

South Portland City Council  
*Position Paper of the City Manager*

**Subject:**

**ORDER #61-14/15 - Authorizing the City Manager to accept delivery of an easement deed and to execute a release deed in order to effectuate the relocation of a storm drain across property owned by South Port Marine, LLC at 14 Ocean Street. Passage requires majority vote.**

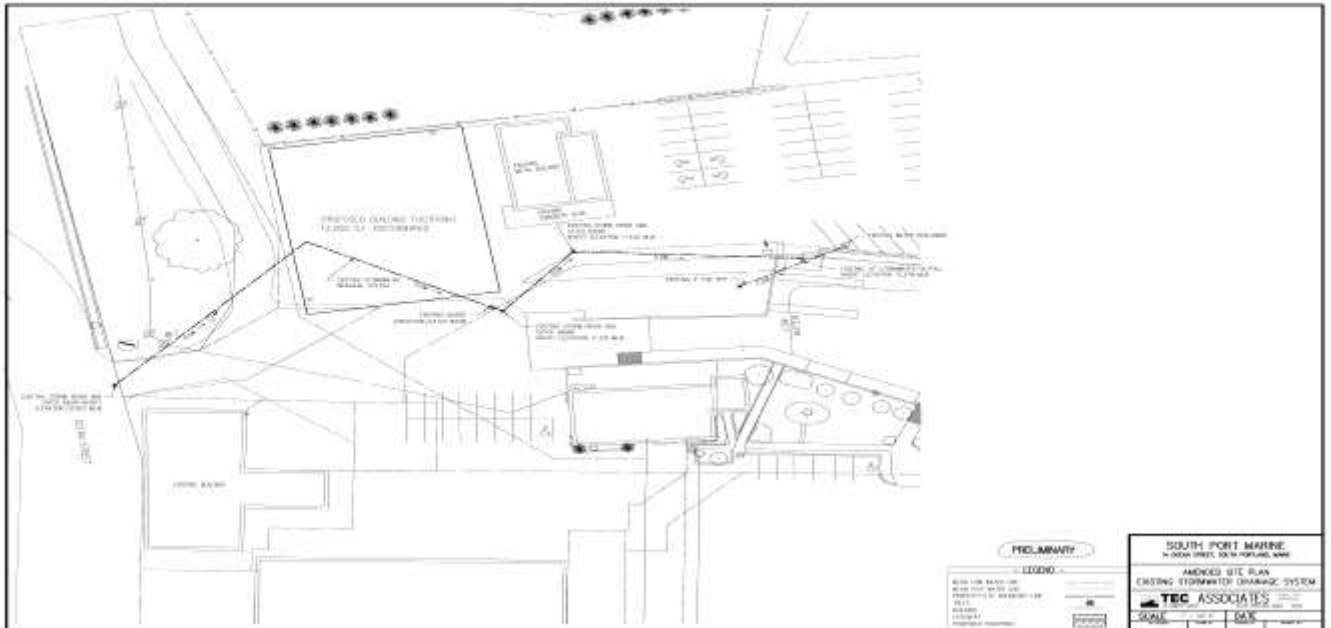
**Position:**

South Port Marine is in the process of developing its property. Part of the development includes placing a new building that would interfere with the existing city stormwater line.

