evidence, and question witnesses, if any.
- (d) Following the public hearing, the Town Council shall make a determination as to whether to revoke the Franchise, and shall issue a written decision containing its findings.

21.3 Appeal. The Company shall have the right to appeal any decision of the Town Council under this Section within thirty (30) days of the date of the decision or ruling to the Maine Superior Court pursuant to M.R. Civ. P. 80B.

LEASE AGREEMENT

This LEASE AGREEMENT is an extension of the original three year lease signed August 14, 2007, and entered into this 30th day of September, 2010 by and between the TOWN OF GORHAM, a municipal corporation existing under the laws of the State of Maine and located in the County of Cumberland, State of Maine, and having a mailing address of 75 South Street, Suite 1, Gorham, ME 04038 (the "Town"), and GORHAM CO-OPERATIVE PRE-SCHOOL, a Maine non-profit corporation with a principal place of business in Gorham, and having a mailing address of P.O. Box 175, Gorham, ME 04038 ("GCP").

WHEREAS, GCP wishes to lease certain real property, improved with a building, owned by the Town, located in Gorham informally known as the former Town Recreation Department property, located on the corner of Ball Park Road and the Access Road (part of Robie Park), shown as Lot 47 on Town Assessor's Map 106, and being more particularly described as the building and associated land shown on the attached sketch, attached as Exhibit A (the "Premises"); and

WHEREAS, the Town, acting through its Town Council, duly authorized, is willing to lease the Premises under the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the mutual conditions and covenants contained herein, the parties agree to the following lease terms:

1. Description of Property. Subject to the terms of this Lease, the Town leases the Premises to GCP.
2. Use of Premises. Use of the Premises by GCP or its invitees shall be limited to operation of a pre-school facility including the directly related activities normally incident to such a use. The use of the Premises includes the installation and subsequent use of the outdoor play areas and related facilities shown on Exhibit A.

Any use by GCP or its invitees, including members of the general public, shall at all times be subject to compliance with all applicable laws including, without limitation, land use and environmental laws. Title to any permanent structures erected on the property shall vest in the Town at its election at

the end of the lease term. Further, GCP must obtain the written consent of the Town before constructing any such improvements beyond those shown on Exhibit A, where are hereby approved above; provided, such consent shall be unreasonably withheld, conditioned or delayed.

3. Rent. Rent shall be paid monthly, in advance, subject to annual increases as follows:

- Year 1 to begin July 1, 2010 upon signing of lease and ending on June 30, 2011 with lease payments at \$456/month.
- Year 2 to run from July 1, 2011 through June 30, 2012 with lease payments to be adjusted annually at half the rate of increase in the CPI-U U.S. City Average as determined by such rates for the immediately preceding calendar year.
- Year 3 to run from July 1, 2012 through June 30, 2013 with lease payments to be adjusted annually at half the rate of increase in the CPI-U U.S. City Average as determined by such rates for the immediately preceding calendar year.

In addition, GCP will be responsible for the cost of all utilities (sewer, water, electricity, and heat).

4. Duration. The term of this Lease shall be for a period of approximately three (3) years, ending on June 30, 2013, unless terminated sooner for cause as provided in Paragraph 5; after the initial term, the lease shall continue on a year to year basis, on the same terms and conditions, including the rent escalator, until either party gives the written notice to terminate at least one year in advance.

5. Default. If, during the term of this Lease, or any extension of the term, GCP shall default in the performance of any of the covenants or conditions required by this Lease, and if default is not corrected within fourteen (14) days after delivery of written notice from the Town specifying the default, or such longer time as may reasonably be required given the nature of the default and the corresponding remedy, the Town shall have the right at its election to terminate this Lease or to re-enter the Premises and remove all persons and/or improvements from the Premises, or to take any other action for the enforcement of any right or remedy available to the Town or in equity; however, in

no instance shall the Town take any action(s) that are inconsistent with preserving the safety and privacy rights of the children or the GCP staff.

6. Waiver. GCP covenants and agrees that, except as herein otherwise provided, the rights and remedies of the Town under this Lease shall be cumulative and that the exercise of any of them shall not be exclusive of any other right or remedy provided by his Lease or otherwise allowed by law or in equity and that waiver by the Town of any breach of any covenant or covenants or conditions of this Lease shall be limited to the particular instance and shall not operate or be deemed to waive any other or further beach of any covenant or covenants or conditions or failure or omission on the part of GCP to perform any other different covenant or condition on the same or any other occasion and that, except as aforesaid, the receipt of any rent or other amounts of any portion thereof shall not operate as a waiver of the Town's right to enforce the payment of subsequent installments of rent or any of the other rights of the Town under this Lease, by any remedies which may be available to the Town.

7. Notices. Except as otherwise provided in Paragraph 5, all notices, demands, or other writing in this Lease provided to be given or made or sent, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when made in writing and mailed or delivered by hand as follows:

The Town: David O. Cole, Town Manager
Gorham Town Office
75 South Street, Suite 1
Gorham, ME 04038

GCP: Gorham Co-operative Pre-school
P.O. Box 175
Gorham, ME 04038

The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice by the addressee to the other party.

8. Sublease or Assignment. The Premises shall not be sublet in whole or in part, or this Lease assigned or transferred, without the prior, express, and written consent of the Town. Any

attempted unauthorized assignment, sublease, or license to occupy shall be void, and shall terminate this Lease at the Town's option.

9. Indemnification. GCP agrees to defend, indemnify and hold harmless the Town, its officers, agents and employees from and against any and all expenses, claims, lawsuits, judgments and costs, including reasonable attorney's fees, that they may become liable to pay or defend as the result of the negligent or wrongful acts or omissions of GCP or its invitees arising out of or in connection with its or their use of the Premises.

10. Insurance. GCP shall obtain and maintain in full force and effect throughout the term of this Lease (including any extensions) comprehensive general liability insurance with a company licensed to do business in the State of Maine in an amount not less than Four Hundred Thousand Dollars (\$400,000) per occurrence, or such larger amount as reflects any change in the maximum exposure of Maine municipalities under the Maine Tort Claims Act. GCP shall provide a Certificate of Insurance showing the same at the time of commencement of this Lease. The Certificate of Insurance shall provide for a 30 day advance notice of cancellation to the Town.

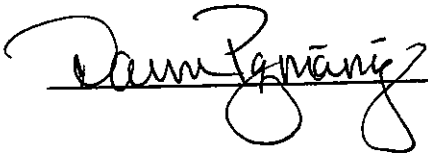
11. Miscellaneous. The following miscellaneous provisions apply:

- GCP is responsible for daily maintenance such as cleaning, trash removal and furnishing daily supplies. The Town is responsible for capital maintenance of the building;
- GCP may make adjustments to the building interior to reasonably accommodate their programs, subject to prior Town approval, which will not be unreasonably withheld, conditioned, or delayed;
- GCP may install reasonable restraints at building exits to provide for the safety of the children as long as the restraints also comply with Fire and Life Safety Codes; and
- GCP must submit a list of its staff members, with their titles, and an official emergency contact person (and back-up contact person), with addresses, phone numbers, e-mail addresses, to the Town and keep such list current.

