

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the June 26, 2006 Council Meeting.

- I. **CALL TO ORDER** – On Monday, June 26, 2006 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

- II. **ROLL CALL OF MEMBERS** – Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith, Jr. Ronald Morton, Roland Michaud, Arthur Tardif, Eric Cote and Jesse McDougal.

Mr. Richard R. Michaud, City Administrator and Lucette S. Pellerin, City Clerk were also in attendance this evening.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES:

Minutes were not presented this evening.

- V. **GENERAL:** Presentation - Certificate of Achievement for Excellence in Financial Reporting

Councilor McDougal, Ward 7, made the presentation of the Certificate of Achievement for Excellence in Financial Reporting to Lisa Parker, Finance Director for the City of Saco. Congratulations to Lisa for a job well done.

The City of Saco has received (for the 5th year), a “Certificate of Achievement for Excellence in Financial Reporting”, for fiscal year ended June 30, 2005, given by the Government Finance Officers Association.

The Government Finance Officers Association of the United States and Canada presents a Certificate of Achievement for Excellence in Financial Reporting to government units and public employee retirement systems whose comprehensive annual financial reports (CAFR) achieve the highest standards in government accounting and financial reporting.

In addition, the Government Finance Officers Association has presented our Finance Director, Lisa Parker, with an “Award of Financial Reporting Achievement”, also for the 5th year. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

Congratulations to the City of Saco and to Lisa Parker for the good work, and may we continue with this record in the future.

VI. AGENDA ITEMS:

- A. **(First Reading)** Capital Improvement Bond 2006

The City has capital improvement needs that will not be addressed through the conventional budget process. The current approach will require that these projects be

deferred many years into the future, which in the end will likely cost more money to complete.

The Council is being asked to place a bond question before the voters to seek approval to borrow funds for these improvements.

The attached exhibits detail various project needs throughout the city. These repairs and improvements are vital to insuring the safety of our citizens. Proposed solutions and cost analysis for each of these items are included for review while considering the capital improvement bond.

The Board of Education (BOE) met to discuss the 80 Common Street renovations project at the BOE Meeting on June 6, 2006.

The City Council discussed this item in Workshop on June 5, and June 19, 2006.

Project Name	Estimated Cost
Public Works Facility Improvements	\$5,485,475
Parks Dept. Maintenance Building	\$200,000
Main Street Improvements	\$700,000
Saco Middle School Entrance Renovations	\$365,000
Temple, Pleasant, Green & Pearl Street	\$1,249,400
Parks & Recreation Community Building	\$68,700
Garfield Street Sidewalk	\$75,000
Fairfield Street Reconstruction	\$286,600
Fenderson Road Construction	\$337,800
Shadagee Road Reconstruction	\$455,000
80 Common Street Renovations	\$621,348
Trail Improvements	\$1,000,000
TOTAL	\$10,844,323

Councilor Cote moved, Councilor McDougal seconded, that the City of Saco hereby approve the First Reading of the Order entitled, ‘Order Authorizing City of Saco to Borrow An Amount not to Exceed \$5,485,475 for Public Works Facilities Improvements’ and directs that a copy of said Order be included in the minutes of this meeting and that said Order be scheduled for a Public Hearing on July 24, 2006 and for final Council action on August 21, 2006.

Further move that the City of Saco hereby approves the First Reading of the Order entitled, ‘Order Authorizing the City of Saco to Borrow An Amount not to Exceed \$4,358,848 for City-Wide Infrastructure Improvements, Including Street, Sidewalk, and parking Improvements and Renovations to City Buildings’ and directs that a copy of said Order be included in the minutes of this meeting and that said Order be scheduled for a Public Hearing on July 24, 2006, and for final Council action on August 21, 2006.’

Also further move that the City of Saco hereby approve the First Reading of the Order entitled, 'Order Authorizing City of Saco to Borrow An Amount not to Exceed \$1,000,000 for Trail Improvements' and directs that a copy of said Order be included in the minutes of this meeting and that said Order be scheduled for a Public Hearing on July 24, 2006 and for final Council action on August 21, 2006. The motion passed with six (6) yeas and one (1) nay. Councilor Tardif voted in the negative.