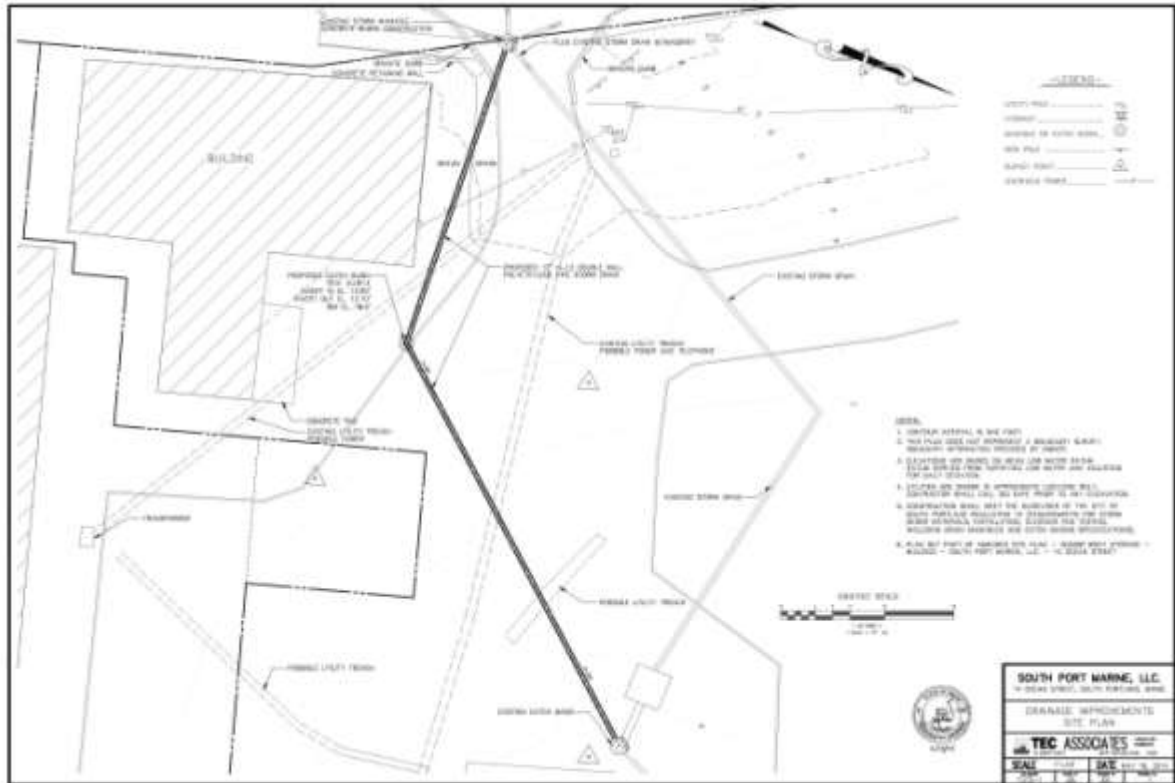
South Port Marine would like to install a new line at its own expense to allow for this development.

This item is brought forward to release the current easement on the existing stormwater line and also to accept a revised easement deed for the new city stormwater line to be installed by South Port Marine.

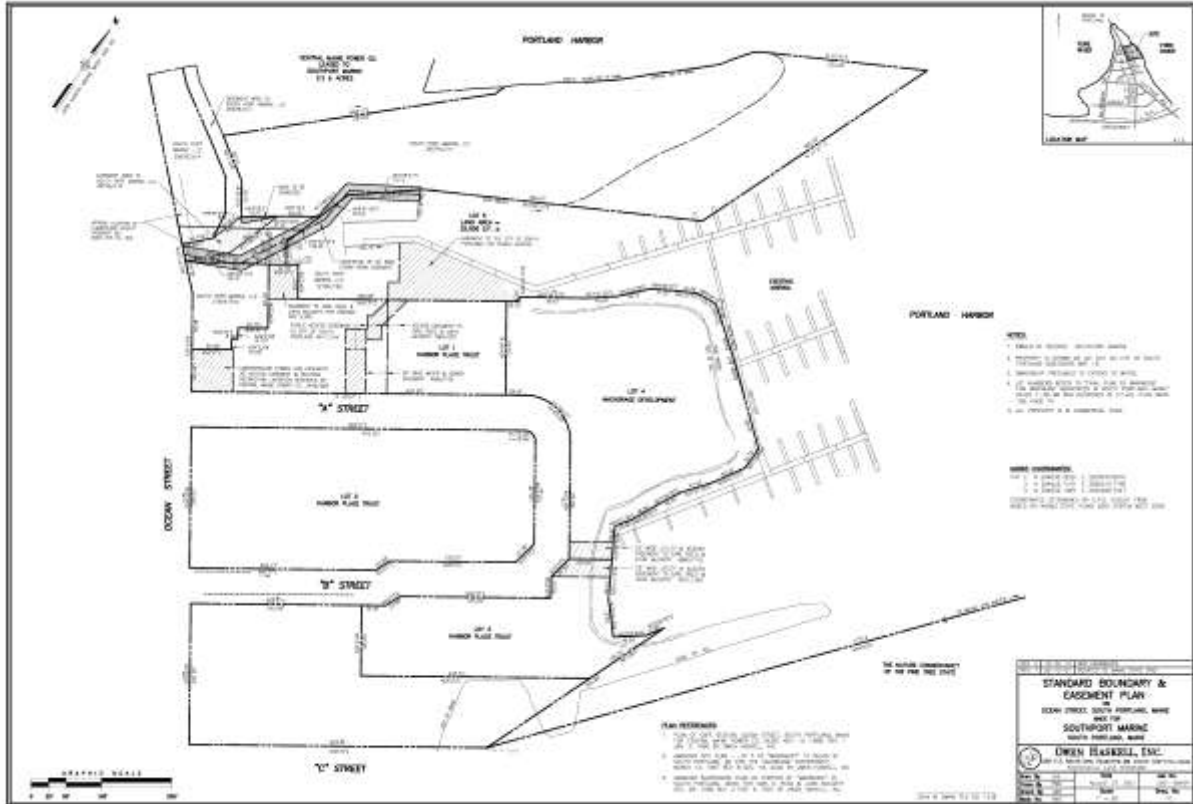
**Existing Stormwater Line**



# Proposed Stormwater Line



# Proposed Easement Plan



Attached is a memorandum from Patrick Cloutier regarding this item.