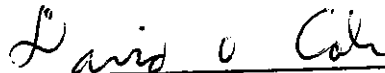
12. Amendment. This Lease may be amended only by written agreement signed by the parties.

IN WITNESS WHEREOF, as of the date first above written, the parties hereto have set their hands and seals by their authorized representatives.

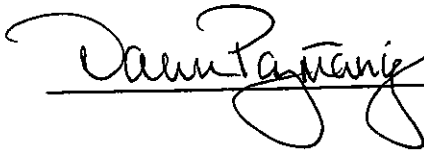
Witnesses:

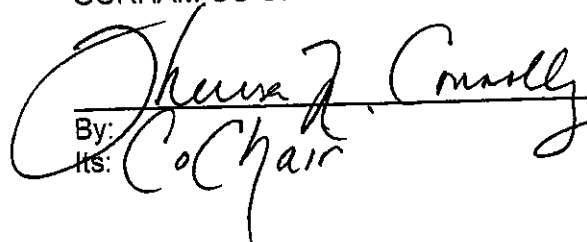
_____

TOWN OF GORHAM

_____
David O. Cole
Its Town Manager

GORHAM CO-OPERATIVE PRE-SCHOOL

_____

_____
By: _____
Its: CoChair

Town of Gorham
PUBLIC WORKS DEPARTMENT
80 Huston Road

Mailing Address:
75 South Street, Suite 1
Gorham, Maine 04038-1382

Tel. (207) 892-9062
Fax (207) 893-2092
www.gorham-me.org



Robert Burns, P.E.
Public Works Director
rburns@gorham.me.us

Terry Deering
Deputy Director
tdeering@gorham.me.us

MEMORANDUM

TO: Ephrem Paraschak
FROM: Bob Burns
DATE: June 27, 2019
CC: File

RE: Consideration of Trash Bag and Tag Fee Adjustment

As FY2019 comes to a close and we look back on the revenues and expenditures associated with the Pay Per Bag program, it is likely time to consider a bag fee and/or tag fee adjustment. The goal of the fees associated with the trash bags and tags was to cover the cost of the trash collection program as well as the trash bag and tag costs themselves. In May of 2008 the Town Council last approved an increase in the cost of trash bags from \$1.00 to \$1.25 for a 15 gallon trash bag and from \$2.00 to \$2.50 for a 30 gallon trash bag.

Looking back over the last three years we can see a trend of the revenues not offsetting the total expenditures:

	FY2017	FY2018	FY2019 Est.
Bag + Tag Revenue	\$502,461	\$520,129	\$543,665
Hauler Cost	\$477,962	\$513,770	\$525,815
Bag+Tag Cost	\$34,223	\$45,567	\$47,000
Revenue-Expense	-\$9,724	-\$39,208	-\$29,150
	-1.9%	-7.5%	-5.4%

Bear in mind that the FY2019 values shown are estimates as the final figures are not available for a week or so. In general the trend is that the program is being subsidized somewhat more by the general fund than originally intended.

Another item to consider is increasing the cost just on the bags and not the tags to provide some incentive for residents to switch to tags. Tags would be an easier program to manage from the public works perspective as bags would not have to be ordered and the quality control issues involving bags would disappear. Tags are lightly used and on average 90 Town trash bags are purchased to every tag.

\$1.25 adjusted for inflation from December of 2008 to May of 2019 is \$1.52 per the Bureau of Labor Statistics Consumer Price Inflation calculator and \$2.50 is \$3.05 in May of 2019.



Item # 9465

Investment Grade Audit for the Town of Gorham

LED Streetlighting Conversion

June 13, 2019

O-1297 - P-0860

Primary Contact

Paul Vesel, Director, Business Development – NE USA
201 West Street, Suite 200, Annapolis, MD 21401
(413) 695-0045
pvesel@realtermenergy.com

REALTERM
ENERGY

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June 13, 2019

The Town of Gorham
75 South Street
Gorham ME 04038

Dear Mr. Ephrem Paraschak,

We are pleased to present this Investment Grade Audit of the streetlight network for the Town of Gorham.

We have concluded our detailed analysis of your streetlight system to reflect the proposed upgrade to LEDs based on our GIS/GPS mapping. The upgrade of the existing streetlights to LEDs under the scope of work of this IGA will reduce overall operating costs by **78%** in the first year.

The total project cost is \$166,044 and includes the allowances for rewiring, fusing, arm replacement and other installation allowances listed in Section 6.2 - Allowances. We have included a project-specific breakdown (Appendix E) that depicts the estimated added cost of including smart controls.

In addition, we have included in Appendix B a listing of recommended spare materials (LED luminaires and photocells) should the Town wish to have these materials included as part of the project scope of work.

We look forward to moving your project to the next phase. We will arrange for a conference call to discuss the contents of this report in the next few days, but until then please feel free to contact us should you have any questions.

Yours truly,



Sean Neely, President
sneely@realtermenergy.com

1. EXECUTIVE SUMMARY

Technical/ Environmental Assessment	Title	Town of Gorham LED Streetlight Conversion
	Baseline	Qty HID ⁽¹⁾ Cobrahead Fixtures: 347
		Qty HID Decorative/Flood Fixtures: 4
		Total Demand (in kW): 37.2 kW
		Annual Operating Hours: 4,260
		Annual Energy Consumption (in kWh): 158,302 kWh
	Technology Employed	Smart ready LED Fixtures
	Technology Provider(s)	GE Evolve, Acuity Brands
	Technical Specifications	7-PIN, Smart ready fixtures Color temp: 3,000K Average life ≥ 100,000 hours CRI ≥ 70, IP ≥ IP 65
	Fixture Warranty	10 years
Financial Assessment	Annual Operating Cost Savings	\$48,154 (78%)
	Financing Scheme	Capital Purchase (Gorham-financed)
	LED Upgrade Project Cost	\$166,044
	Acquisition Cost from Central Maine Power	\$36,886
	Total Project Cost	\$202,903
	LED Luminaire Life Expectancy	23 Years
	20-Year Project Savings	\$1,108,497
	Payback Period	4.0 Years

(1) – High Intensity Discharge

(2) – LED Upgrade Project Cost is inclusive of 5% labor (installation), adaptor & 5% LED luminaires (material) cost contingency

2. GPS MAPPING

RealTerm Energy conducted a complete GIS inventory of the Town of Gorham's streetlights and used the information derived from this review to develop a detailed picture of Gorham's current streetlighting network which includes the following:

- Accurate count of all fixtures and fixture types
- Wattage of each existing fixture
- Length of fixture arms, fixture heights, setbacks from roadway, pole spacing, etc.
- Exact GPS coordinates
- Road classifications
- Utility pole ID numbers (when available)

From this data, we established a profile of Gorham's streetlight inventory and defined key parameters such as demand and energy consumption. This then allowed us to accurately estimate energy savings potential associated with the LED upgrade.