**ORDER AUTHORIZING
CITY OF SACO TO BORROW AN AMOUNT NOT TO
EXCEED \$5,485,475 FOR PUBLIC WORKS FACILITY IMPROVEMENTS**

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF SACO,
MAINE IN CITY COUNCIL ASSEMBLED:

- 1) That under and pursuant to 30-A M.R.S.A. §5772 and Sections 6.14 and 6.15 of the Charter of the City of Saco, the Treasurer and the Mayor of the City of Saco are authorized to issue general or limited general obligation securities in the name of the City of Saco in an aggregate principal amount not to exceed Five Million Four Hundred Eighty-Five Thousand Four Hundred Seventy-Five Dollars (\$5,485,475), and notes in anticipation thereof, to pay for costs to design, construct and equip additions and renovations to the City's Public Works Facility at 351 North Street and to acquire any real estate or interests in real estate related thereto (the "Project");
- 2) That the proceeds of the said securities and said notes in anticipation thereof (hereinafter collectively, "Bonds"), together with any investment earnings thereon, are appropriated to be used for the Project and for related costs of issuance, credit enhancement and accrued interest, if any;
- 3) That the estimated period of utility of the Project is determined to be in excess of thirty (30) years;
- 4) That pursuant to Section 6.15 of the Charter of the City of Saco, taxes shall be levied on the taxable estates of the City of Saco for each year that the Bonds remain outstanding in the amount necessary to meet the payment of the annual installments of principal and interest on the Bonds;
- 5) That to the extent not inconsistent with this Order, the Treasurer is authorized to select such date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, form(s) and other details of the Bonds, as the Treasurer determines to be in the interest of the City;
- 6) That any of the Bonds may be made callable, with or without premium, prior to their maturity;
- 7) That the Bonds shall be executed in the name of the City by the Treasurer and Mayor, under the official seal of the City attested by the City Clerk, and that any signature thereon may be by facsimile to the extent permitted by law;
- 8) That the Treasurer is authorized to provide for the sale of the Bonds at such times and in such manner, as the Treasurer determines to be in the interest of the

- City, and to select a purchaser or purchasers of the Bonds and to execute and deliver such contracts or agreements as may be necessary in connection therewith;
- 9) That in connection with the sale of any of the Bonds, the Treasurer may select such financial advisors, bond counsel, underwriters, rating agencies, bond insurance companies, registrars, paying agents, transfer agents and other service providers for such of the Bonds as the Treasurer determines to be in the interest of the City, and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;
- 10) That the Treasurer is authorized to prepare, or cause to be prepared, Notices of Sale, Preliminary Official Statements and Official Statements and Placement Memoranda for use in the offering and sale of any of the Bonds, in such form and containing such information as may be approved by the Treasurer, and that the distribution thereof in the name of and on behalf of the City in connection with offering any of the Bonds is approved;
- 11) That the Treasurer is authorized to undertake all acts necessary to provide for the issuance and transfer of such of the Bonds as the Treasurer deems advisable in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to physical transfer of bonds, and the Treasurer is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in the Treasurer's opinion, appropriate in order to qualify such Bonds for and to participate in the Depository Trust Company Book-Entry Only System;
- 12) That the Treasurer is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the Bonds shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended;
- 13) That the Treasurer is authorized to covenant on behalf of the City to file any information report and pay any rebate due to the United States in connection with the issuance of the Bonds, to take all other lawful actions necessary to insure that interest on the Bonds will be excluded from the gross income on the owners thereof for purposes of federal income taxation, and to refrain from taking any action which would cause interest on the Bonds to become includable in the gross income of the owners thereof;
- 14) That the Treasurer is authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of Bonds, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;
- 15) That the Treasurer is authorized to designate any of the Bonds as qualified tax exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986;
- 16) That the Treasurer is authorized to execute and deliver such tax certificates, arbitrage and use of proceeds certificates and other documents and certificates as may, in the Treasurer's opinion, be necessary or convenient to effect the transactions hereinbefore authorized, to be in such form not inconsistent with this Order as the Treasurer, with the advice of the City's bond counsel, may approve;

- 17) That the Treasurer and other proper officials of the City are authorized and empowered in its name and on its behalf to do or cause to be done all such other acts and things as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds in accordance herewith and any such prior action by them is hereby ratified and confirmed;
- 18) That if the Treasurer, Mayor, Clerk or any other City officer or official is for any reason unavailable to approve, execute or attest the Bonds or any related financing documents, the person or persons acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself/himself performed such act;
- 19) That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or official; and also any such Bonds may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers and officials of the City, although at the nominal date of such Bonds any such person shall not have been such officer or official;
- 20) That the Treasurer prepare a signed financial statement to accompany this and any other referendum question to be submitted on the same date to the voters of the City for ratification of bond issues;
- 21) That a copy of this Order be filed with the City Clerk; and
- 22) That pursuant to Section 6.15 of the Charter of the City of Saco, Maine the following question shall be submitted to the voters of the City of Saco at a referendum vote to be held on November 7, 2006:

Shall the Order of the City Council of the City of Saco entitled "Order Authorizing City of Saco to Borrow an Amount Not to Exceed \$5,485,475 For Public Works Facility Improvements" be ratified and approved?