***Requested Action:***

Council passage of ORDER #61-14/15.

  
City Manager



Water Resource Protection

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*Patrick Cloutier, Director*

December 10, 2014

To: James Gailey, City Manager

From: Patrick Cloutier, Director, Water Resource Protection

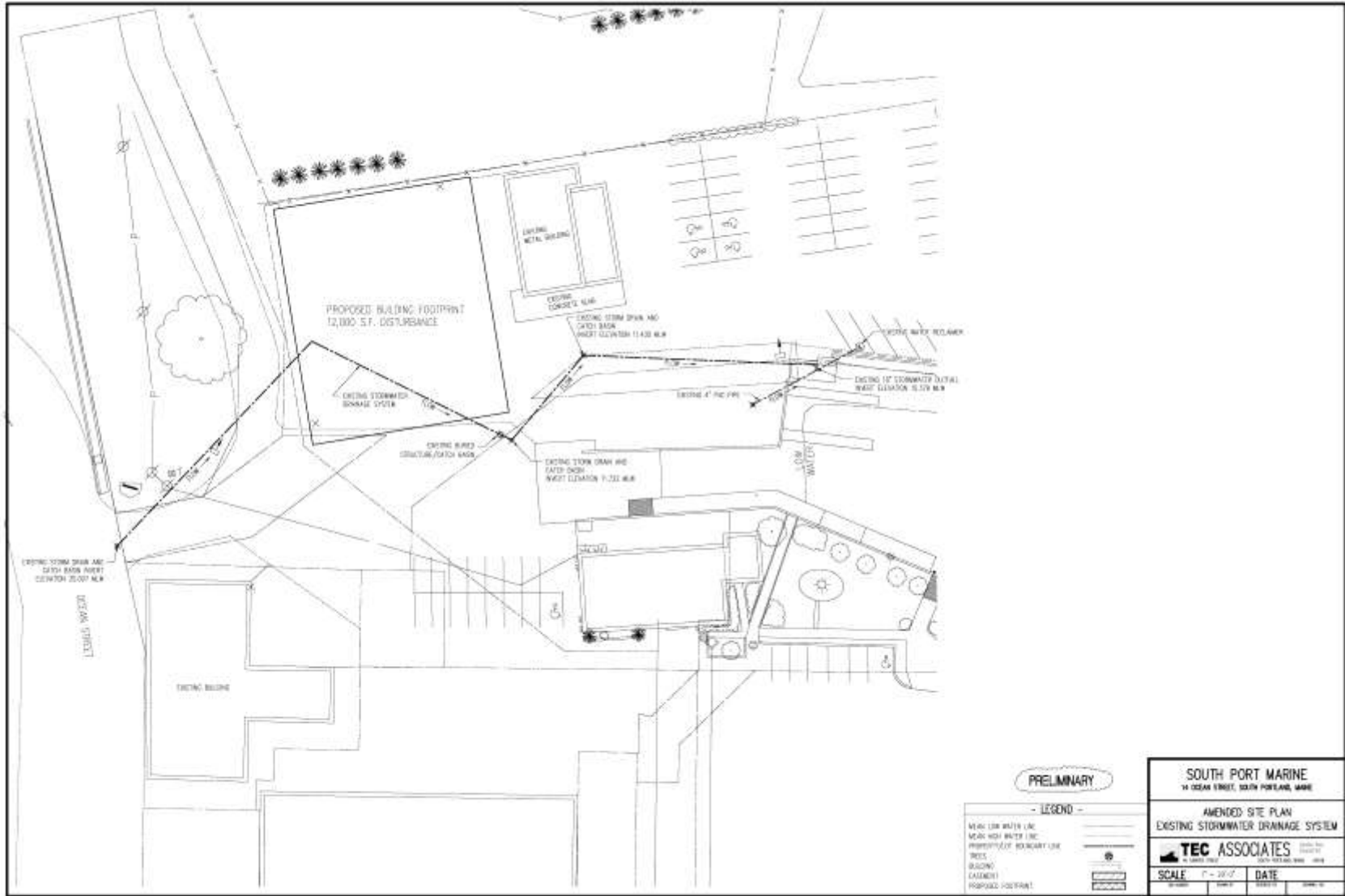
Re: Southport Marine Easement

Southport Marine is going to develop their property in the near future having received Planning Board approval to do so. Part of the development was to place a new building that interfered with the existing stormwater drain line the city owns. In order to continue with the property development, Kip Reynolds agreed to move a section of the stormwater drain line to a new location at his expense. The new location of the stormwater line allows him to continue with the development and adds the benefits of better drainage. The current stormwater easement that had been added over past years now constrains the site and the marina's future plans.

The easement release deed will also have the city vacate the old easement area in the Southport Marine property where the old stormwater line has existed. The old stormwater line will remain active until the new line is in place and active. The city will inspect the construction of the new stormwater line that will meet city specifications.

The movement of the stormwater line section gives Southport Marine the opportunity to delineate a clearer overall easement that gives the city a clear easement boundary and allows Southport Marine to develop the property with their future plans in mind unimpeded by the city's old stormwater line and easement. I recommend the city accept the new easement and release deed.