A detailed breakdown of the revised lighting inventory, obtained from the GIS/GPS audit is presented below:

2.1. GPS Inventory (Actual)

UTILITY	TYPE	WATTAGE	QTY	DEMAND (kW)
COBRAHEAD FIXTURES				
Central Maine Power	Cobrahead - HPS 50W	65	116	7.5
Central Maine Power	Cobrahead - HPS 70W	95	101	9.6
Central Maine Power	Cobrahead - HPS 100W	130	98	12.7
Central Maine Power	Cobrahead - HPS 150W	195	27	5.3
Central Maine Power	Cobrahead - HPS 250W	300	5	1.5
Subtotal			347	36.6
DECORATIVE FIXTURES				
Central Maine Power	Decorative - Acorn Post Top Type 1 - HPS 100W	130	4	0.5
Subtotal			4	0.5
TOTAL			351	37.2

3. LED REPLACEMENT INVENTORY

The table below illustrates the proposed changes to Gorham's inventory, based on our analysis of the GIS data and lighting design results (see next page for more details on our design methodology).

Following input from the Town, our design team developed photometric design plans utilizing 3000K color temperature. The 3000K fixtures warm color offers pedestrian comfort without compromising the safety and visual acuity required in higher classified roads and areas of high pedestrian activity.

3.1. LED Replacements (Actual, Post-Upgrade)

UTILITY	TYPE	WATTAGE	QTY	DEMAND (kW)	COLOUR-TEMP.
COBRAHEAD FIXTURES					
Central Maine Power	22W_ERL1 0 03 B3 30 A GRAY I R	22	133	2.9	3,000K
Central Maine Power	31W_ERL1 0 04 B3 30 A GRAY I R	31	101	3.1	3,000K
Central Maine Power	39W_ERL1 0 05 B3 30 A GRAY I R	39	81	3.2	3,000K
Central Maine Power	58W_ERL1 0 07 B3 30 A GRAY I R	58	20	1.2	3,000K
Central Maine Power	71W_ERL1 0 08 B3 30 A GRAY I R	71	8	0.6	3,000K
Central Maine Power	71W_ERL1 0 08 D3 30 A GRAY I R	71	2	0.1	3,000K
Central Maine Power	111W_ERLH 0 13 C3 30 A GRAY I R	111	2	0.2	3,000K
Subtotal			347	11.3	
DECORATIVE FIXTURES					
Central Maine Power	39W_GVD2 P20 30K AS M BK 3 N N U P7 NL1X1	39	4	0.2	3,000K
Subtotal			4	0.2	
TOTAL			351	11.5	

3.2. Site Specific Fixture Replacements

Type	Qty.	Replacement	Before	After
Cobrahead	345	GE Lighting ERL1		
Cobrahead	2	GE Lighting ERLH		
Acorn Post Top	4	Acuity Brands GVD2		

Note: The above images are for illustration purposes only.

4. LED LIGHTING DESIGN

RealTerm Energy's technical evaluation team reviewed the collected geospatial dataset and formulated an approach to completing the roadway designs for Gorham. After evaluating the configuration of each light fixture for road classification, pedestrian activity, pole spacing, mounting height, arm length and curb setback, we have concluded that Gorham can achieve the same or better lighting levels as those under its current streetlights. We have implemented a design solution of selected LED luminaires that follow the RP-8-2014 recommendations where possible, within the existing infrastructure configuration (RP-8 is a recommended, though not a required practice for roadway illumination).

The reason that a portion of Gorham's luminaires do not meet RP-8 may be due to several factors, including:

- Inadequate pole spacing (poles are spaced too far apart), insufficient mounting height, or
- Missing light fixtures (at essential locations to eliminate gaps).

Our analysis concludes that in all instances where RP-8 could not be achieved with a new LED fixture, this was already the case for the existing fixture. In such instances, photometric design has been utilized to select an LED luminaire for which the wattage and distribution pattern combine to meet or exceed the existing lighting levels.

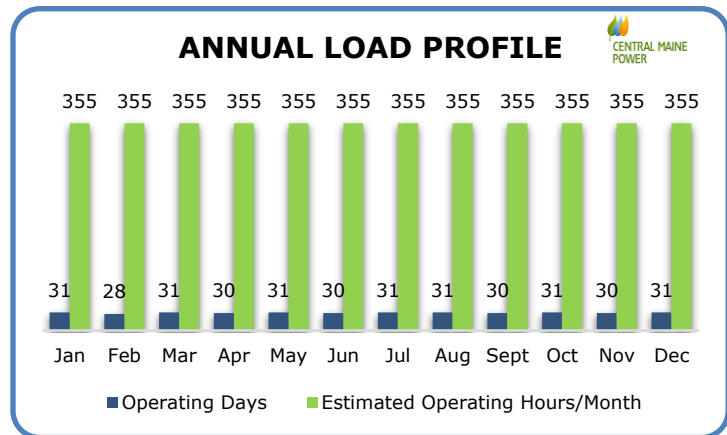
Based on the replacement luminaires detailed in the following pages, we anticipate that the impact on the Town's annual energy consumption will be as follows:

PARAMETER	IGA Results	%
Current Annual Energy Consumption (kWh)	158,302	
Projected LED Annual Energy Consumption (kWh)	48,837	
Annual Savings (kWh)	109,465	69%

5. OPERATING COST SAVINGS ANALYSIS

5.1. Central Maine Power's Load Profile

Streetlights are generally not metered, but rather deemed to be 'on' and are therefore billed based on a load profile, determined by the utility company. The annual load profile is a critical part of the baseline calculation, used to project the actual energy consumption and future energy savings that will be realized after the upgrade. The load profile utilized by Central Maine Power, Gorham's utility company, appears on the right.



These hours are applicable to Central Maine Power's tariff structure, SL-Full Service Lighting (baseline) and SL-Delivery-Only Service Lighting (post-upgrade).

5.2. Utility Rate Summary

The electricity cost savings were calculated based on Central Maine Power current rates¹ valid at the date of the preparation of this IGA. The annual energy and cost savings associated with the new LED streetlighting system were calculated taking into consideration both existing and proposed LED inventories. Any modifications in the data outlined in Section 2.1 of this IGA report might impact the energy consumption and cost savings. The table below summarizes the approach used to calculate the baseline and post-upgrade operating costs.