**ORDER AUTHORIZING
CITY OF SACO TO BORROW AN AMOUNT NOT TO
EXCEED \$ 4,358,848 FOR CITY-WIDE INFRASTRUCTURE IMPROVEMENTS,
INCLUDING STREET, SIDEWALK, AND PARKING IMPROVEMENTS AND
RENOVATIONS TO CITY BUILDINGS**

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF SACO,
MAINE IN CITY COUNCIL ASSEMBLED:

- 1) That under and pursuant to 30-A M.R.S.A. §5772 and Sections 6.14 and 6.15 of the Charter of the City of Saco, the Treasurer and the Mayor of the City of Saco are authorized to issue general or limited general obligation securities in the name

of the City of Saco in an aggregate principal amount not to exceed Four Million Three Hundred Fifty-Eight Thousand Eight Hundred Forty-Eight Dollars (\$4,358,848), and notes in anticipation thereof, to pay costs to design and construct the following infrastructure projects, and to acquire any real estate or interests in real estate related thereto (collectively, the “Project”):

Parks Department Maintenance Building: Construct and equip a Parks Department Maintenance building on City property adjacent to the current Community Center at 75 Franklin Street.

Main Street Improvements: Construct/install improvements, including as necessary lighting and related service, poles, fixtures and other related equipment, appurtenances and building service connections, and sidewalk, curbing and turn lane improvements.

Middle School Entrance: Construct an access drive and other improvements related to parking spaces at the Saco Middle School.

Temple, Pleasant, Green and Pearl Streets: Construct improvements, including as necessary roadway surface and subsurface, curbing, sidewalk and separation of sewer and storm water lines as needed.

Parks & Recreation Community Building: Construct exterior renovations to the existing Community Center building at 75 Franklin Street, including as necessary masonry repair and replacement, repointing and sealing.

Garfield Street Sidewalk: Construct a new sidewalk from Bradley Street to Miranda Circle, approximately 1,000 feet in length, including related drainage and other improvements.

Fairfield Street: Construct street improvements, including as necessary roadway surface and subsurface, curbing, sidewalk, sewer, turning lane and traffic signal light.

Fenderson Road: Construct road improvements including as necessary improvements necessary to upgrade this road to an accepted public way.

Shadagee Road: Construct road improvements, including as necessary widening, intersection realignment and improvement, roadway surface and subsurface, curbing, sidewalk and drainage.

School Space Needs: Construct improvements and renovations to the existing City building at 80 Common Street or at another suitable facility for the school department’s Adult Education and Alternative Education programs, including as necessary improvements and renovations for air quality, code compliance and programming needs, and demolition of the existing Open Door building.

- 2) That the proceeds of the said securities and said notes in anticipation thereof (hereinafter collectively, "Bonds"), together with any investment earnings thereon, are appropriated to be used for the Project and for related costs of issuance, credit enhancement and accrued interest, if any;
- 3) That the estimated period of utility of the Project is determined to be in excess of thirty (30) years;
- 4) That pursuant to Section 6.15 of the Charter of the City of Saco, taxes shall be levied on the taxable estates of the City of Saco for each year that the Bonds remain outstanding in the amount necessary to meet the payment of the annual installments of principal and interest on the Bonds;
- 5) That to the extent not inconsistent with this Order, the Treasurer is authorized to select such date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, form(s) and other details of the Bonds, as the Treasurer determines to be in the interest of the City;
- 6) That any of the Bonds may be made callable, with or without premium, prior to their maturity;
- 7) That the Bonds shall be executed in the name of the City by the Treasurer and Mayor, under the official seal of the City attested by the City Clerk, and that any signature thereon may be by facsimile to the extent permitted by law;
- 8) That the Treasurer is authorized to provide for the sale of the Bonds at such times and in such manner, as the Treasurer determines to be in the interest of the City, and to select a purchaser or purchasers of the Bonds and to execute and deliver such contracts or agreements as may be necessary in connection therewith;
- 9) That in connection with the sale of any of the Bonds, the Treasurer may select such financial advisors, bond counsel, underwriters, rating agencies, bond insurance companies, registrars, paying agents, transfer agents and other service providers for such of the Bonds as the Treasurer determines to be in the interest of the City, and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;
- 10) That the Treasurer is authorized to prepare, or cause to be prepared, Notices of Sale, Preliminary Official Statements and Official Statements and Placement Memoranda for use in the offering and sale of any of the Bonds, in such form and containing such information as may be approved by the Treasurer, and that the distribution thereof in the name of and on behalf of the City in connection with offering any of the Bonds is approved;
- 11) That the Treasurer is authorized to undertake all acts necessary to provide for the issuance and transfer of such of the Bonds as the Treasurer deems advisable in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to physical transfer of bonds, and the Treasurer is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in the Treasurer's opinion, appropriate in order to qualify such Bonds for and to participate in the Depository Trust Company Book-Entry Only System;
- 12) That the Treasurer is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the Bonds shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended;