# Existing Stormwater Line



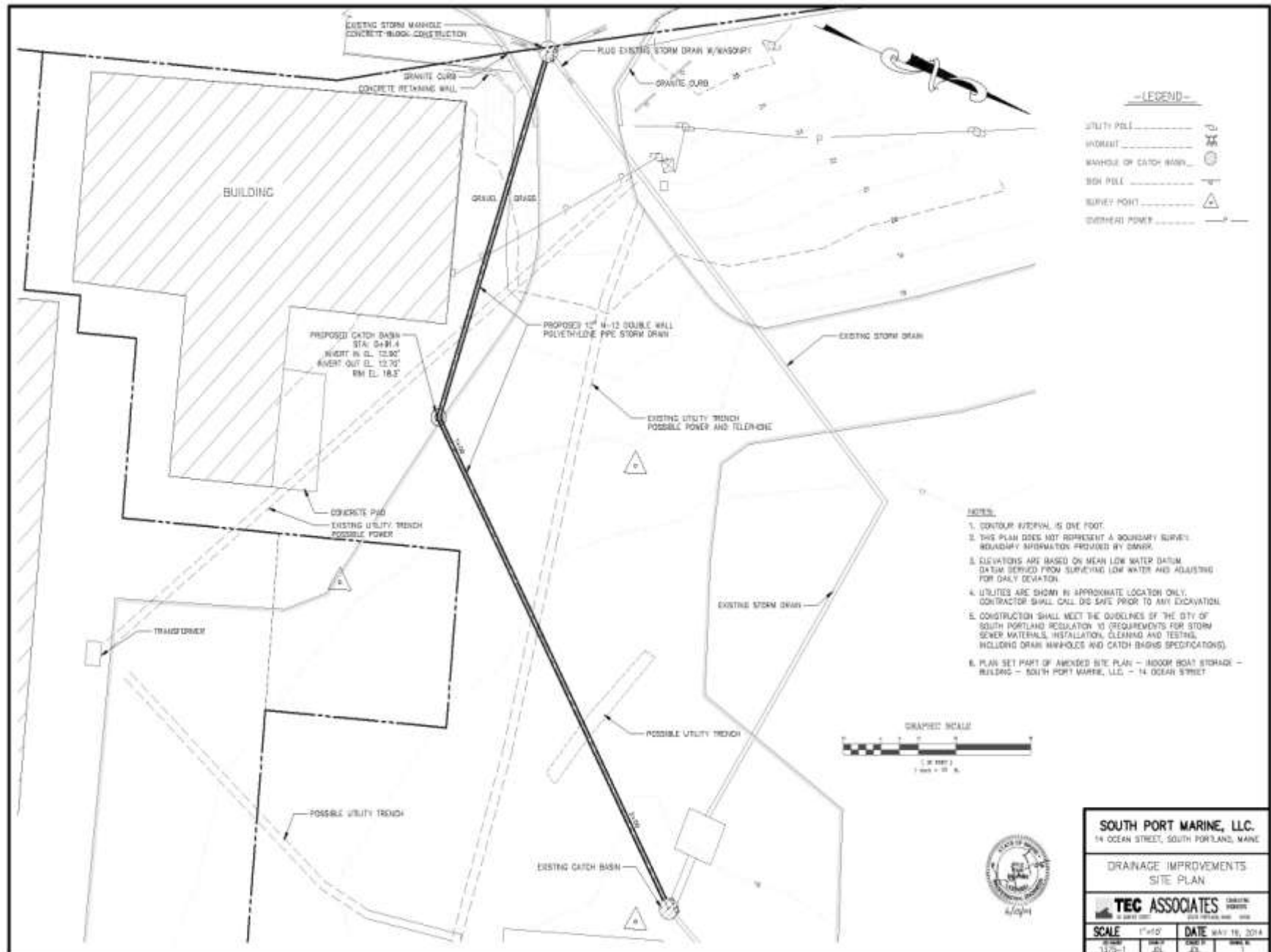
PRELIMINARY

- LEGEND -

- MAIN LINE WATER LINE
- MAIN HOSE WATER LINE
- PROPERTY/LOT BOUNDARY LINE
- PROPOSED FOOTPRINT

SOUTH PORT MARINE 14 OCEAN STREET, SOUTH PORTLAND, MAINE	
AMENDED SITE PLAN EXISTING STORMWATER DRAINAGE SYSTEM	