Item	Baseline	Post-Acquisition & LED Upgrade
Number of Fixtures	351	351
Fixture Ownership	Central Maine Power	Town
Tariff	Rate SL - Full Service Lighting	Rate SL - Delivery-Only Service Lighting
Supply Rate	\$0.05880/kWh	\$0.05880/kWh
Annual Inflation Rates	Energy (3%), Maintenance (2%)	

¹ Central Maine Power Tariff. Retrieved June, 2019, from: <https://www.cmpco.com/wps/portal/cmp/home/>

5.3. Maintenance

The below table summarizes the baseline and post-upgrade LED maintenance cost that Town can expect:

Yearly Maintenance Cost		
Ownership	Baseline	Post-Acquisition & LED Upgrade
Central Maine Power	Included in the Lighting Equipment Charges	N/A
Town	N/A	\$24.00/fixture/year

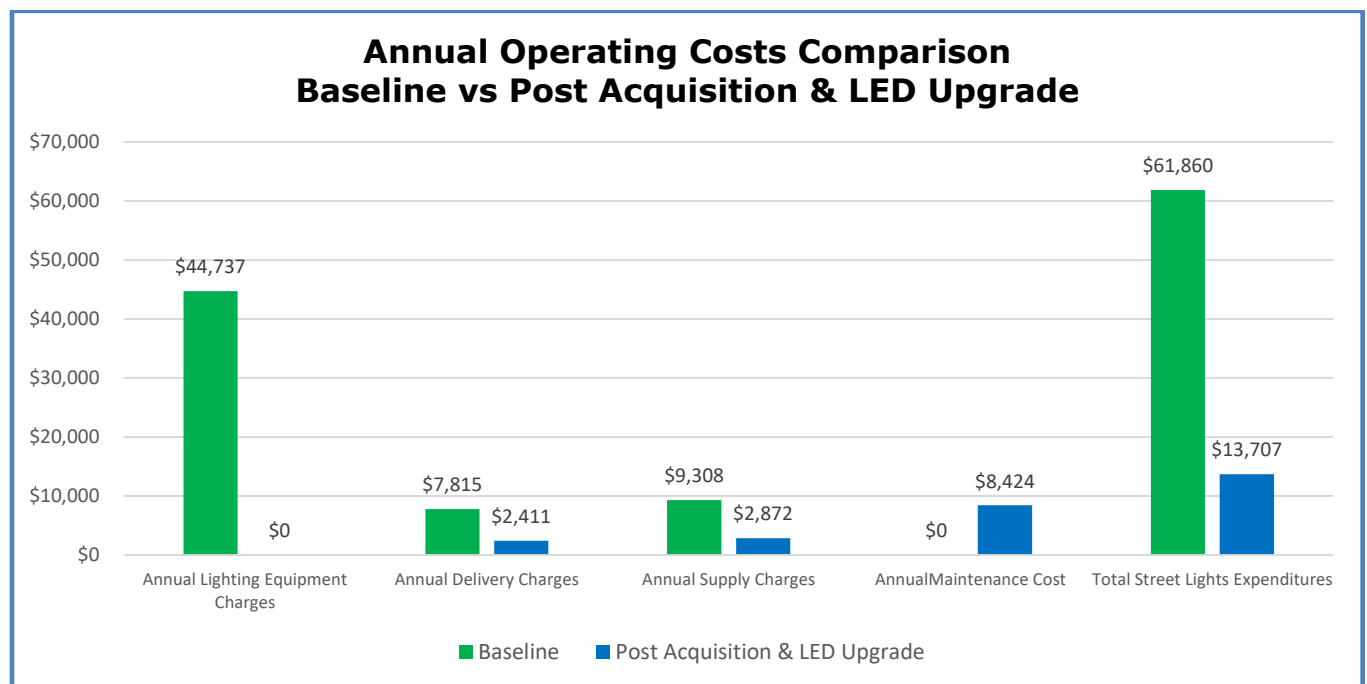
While it is unrealistic to assume that no annual maintenance will be required, the LED luminaires themselves do not contain components that require periodic replacements (such as HPS bulbs and ballasts). We recommend incorporating this estimated figure into municipal budgets to account for eventualities over the life of the fixture that is not covered under the manufacturer's 10-year warranty. Post-upgrade LED maintenance cost is representative of RealTerm Energy's maintenance program and is inclusive of luminaire, photocell (if applicable) and fusing material maintenance. For additional information, a copy of RealTerm Energy's Streetlight Maintenance and Repair Services Agreement can be provided upon request.

5.4. Other Assumptions

1. Acquisition cost amount of \$36,886 from Central Maine Power was provided by the Town and is included for analysis purpose only.
2. The final project inventory and associated energy savings are subject to change based on modifications to the scope of work (i.e. removed/added luminaires, field design changes, etc.) outlined in this IGA report and are to be confirmed in the Final Installation Report (FIR) following the completion of the project close-out. The FIR will then be used to complete the billing change to the Utility/LDCs to reflect the actual installed LED inventory which ultimately will determine the actual energy and cost savings.

5.5. Operating Cost Comparison

PARAMETER (Yr. 1)	BASELINE	POST-ACQUISITION & LED UPGRADE	VARIANCE	PERCENT
Number of Fixtures	351	351		
Annual Electricity Consumption (kWh)	158,302	48,837	109,465	69%
Annual Lighting Equipment Charges	\$44,737	\$0	\$44,737	100%
Annual Delivery Charges	\$7,815	\$2,411	\$5,404	69%
Annual Supply Charges	\$9,308	\$2,872	\$6,437	69%
Annual Maintenance Cost	\$0	\$8,424	(\$8,424)	N/A
Total Street Lights Expenditures	\$61,860	\$13,707	\$48,154	78%
Average Annual Cost per Fixture	\$176	\$39	\$137	78%



6. PROJECT COSTS: CAPITAL PURCHASE OPTION

In a Capital Purchase financing option, or a "Design, Upgrade and Transfer", the Town arranges the financing of the project.

6.1. Project Costs and Investment Return

PROJECT COSTS	Total
Number of Fixtures	351
LED Lighting Upgrade Project Cost	\$166,044
Acquisition Cost from Utility	\$36,886
Total Project Cost	\$202,930

The payback period of the project, before including any financing costs is **4.0** years.

6.2. Allowances

The total project cost includes provisional allowances as detailed below:

Provisional Items	Cobrahead		Decorative	
	%	Quantity	%	Quantity
Re-wiring	7%	23	-	-
Fusing	100%	347	100%	4
Fuse Holder Replacement	100%	347	100%	4
Arm Replacement	2%	7	-	-
Re-establishing connection between arm and pole	5%	17	-	-
Flagging Services ⁽¹⁾	100%	347	100%	4
Third-Party Quality Control	1-day of third-party quality control			
Installation Contingency	5%			
LED Luminaire Cost Contingency ⁽²⁾	5%			
Adaptor Contingency	\$50.00 per Decorative/Flood/Area Luminaire			

Notes:

1. Traffic control (Flaggers) budgeted at 100% of the inventory, to be billed based on actuals
2. A contingency of 5% has been considered for the cost of LED Luminaires due the possible risk of tariff increase. Refer to the Terms and Condition for additional information.