- 13) That the Treasurer is authorized to covenant on behalf of the City to file any information report and pay any rebate due to the United States in connection with the issuance of the Bonds, to take all other lawful actions necessary to insure that interest on the Bonds will be excluded from the gross income on the owners thereof for purposes of federal income taxation, and to refrain from taking any action which would cause interest on the Bonds to become includable in the gross income of the owners thereof;
- 14) That the Treasurer is authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of Bonds, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;
- 15) That the Treasurer is authorized to designate any of the Bonds as qualified tax exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986;
- 16) That the Treasurer is authorized to execute and deliver such tax certificates, arbitrage and use of proceeds certificates and other documents and certificates as may, in the Treasurer's opinion, be necessary or convenient to effect the transactions hereinbefore authorized, to be in such form not inconsistent with this Order as the Treasurer, with the advice of the City's bond counsel, may approve;
- 17) That the Treasurer and other proper officials of the City are authorized and empowered in its name and on its behalf to do or cause to be done all such other acts and things as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds in accordance herewith and any such prior action by them is hereby ratified and confirmed;
- 18) That if the Treasurer, Mayor, Clerk or any other City officer or official is for any reason unavailable to approve, execute or attest the Bonds or any related financing documents, the person or persons acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself/himself performed such act;
- 19) That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or official; and also any such Bonds may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers and officials of the City, although at the nominal date of such Bonds any such person shall not have been such officer or official;
- 20) That the Treasurer prepare a signed financial statement to accompany this and any other referendum question to be submitted on the same date to the voters of the City for ratification of bond issues;
- 21) That a copy of this Order be filed with the City Clerk; and

22) That pursuant to Section 6.15 of the Charter of the City of Saco, Maine the following question shall be submitted to the voters of the City of Saco at a referendum vote to be held on November 7, 2006:

Shall the Order of the City Council of the City of Saco entitled "Order Authorizing City of Saco to Borrow an Amount Not to Exceed \$4,358,848 for City-Wide Infrastructure Improvements, Including Street, Sidewalk, and Parking Improvements and Renovations to City Buildings" be ratified and approved?

**ORDER AUTHORIZING
CITY OF SACO TO BORROW AN AMOUNT NOT TO
EXCEED \$1,000,000 FOR TRAIL IMPROVEMENTS**

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF SACO,
MAINE IN CITY COUNCIL ASSEMBLED:

- 1) That under and pursuant to 30-A M.R.S.A. §5772 and Sections 6.14 and 6.15 of the Charter of the City of Saco, the Treasurer and the Mayor of the City of Saco are authorized to issue general or limited general obligation securities in the name of the City of Saco in an aggregate principal amount not to exceed One Million Dollars (\$1,000,000), and notes in anticipation thereof, to pay a portion of the costs to design and construct improvements for trails in the City of Saco, and to acquire any real estate or interests in real estate related thereto (the "Project");
- 2) That the proceeds of the said securities and said notes in anticipation thereof (hereinafter collectively, "Bonds"), together with any investment earnings thereon, are appropriated to be used for the Project and for related costs of issuance, credit enhancement and accrued interest, if any;
- 3) That the estimated period of utility of the Project is determined to be in excess of thirty (30) years;
- 4) That pursuant to Section 6.15 of the Charter of the City of Saco, taxes shall be levied on the taxable estates of the City of Saco for each year that the Bonds remain outstanding in the amount necessary to meet the payment of the annual installments of principal and interest on the Bonds;
- 5) That to the extent not inconsistent with this Order, the Treasurer is authorized to select such date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, form(s) and other details of the Bonds, as the Treasurer determines to be in the interest of the City;
- 6) That any of the Bonds may be made callable, with or without premium, prior to their maturity;
- 7) That the Bonds shall be executed in the name of the City by the Treasurer and Mayor, under the official seal of the City attested by the City Clerk, and that any signature thereon may be by facsimile to the extent permitted by law;
- 8) That the Treasurer is authorized to provide for the sale of the Bonds at such times and in such manner, as the Treasurer determines to be in the interest of the City, and to select a purchaser or purchasers of the Bonds and to execute and deliver such contracts or agreements as may be necessary in connection therewith;