<b>TEC ASSOCIATES</b> 1000 WASHINGTON STREET, SUITE 200 PORTLAND, ME 04101 TEL: 603.733.1111 FAX: 603.733.1112	
SCALE: 1" = 20'-0"	DATE: 12/15/23

# Proposed Stormwater Line



**-LEGEND-**

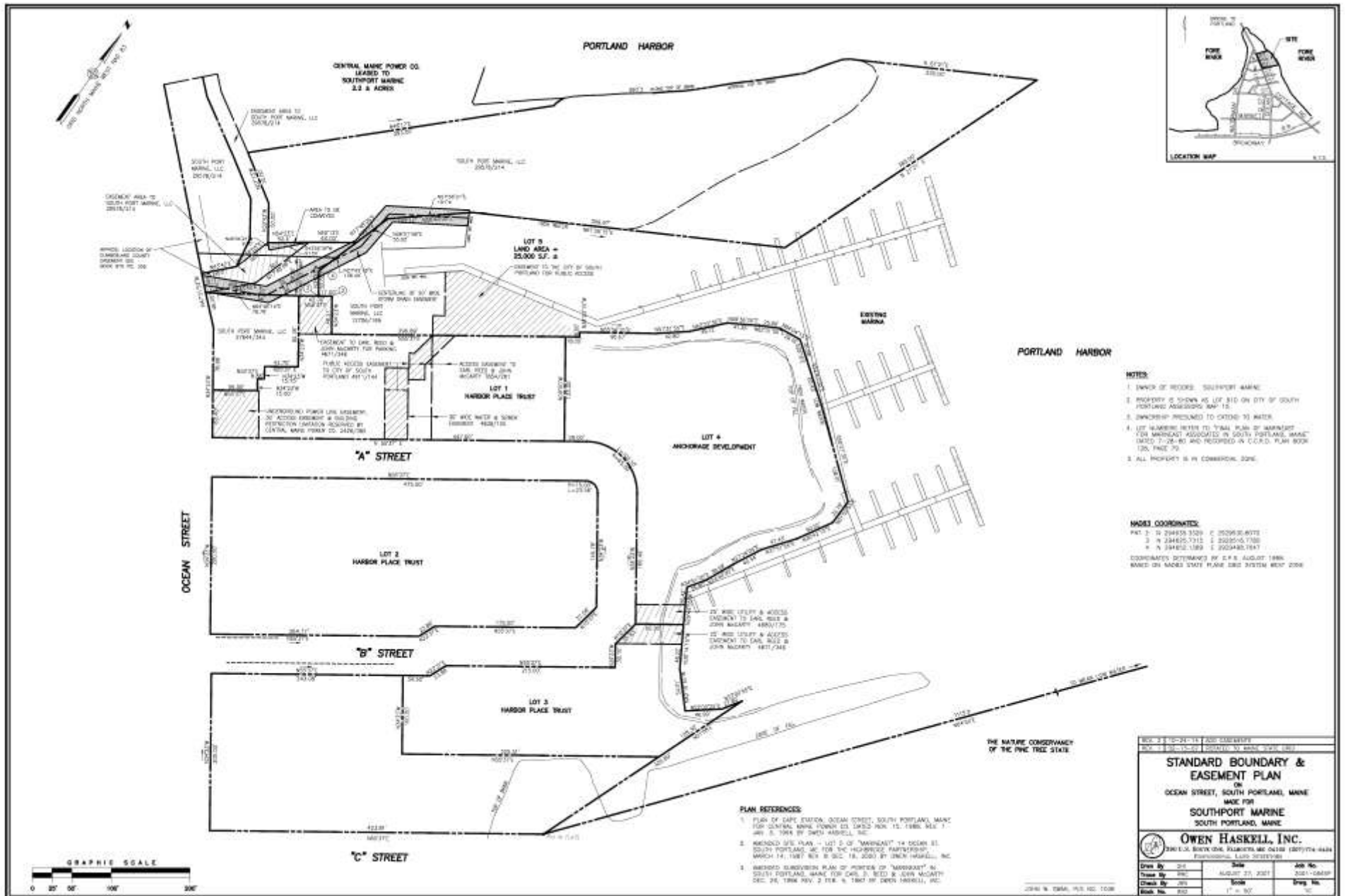
UTILITY POLE	-----	○
WARRANT	-----	⊗
MANHOLE OR CATCH BASIN	○	○
BOX POLE	-----	⊕
SURVEY POINT	-----	△
OVERHEAD POWER	-----	⊖