Billing of Provisional Items

The work covered by the allowances listed above are recommended as they will minimize the likelihood of service calls over the life of the fixtures, thereby greatly reducing maintenance costs. During the installation phase, if additional work is required, the Town will be notified first before allowances are exceeded. Any additional work must first be authorized by the Town and will be handled as a change order.

Luminaires near high voltage wires within a restricted zone:

In the case of cobrahead fixtures located near high voltage wires within a restricted zone, we have identified 3 different approaches to address and solve the issue while ensuring safety. The exact quantity of the fixtures located within the restricted zone can only be identified in the installation phase.

1. Safety is always the number one priority, and to that end, we will assess each location with the goal of relocating the affected luminaire to a safe location. This may involve the services of an engineer and additional costs imposed by the Central Maine Power both of which will become pass-through costs to the Town. However, we anticipate a return to the Town through lower maintenance costs (fewer service calls) to the luminaire in the future.
2. Engage the services of high voltage crews to replace the existing luminaires. This option comes at a premium price, and is not recommended, as it does not solve any future access issues.
3. RealTerm Energy supplies the fixtures only (uninstalled), and the Town can work in conjunction with the local utilities to organize the installation.

If, during the installation, we find luminaires near high tension wires within a restricted zone, we will work with your municipal staff to determine which approach the Town prefers.

6.3. Financing Scenario

The following table shows an example of financing based on a representative interest rate.

NET PROJECT COST	TERM (YEARS)	INTEREST RATE	ANNUAL PAYMENT	COST OF BORROWING
\$202,930	10	4.00%	\$25,019	\$47,264

6.4. Annual Net Savings Over Loan Period

Year	1	2	3	4	5	6	7	8	9	10
Annual Savings	\$48,154	\$49,683	\$51,259	\$52,884	\$54,560	\$56,288	\$58,070	\$59,907	\$61,801	\$63,754
Loan Repayment	\$25,019	\$25,019	\$25,019	\$25,019	\$25,019	\$25,019	\$25,019	\$25,019	\$25,019	\$25,019
Cash Flow	\$23,135	\$24,664	\$26,240	\$27,865	\$29,541	\$31,269	\$33,051	\$34,888	\$36,782	\$38,735
Cumulative Cash Flow	\$23,135	\$47,798	\$74,038	\$101,902	\$131,443	\$162,711	\$195,762	\$230,650	\$267,431	\$306,166

As can be seen, there are significant net savings from the outset of the project, net of financing costs.

RealTerm Energy has the possibility of assisting the Town in obtaining financing through a Tax-Exempt Lease-Purchase Agreement (TELP). Please indicate if your Town would be interested in this alternative financing option. RealTerm Energy can then place a request to obtain TELP financing proposal rates for 5, 7 and 10-year duration terms, complete with the terms and conditions of the loan.

7. CONCLUSION AND RECOMMENDATION

We have created a designed solution of selected LED luminaires that conforms to the light levels acceptable to the Town of Gorham as stated in Section 4.

If the Town of Gorham chooses to move forward with the Design, Upgrade and Transfer option, the total project cost will be \$166,044. The Town should expect a payback period of 4.0 years.

The next steps to start the implementation of this new technology and start seeing energy and maintenance savings are as follows:

- Meeting to review the IGA with the Town's staff and RealTerm Energy
- Approval of the IGA
- Proceed with the project installation phase
- Procurement of products and labor

8. TERMS AND CONDITIONS

The total project cost includes the following scope of work:

1. Data collection including GIS/GPS mapping of the existing and proposed luminaires
2. Photometric lighting designs
3. Remove existing HID fixtures and supply and install new LED luminaires with photocell controllers as per sections 2.1 in page 5 and 3.1 in page 6
4. All provisions and allowances detailed on Section 6.2 – Allowances
5. Electrical permits and inspection of work
6. Recycling of the removed HID luminaires
7. Project management
8. The Town's GIS database will be updated once installation is complete to include final LED inventory installed, date, type, location, etc.
9. Commissioning
10. Completing billing change(s) on your behalf based on the new LED lighting system installed by RealTerm Energy and based on the information provided by the Town and Utility regarding the metered and unmetered lights. RealTerm Energy assumes that the information provided by both parties are accurate and reflects the current state of the actual inventory
11. RealTerm Energy and our Installation Contractor warrant all workmanship completed within the work area for a period of one (1) year following the completion date of the installation
12. The luminaire and photocell are covered by their manufacturer's warranties for 10 years
13. If material/equipment ordered is removed from the installation scope of work after being ordered, the ordered material/equipment that was not installed will remain in possession of the Municipality after the installation is complete and RealTerm Energy will not provide credit for the uninstalled material/equipment.
14. Given the dynamics of today's international markets, there's risk that addition tariffs may be levied on roadway lighting products during the review period of this IGA. Should this happen, RealTerm Energy will work with its distributors, suppliers, & manufacturers to retain existing prices for as long as possible. However, any new or increased tariffs may result in price increases which are beyond RealTerm Energy's control. If this does happen, RealTerm Energy will communicate any cost impacts to the municipality. Note that, as a result of the tariff risk, we have included a material cost contingency as part of the project cost.
15. This IGA is valid until August 13, 2019
16. The total project cost is in US dollars and does not include any applicable taxes
17. Realterm Energy Limited Workmanship Warranty only covers installation services such as incorrect equipment mounting or wiring of the fixture and related equipment. This warranty does not cover issues unrelated to the installation, such as fuse failure, pole knockdowns, wire shorting, disconnection of the pole or arm from owner source (unless improperly mounted),

weather-related damage, natural disasters, vandalism, or unrelated capital work impacting the pole or fixture. The warranty period for installation services shall be one (1) year from the Installation End Date, defined as the date when the final luminaire is installed. The Town shall be responsible to serve as first-responder to any and all outages, shall identify locations where warranty-related work is necessary, and shall notify Realterm Energy of the warranty-related locations so that a remedy can be implemented. Realterm Energy shall be reimbursed for all outlays incurred in responding to items which are determined not to be warranty related.

18. Realterm Energy Limited Workmanship Warranty does not cover any cost related to fixture, photocell and related products and parts failure. Such costs are covered by their individual manufacturers' warranty as applicable. Realterm Energy shall ensure that Town is provided with all manufacturers' warranties for equipment and materials installed and/or used in the Scope of Work and that such documents are in conformity with the agreed upon warranty terms and conditions. Any installation cost related to failed fixtures or photocells is not covered under this warranty. Please note that Realterm Energy will not be replacing your existing maintenance service provider.

The scope of work set forth herein shall constitute the sole and entire scope of work for the Project and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the scope of work.

For greater clarity, this IGA amends and supplements in its entirety that the Agreement effective as of March 16, 2018 by and between the Town of Gorham and Realterm Energy US, L.P. (the "Agreement") solely with respect to the scope of work. In the event of any conflict between this IGA and the Agreement, the terms of this IGA shall prevail.

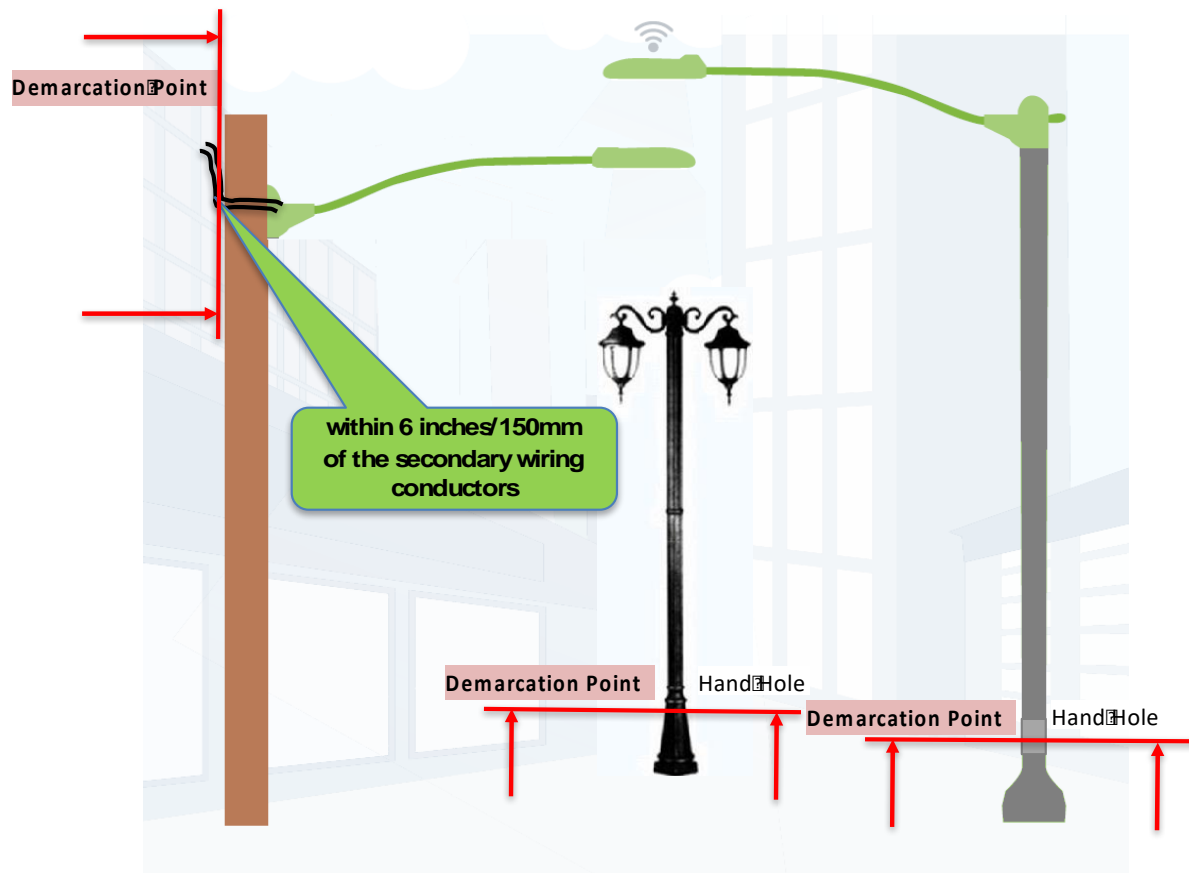
The Parties have not relied on any statement, representation, warranty or agreement of the other Party or of any other person acting on such Party's behalf, including any representations, warranties, or agreements arising from statute or otherwise in law, except for the representations, warranties, or agreements expressly contained in this IGA. Without limitation of the foregoing, the parties acknowledge and agree that the following items are not included in the scope of work, nor the total project cost:

1. Any cost related to upgrading your existing lighting/electrical systems to provincial and/or federal standards.
2. Any cost related to the replacement of the existing relays for the group-controlled streetlights (controller box).
3. Any fees related to the connections to the secondary bus in the unlikely case that the Utility insists on charging a fee.
4. Any other fees which may be charged by a third party.
5. Any costs related to works beyond the Demarcation Point, described as follows:
 - Work performed on the electrical system by RealTerm Energy will be confined to the Luminaire and an area between the agreed upon "Demarcation Point" (in the majority of cases, a point within 6 inches/150mm of the secondary wiring conductors) on what is referred to as the "Tail". This is the location at which a fuse and fuse holder should exist and acts as a disconnect to allow easy service, protect the new luminaire and wiring from voltage surges

and provide a safe working environment. In the event that a fuse and fuse holder do not exist, they will be installed.

- For decorative poles and stand-alone underground fed units, the “Demarcation Point” is located at the base of the pole in the “Hand Hole”. Where overhead feeds are in use, the “Demarcation Point” is located at the base of the arm holding the fixture, where the connection is made to the secondary wires.
- If RealTerm Energy dispatches a maintenance contractor and the required repairs are outside of the work areas, we will recommend a solution and communicate this information to the Client for approval before proceeding.

9. SCOPE OF WORK DIAGRAM



The foregoing excluded items and any other items not included within the scope of work may be provided by RealTerm Energy at an additional cost pursuant to a separate written agreement or amendment between the Parties only. The above list of exclusions is not meant to be exhaustive, as network site conditions vary, and shall not operate in any way to limit the exclusions of this paragraph or imply any obligation or duty on the party of RealTerm Energy to complete any work other than the specifically defined scope of work set forth herein.

Mr. Ephrem Paraschak,
The Town of Gorham
75 South Street
Gorham ME 04038

The information contained herein will form part of the installation contract documents as well as the scope of work for the LED Streetlighting Conversion Project. The undersigned is authorized to sign on behalf of the Town and accepts the entirety of this Investment Grade Audit IGA_Template-2019-06-13.

Please initialize which option you would like to proceed with.

Option	Document Section	Initial (Select One Option Only)	Total Cost
Photocells	Main Body of Report		\$166,044
Smart Controls Option	Appendix A		\$199,628

Recommended spares option below may be selected with either of the above options. If you wish to have spares included, please circle "Yes" in the table below.