- NOTES**
1. CONTOUR INTERVAL IS ONE FOOT.
  2. THIS PLAN DOES NOT REPRESENT A BOUNDARY SURVEY. BOUNDARY INFORMATION PROVIDED BY OWNER.
  3. ELEVATIONS ARE BASED ON MEAN LOW WATER DATUM. DATUM DERIVED FROM SURVEYING LOW WATER AND ADJUSTING FOR DAILY DEVIATION.
  4. UTILITIES ARE SHOWN IN APPROXIMATE LOCATION ONLY. CONTRACTOR SHALL CALL DIG SAFE PRIOR TO ANY EXCAVATION.
  5. CONSTRUCTION SHALL MEET THE GUIDELINES OF THE CITY OF SOUTH PORTLAND REGULATION 13 (REQUIREMENTS FOR STORM SEWER MATERIALS, INSTALLATION, CLEANING AND TESTING, INCLUDING DRAIN MANHOLES AND CATCH BASINS SPECIFICATIONS).
  6. PLAN SET PART OF AVOIDED SITE PLAN - MOOR BOAT STORAGE - BUILDING - SOUTH PORT MARINE, LLC - 14 OCEAN STREET



<b>SOUTH PORT MARINE, LLC.</b> 14 OCEAN STREET, SOUTH PORTLAND, MAINE	
DRAINAGE IMPROVEMENTS SITE PLAN	
<b>TEC ASSOCIATES</b> <small>CREATING PROGRESS</small>	
SCALE: 1"=10'	DATE: MAY 16, 2014
DESIGNER: JCL	CHECKER: JCL
DRAWN BY: JCL	DATE: MAY 16, 2014

# Proposed Easement Plan



- NOTES:**
1. OWNER OF RECORD: SOUTHPORT MARINE
  2. PROPERTY IS OWNED BY LOT 110 ON CITY OF SOUTH PORTLAND ASSESSORS MAP 15.
  3. DIMENSIONS PRELIMINARY TO OTHER TO WATER.
  4. LOT NUMBER REFER TO FINAL PLAN OF MAP/ASSET FOR ANCHORAGE ASSOCIATED IN SOUTH PORTLAND, MAINE, DATED 7-28-80 AND RECORDED IN C.O.R.D. PLAN BOOK 120, PAGE 70.
  5. ALL PROPERTY IS IN COMMERCIAL ZONE.

**MAGNIFIED COORDINATES:**

PKT 2 - N 284825.3129 E 322926.8072  
 3 - N 284825.7315 E 322925.1788  
 4 - N 284822.1889 E 322948.1847  
 COORDINATE SYSTEMS BY G.F.F. AUGUST 1988.  
 BASED ON MAGNIFIED STATE PLANE DED SYSTEM BEST 2008.

- PLAN REFERENCES:**
1. PLAN OF CAPE STATION, OCEAN STREET, SOUTH PORTLAND, MAINE FOR CENTRAL MAINE POWER CO. CASED FOR 15, 1988, SEC. 1 - APR. 8, 1988 BY OWEN HASKELL, INC.
  2. RECORDED SITE PLAN - LOT 2 OF "MARKENANT" 14 OCEAN ST. SOUTH PORTLAND, ME FOR THE HIGHWOOD PARTNERSHIP, MARCH 14, 1987 REC. B SEC. 18, 2003 BY OWEN HASKELL, INC.
  3. RECORDED SUBDIVISION PLAN OF PORTION OF "MARKENANT" IN SOUTH PORTLAND, MAINE FOR CARL S. NEED & JOHN MCCARTY, DEC. 26, 1984 REV. 2 FOR. A, 1987 BY OWEN HASKELL, INC.