Option	Document Section	Circle Yes or No	Total Cost
Recommended Spare Inventory (Photocell Option)	Appendix B	Do you wish to have spares included (circle one)? YES/NO	\$1,418

Authorized Signature

Name (please print)

Title (please print)

Date

APPENDIX A: SMART CONTROLS OPTION

Smart Controls Option

Adding adaptive controls can help municipalities make the most of their LED streetlight conversion. By including adaptive controls from the outset, you open yourself up to more energy and maintenance savings, less light pollution, and increased safety on Town streets. You also “future-proof” your streetlight network and open up the possibility of adding a myriad of additional Smart City applications later on without having to spend the time and money going back to streetlights that have already been installed.

The table below presents the estimated additional costs associated with the implementation of a smart control system for the Town of Gorham’s cobrahead inventory.

PROJECT COSTS		Total
Number of Fixtures with Controls		347
Estimated Smart Control Cost (*)		\$39,508
Photocell Credit		\$5,924
Estimated Net Adder for Controls		\$33,584
Estimated LED Project Cost with Smart Controls		\$199,628
Acquisition Cost from Utility		\$36,886
Estimated Total Project Cost with Smart Controls		\$236,514
Payback Period, Years		4.6

(*) Includes Hardware and installation (Smart Nodes and Gateways, if applicable), Training, and Central Management Software & Licensing for the first year.

The total cost for the Smart Controls presented in this IGA includes:

- Smart nodes for the fixtures
- Communication Gateways (if applicable under system option)
- Central Management Software (CMS) for the first year
 - The ongoing cost of the Software-as-a-service (SaaS) after the first year which grants access to the CMS is not included. This ongoing fee varies by manufacturer but is typically in the range of \$1.50-\$2.00/pole/year.

APPENDIX B: RECOMMENDED SPARE INVENTORY

Spare Material Inventory

Below is a summary list of the recommended spare inventory (luminaires and photocells) based on the material specified in the IGA Report. Should the Town wish to have this spare material included, please indicate so by initializing on the signature page above.

Summary of Spare Material		
Part Number	QTY	Material Type
22W_ERL1 0 03 B3 30 A GRAY I R	3	LED fixture
31W_ERL1 0 04 B3 30 A GRAY I R	3	LED fixture
39W_ERL1 0 05 B3 30 A GRAY I R	1	LED fixture
58W_ERL1 0 07 B3 30 A GRAY I R	1	LED fixture
DLL127F 1.5 JU	10	Long Life Photocell

Notes:

- Spare material will be sent directly to the Town and additional freight charges may apply.
- Should the Town wish to include an alternative breakdown (type and quantity) of spare material, the list above can be adjusted accordingly.
- Should the Town proceed with the Smart Control Option, the cost of spares control nodes (if desired) will be based on selected controls option.

Cost of Spare Material	
Number of Luminaires (Spares)	8
Cost of Spare Material	\$1,418
Total Project Cost (Photocell Option)	\$166,044
Total Project Cost with Spare Material	\$167,462

APPENDIX C: PRODUCT SPEC SHEETS

- The luminaire and product spec sheets are attached in a separate electronic zip file.

APPENDIX D: LUMINAIRE PRODUCT WARRANTY

- The luminaire warranty documents are attached in a separate electronic zip file.

APPENDIX E: PROJECT COST BREAKDOWN

- The Project Cost Breakdown excel spreadsheet is attached in a separate electronic zip file.

APPENDIX F: LIGHTING DESIGN LAYOUTS

- The designs of the proposed LED luminaires are attached in a separate electronic zip file.

APPENDIX G: STREETLIGHT INVENTORY

- The streetlight inventory Excel file is attached in the electronic zip file.
- The Webmap version of the inventory can be accessed by clicking on the below link using the username and password provided below:
 - <https://arcg.is/1znW9X>
 - Username: Guest012
 - Password: guest2018



MEMORANDUM

TO: Ephrem Paraschak, Town Manager

FROM: Mark A. Bower; Benjamin T. McCall

RE: Options for the Regulation of Rooming Houses and/or Sober Homes

DATE: June 26, 2019

This is a follow-up to our previous memorandum, dated June 7, 2019, which dealt with judicial challenges to the municipal regulation of “sober homes.” Since that time, the Town Council enacted a moratorium on new rooming houses and has expressed a desire to explore options for regulations that seek to protect potential residents within sober homes, rather than regulations that would prevent or prohibit the siting of sober homes within the Town. With that goal in mind, this memorandum presents a few options for the Council to consider.

I. Special Exception Permits and/or Performance Standards for all Rooming Houses.

Because many (but not all) sober homes would operate as “rooming houses,” as that term is defined in the Land Use and Development Code (“Code”), one option would be to enact general regulations for rooming houses within the Code, either by requiring a special exception permit to operate a rooming house *or* to add performance standards to the existing “rooming house” use. This could be done in conjunction with amendments to the Code to specify in which zones rooming houses are to be permitted uses.

The difference between these two options is largely procedural. Special exception permit applications are reviewed by the Planning Board, and are subject to a set of six general criteria found in Section 1-4(E) of the Code. The Council could adopt additional, specific criteria that relate to rooming houses, which would also be reviewed by the Planning Board. Conversely, the addition of performance standards for rooming houses, under Chapter 2 of the Code, would allow the Code Enforcement Officer to review each *new* application for a certificate of occupancy for a rooming house and determine whether each performance standard has been/will be met.

Under either approach, any new standards applied to rooming houses must be generally applicable, *i.e.*, not targeted at aspects that are unique to sober homes. Legal challenges of these targeted zoning restrictions have generally been successful.¹

¹ See, e.g., *Mannai Home, LLC v. City of Fall River*, 2019 U.S. Dist. LEXIS 17989 (D. Mass. Feb. 5, 2019); *Human Res. Research & Mgmt. Group v. Co. of Suffolk*, 687 F. Supp. 2d 237 (E.D. N.Y. 2010).

Regulating rooming houses in this way, however, does not guarantee that all sober homes, either currently existing or proposed in the future, would be subject to regulation. Amendments to land use ordinances are not retroactive, and so any sober home that is operating as a rooming house currently would not be subject to any new standards or permitting requirements—in other words, it would be “grandfathered.” Moreover, because a sober home often involves a group of people living together as one “unit,” it could potentially qualify as a single-family residential use under the Code. Because single-family uses are allowed “as of right” in most zones and because single-family uses are not subject to any performance standards, a new sober home may still escape any land use regulation, even after the Code is amended.