REC. 2 - 10-24-14 2ND CONVERSION REC. 1 - 10-24-14 2ND CONVERSION BY STATE COURT ORDER		
<b>STANDARD BOUNDARY &amp; EASEMENT PLAN</b> OR <b>EASEMENT PLAN</b> OCEAN STREET, SOUTH PORTLAND, MAINE MADE FOR <b>SOUTHPORT MARINE</b> SOUTH PORTLAND, MAINE		
<b>OWEN HASKELL, INC.</b> 280 E. G. BERRY DR. KENNEBEC, ME 04024-4424 PROFESSIONAL LAND SURVEYORS		
Drawn By: JHL Checked By: JHL Scale: 1" = 50' Date: AUGUST 27, 2021 Job No.: 2021-0048P Draw No.: 001	Date: AUGUST 27, 2021 Scale: 1" = 50' Job No.: 2021-0048P Draw No.: 001	Date: AUGUST 27, 2021 Scale: 1" = 50' Job No.: 2021-0048P Draw No.: 001



CITY OF SOUTH PORTLAND

LINDA C. COHEN  
Mayor

JAMES H. GAILEY  
City Manager

SUSAN M. MOONEY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

**IN CITY COUNCIL**

**ORDER #61-14/15**

District One  
CLAUDE V.Z. MORGAN

\_\_\_\_\_

District Two  
PATRICIA SMITH

\_\_\_\_\_

District Three  
MELISSA LINSOTT

\_\_\_\_\_

District Four  
LINDA C. COHEN

\_\_\_\_\_

District Five  
BRAD FOX

\_\_\_\_\_

At Large  
MAXINE BEECHER

\_\_\_\_\_

At Large  
THOMAS E. BLAKE

**ORDERED**, that the City Manager be, and hereby is, authorized and directed to accept delivery on behalf of the City the attached easement deed granting the City an approximately twenty foot (20') wide storm drain easement on property owned by South Port Marine, LLC located at 14 Ocean Street, as described with more particularity on Exhibit A to the easement deed; and

**BE IT FURTHER ORDERED**, that the City Manager be, and hereby is, authorized to execute and deliver on behalf of the City the attached release deed releasing the City's interest in a previously existing storm drain easement and storm drain line on property owned by South Port Marine, LLC located at 14 Ocean Street, as described with more particularity in the release deed.

[Fiscal Note: Less than \$1,000]

Dated: December 15, 2014



## EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS that **SOUTH PORT MARINE, LLC f/k/a SOUTHPORT MARINE, LLC**, a Maine limited liability company with a mailing address of 14 Ocean Street, South Portland, ME 04106 (hereinafter “Grantor”), in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, hereby grants and conveys to the **CITY OF SOUTH PORTLAND**, a municipal corporation organized and existing under the laws of the State of Maine, with a principal place of business located at 25 Cottage Road, South Portland, Maine 04106 (hereinafter “the City”), its successors and assigns, with **Warranty Covenants**, the perpetual rights and easements to use, repair, inspect, operate, maintain, rebuild, replace and remove the currently existing pipes and mains, with all necessary fixtures and appurtenances for conveying and transmitting stormwater, in the twenty foot (20') wide strip of land located on the easterly side of Ocean Street in South Portland, Maine and as further described with more particularity on the attached **Exhibit A** (hereinafter the “Easement Area”).

Together with the right at all times to trim, cut down and remove bushes, trees, and other vegetation growing on the Easement Area to such extent as in the judgment of the City is necessary for any of the above purposes; to use the soil in the Easement Area to such extent as may be necessary to embank said stormwater main and appurtenances; and to enter upon the Easement Area with men and machinery at any and all times for any of the foregoing purposes. To the extent any building is now or in the future located closer than ten feet (10') to the Easement Area, Grantor agrees to hold harmless and indemnify the City, its agents, officers, employees, successors and assigns, from and against any and all claims, damages, losses or liabilities resulting from the location of the said building and/or arising out of the exercise by the City of the rights granted by this Easement.

Reserving to Grantor, its successors and assigns, the use and enjoyment of the Easement Area for such purposes only as will in no way interfere with the perpetual use of the easement rights herein set forth by the City, its successors and assigns; provided that no building or any kind of permanent structure shall be erected on the Easement Area by Grantor, its successors and assigns, and that Grantor, its successors and assigns, shall not remove earth from the Easement Area or place fill thereon without the written permission of the City.

Meaning and intending to convey, and hereby conveying, an easement over and across a portion of the land of Grantor as described in a deed dated September 3, 1996 and recorded in the Cumberland County Registry of Deeds in Book 12706, Page 199; a deed dated March 12, 2010 and recorded in said Registry

of Deeds in Book 27644, Page 344; and a deed dated April 26, 2012 and recorded in said Registry of Deeds in Book 29578, Page 214.

TO HAVE AND TO HOLD, the aforegranted rights and easements, with all the privileges and appurtenances thereof to the said City, its successors and assigns, to its and their use and behoof forever. And Grantor does covenant with the said City, its successors and assigns, that Grantor is lawfully seized in fee of the premises; that they are free of all encumbrances; that it has good right to sell and convey said easement to the said City to hold as aforesaid; and that it and its successors and assigns shall and will warrant and defend the same to the said City, its successors and assigns, forever against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed and sealed in its corporate name by \_\_\_\_\_, its \_\_\_\_\_, thereunto duly authorized, on \_\_\_\_\_, 2014.

WITNESS:

**SOUTH PORT MARINE, LLC**

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_ [print name]  
Its \_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2014

Then personally appeared the above-named \_\_\_\_\_ of said South Port Marine, LLC and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said limited liability company.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

\_\_\_\_\_  
Print Name

## EXHIBIT A

A certain easement leading easterly from Ocean Street to Portland Harbor situated in the City of South Portland, County of Cumberland, and State of Maine, the centerline of said easement being described as follows:

Beginning at a point on the easterly sideline of said Ocean Street, said point being distant 11.30 feet on a bearing of N-47°-31'-52"-W along said easterly sideline of said Ocean Street from the northwesterly corner of land of South Port Marine, LLC as described in deed book 27,644 page 344;

Thence N-64°-48'-14"-E across land of South Port Marine, LLC 78.79 feet to a proposed storm drain structure;

Thence N-27°-42'-18"-E across land of South Port Marine, LLC 136.44 feet to an existing storm drain structure;

Thence N-06°-01'-58"-E across land of South Port Marine, LLC 55.02 feet to an existing storm drain structure;

Thence N-57°-58'-21"-E across land of South Port Marine, LLC 101 feet more or less to Portland Harbor.

The easement is 20 feet wide centered on the above described line, with the exception of the first course, which is 8 feet southerly of the above described line and 12 feet northerly of the above described line, all as shown with more particularity on a plan entitled "Standard Boundary & Easement Plan on Ocean Street, South Portland, Maine" for Southport Marine by Owen Haskell, Inc., 390 U.S. Route One, Falmouth, ME 04105, dated August 27, 2001 and last revised October 24, 2014.

All bearings are Grid North, Maine West NAD83.

**RELEASE DEED**

KNOW ALL PERSONS BY THESE PRESENTS that the **CITY OF SOUTH PORTLAND**, a municipal corporation organized and existing under the laws of the State of Maine, with a principal place of business located at 25 Cottage Road, South Portland, Maine 04106 (hereinafter “the City”), for consideration paid, does hereby **Remise, Release and Convey, and forever Quitclaim** unto **SOUTH PORT MARINE, LLC f/k/a SOUTHPORT MARINE, LLC**, a Maine limited liability company with a mailing address of 14 Ocean Street, South Portland, ME 04106 (hereinafter “Grantee”), its successors and assigns forever, the premises described in an easement deed from Southport Marine, LLC to the City of South Portland dated May 15, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13119, Page 262. To the extent an existing storm drain line crossing Grantee’s property is located outside of any existing or new easement area, the City releases its right, title and interest to the use and location of said storm drain line, and Grantee agrees that the line may be abandoned in place.

**To Have and to Hold** the same, together with all the privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns, to its and their own use and behoof forever.

**In Witness Whereof**, the CITY OF SOUTH PORTLAND has caused this instrument to be signed and sealed in its corporate name by James H. Gailey, its City Manager, thereunto duly authorized, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

SIGNED, SEALED, AND DELIVERED  
IN THE PRESENCE OF:

**CITY OF SOUTH PORTLAND**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
James H. Gailey  
Its City Manager

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2014

Then personally appeared before me the above named James H. Gailey, City Manager of said City of South Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said City of South Portland.

\_\_\_\_\_  
Notary Public/Attorney-at-Law

\_\_\_\_\_  
Print Name