Should the Council decide to pursue this option, the two most common types of performance standards applied to rooming houses are occupancy limits and dispersion requirements (*i.e.*, prohibiting a rooming house from being located within 500 feet of another rooming house). Occupancy limits have generally been upheld by courts when challenged in court. *See City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725 (1995) (holding that a maximum occupancy level was legally permissible but that limiting the number of “non-related” individuals was not). Dispersion requirements are trickier. Arguably, the Town could enact a dispersion requirement for *all* rooming houses, as this requirement would be generally applicable and not discriminatory against a particular type of group home.

Summary: Requiring a special exception permit or adding performance standards that are generally applicable to all rooming houses would likely avoid a lawsuit by a sober home operator claiming targeted discrimination. However, this approach might not capture *all* sober homes within the Town, because many sober homes may qualify as a single-family residential use, or may be existing already and therefore not subject to any newly enacted land use regulations.

II. Licensing of Rooming Houses

Similar to the first option above, the Town Council could also enact a standalone “Rooming House Ordinance” with an annual licensing requirement applicable to *all* rooming houses in Gorham. The ordinance could contain licensing criteria such as occupancy limits, dispersion requirements, property maintenance, and periodic fire inspection requirements. It could also contain a revocation/penalty provision.

An advantage of a licensing ordinance, as opposed to the Code amendments discussed above, is that a licensing requirement would apply to *all* rooming houses within the Town. Put another way, the concept of “grandfathering” only applies to zoning ordinances; if a new licensing ordinance were passed, existing rooming houses would still need to apply for (and receive) licenses every year in order to continue operation.

Summary: As with the first option, a generally applicable licensing ordinance for rooming houses would not be vulnerable to an attack of targeted discrimination, and would be applicable to all existing and future rooming houses. However, the licensing

criteria would need to be applicable to all rooming houses, and not just certain types of rooming houses, such as sober homes.

III. Licensing of Sober Homes

A third option would be to adopt a standalone ordinance that requires the operator of any sober home within the Town to be licensed annually. We have found cases that lend support to the idea of licensing ordinances applicable to sober homes, provided that the criteria for receiving a license relate to the support and protection of the disabled/handicapped residents.²

The cities of Sanford and Lewiston have enacted licensing ordinances that apply to sober homes. Here are some examples of acceptable licensing criteria, pulled from those ordinances:

- Licensee shall have at least 2 years' experience working with substance abuse disorders. (Sanford)
- Licensee shall be a member of Maine Association of Recovery Residences or otherwise demonstrate compliance with the National Association of Recovery Residences Quality Standards and Code of Ethics. (Sanford)
- Licensee shall ensure that the building is kept in good repair and free of safety hazards. (Lewiston)
- Licensee shall ensure that the grounds and accessory building structure are kept in a safe, sanitary and presentable condition. Grounds shall be kept free from refuse and litter, as well as insect and rodent breeding areas. (Lewiston)
- Licensee shall employ staff sufficient to keep the building, accessory buildings or structures, and grounds in compliance with these regulations. (Lewiston)
- Licensee shall ensure sufficient trained staff present at all times to properly supervise its operation. (Lewiston)
- Licensee shall prevent activities constituting a nuisance or annoyance injurious to the health, safety or comfort of the citizens of the Town. (Lewiston)

One regulation contained in the Sanford ordinance that we would not recommend is a dispersion requirement ("No license may be issued to a business location within 500 feet of another business of the same kind."). These types of dispersion requirements, when targeted at specific types of group homes for protected populations, have been struck down by courts. *See Children's Alliance v. City of Bellevue*, 950 F. Supp. 1491

² *See, e.g., Larkin v. Mich. Dep't of Social Servs.*, 89 F.3d 285, 292 (6th Cir. 1996) (upholding narrowly tailored licensing requirements for group homes); *Marbrunak, Inc. v. City of Stow*, 974 F.2d 43, 46 (6th Cir. 1992) ("[The City] may impose standards which are different from those to which it subjects the general population, so long as that protection is demonstrated to be warranted by the unique and specific needs and abilities of those handicapped persons."); *Bangerter v. Orem City Corp.*, 46 F.3d 1491, 1504 (10th Cir. 1995) ("the FHAA should not be interpreted to preclude special restrictions upon the disabled that are really beneficial to, rather than discriminatory against, the handicapped"); *but see Human Res. Research & Mgmt. Group v. County of Suffolk*, 687 F. Supp. 2d 237 (E.D. N.Y. 2010) (finding that a licensing scheme requiring a background check of the owner and a five-year record retention requirement was invalid because it was not narrowly tailored to protect the interests of the residents).

(W.D. Wash. 1997); *Larkin v. State of Mich. Dept. of Social Servs.*, 89 F.3d 285 (6th Cir. 1996).

Summary: There is a certain amount of legal risk involved with a licensing requirement for sober homes because, as has been pointed out previously, the Town does not currently require licenses for any other types of living arrangements (*i.e.*, single-family dwellings, multi-family dwellings, or rooming houses). Also, we could not find any cases that have explicitly upheld the notion of licensing sober homes. However, there is some case law support for such regulations if they are centered on ensuring that sober homes are well run and that residents are protected. If the Council were inclined to go in this direction, we would recommend that it adopt some explicit, detailed findings to support its rationale for requiring sober homes to be licensed.

IV. Disorderly House Ordinance

A final option, which could be combined with any of the options above (or not), would be to enact a disorderly house ordinance similar to those in place in other nearby municipalities. Disorderly house ordinances do not regulate a particular use of land, but instead allow a municipality to regulate a property that generates a specific number of police complaints, due to noise or other disorderly behavior. Such an ordinance would apply to *all* properties in Gorham, not just rooming houses or sober homes.

For example, Portland's ordinance states that when a particular building generates a set number of calls for service within a 30-day period, a notice is sent to the owner. This set number *does not* include calls for service that are due to acts of domestic violence – this carve out is expressly required by the federal Fair Housing Act to protect domestic violence victims. When the numerical threshold is reached, the owner of the disorderly property must meet with the city and negotiate/sign a written agreement laying out the steps to be taken to alleviate the disorder. If this does not occur then the city will file a legal action against the owner that seeks civil penalties and attorney's fees.

We are not aware of any legal challenges to a disorderly house ordinance in Maine, and case law from other jurisdictions is extremely limited, other than challenges to ordinances that do not contain domestic violence carve-outs. However, Maine law gives municipalities general police powers, enabling them to regulate actions that are detrimental to public health, safety, and welfare. And the small number of courts that have reviewed disorderly house ordinances elsewhere have concluded that these ordinances were valid exercises of municipal authority to do away with public nuisances. See *United States v. Wade*, 152 F.3d 969 (D. D.C. 1998).

Summary: A disorderly house ordinance would allow the Town to ensure that all uses of property, including rooming houses and sober homes, do not create public nuisances; such ordinances have traditionally been upheld by courts when challenged. However, a disorderly house ordinance is broad and, on its own, might not address *all* of the Council's concerns relating to rooming houses and/or sober homes.