- 9) That in connection with the sale of any of the Bonds, the Treasurer may select such financial advisors, bond counsel, underwriters, rating agencies, bond insurance companies, registrars, paying agents, transfer agents and other service providers for such of the Bonds as the Treasurer determines to be in the interest of the City, and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;
- 10) That the Treasurer is authorized to prepare, or cause to be prepared, Notices of Sale, Preliminary Official Statements and Official Statements and Placement Memoranda for use in the offering and sale of any of the Bonds, in such form and containing such information as may be approved by the Treasurer, and that the distribution thereof in the name of and on behalf of the City in connection with offering any of the Bonds is approved;
- 11) That the Treasurer is authorized to undertake all acts necessary to provide for the issuance and transfer of such of the Bonds as the Treasurer deems advisable in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to physical transfer of bonds, and the Treasurer is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in the Treasurer's opinion, appropriate in order to qualify such Bonds for and to participate in the Depository Trust Company Book-Entry Only System;
- 12) That the Treasurer is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the Bonds shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended;
- 13) That the Treasurer is authorized to covenant on behalf of the City to file any information report and pay any rebate due to the United States in connection with the issuance of the Bonds, to take all other lawful actions necessary to insure that interest on the Bonds will be excluded from the gross income on the owners thereof for purposes of federal income taxation, and to refrain from taking any action which would cause interest on the Bonds to become includable in the gross income of the owners thereof;
- 14) That the Treasurer is authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of Bonds, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;
- 15) That the Treasurer is authorized to designate any of the Bonds as qualified tax exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986;
- 16) That the Treasurer is authorized to execute and deliver such tax certificates, arbitrage and use of proceeds certificates and other documents and certificates as may, in the Treasurer's opinion, be necessary or convenient to effect the transactions hereinbefore authorized, to be in such form not inconsistent with this Order as the Treasurer, with the advice of the City's bond counsel, may approve;
- 17) That the Treasurer and other proper officials of the City are authorized and empowered in its name and on its behalf to do or cause to be done all such other acts

and things as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds in accordance herewith and any such prior action by them is hereby ratified and confirmed;

18) That if the Treasurer, Mayor, Clerk or any other City officer or official is for any reason unavailable to approve, execute or attest the Bonds or any related financing documents, the person or persons acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself/himself performed such act;

19) That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or official; and also any such Bonds may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers and officials of the City, although at the nominal date of such Bonds any such person shall not have been such officer or official;

20) That the Treasurer prepare a signed financial statement to accompany this and any other referendum question to be submitted on the same date to the voters of the City for ratification of bond issues;

21) That a copy of this Order be filed with the City Clerk; and

22) That pursuant to Section 6.15 of the Charter of the City of Saco, Maine the following question shall be submitted to the voters of the City of Saco at a referendum vote to be held on November 7, 2006:

Shall the Order of the City Council of the City of Saco entitled "Order Authorizing City of Saco to Borrow an Amount Not to Exceed \$1,000,000 For Trail Improvements" be ratified and approved?

CITY OF SACO, MAINE
Treasurer's Financial Statement for Proposed Bonds

Referendum Question 1: Public Works Facility Improvements
Referendum Question 2: City-Wide Infrastructure Improvements
Referendum Question 3: Trail Improvements

As of November 7, 2006, the total amount of bonds of the City of Saco outstanding and unpaid is \$21,416,305 of which \$17,239,733 is principal and \$4,176,572 is interest. The City has no other bonds authorized but not yet issued. The bonded indebtedness to be assumed if the questions authorizing these borrowings are ratified by the voters is as follows:

<u>Question</u>	<u>Proposed Improvements</u>	<u>Bond Principal</u>	<u>Estimated Bond Interest</u>	<u>Total Principal and Interest</u>
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Question 1	Public Works Facility	\$5,485,475	\$2,948,568	\$8,434,043
Question 2	City-Wide Infrastructure	\$4,358,848	\$2,342,981	\$6,701,829
Question 3	Trail	\$1,000,000	\$ 537,523	\$1,537,523
Total Estimates		\$10,844,323	\$5,829,072	
\$16,673,395				

The total debt service costs will vary depending on which questions are approved and the prevailing interest rates at the time the bonds are issued. The above estimated costs for the bonds are based upon an estimated interest rate of 4.5% over an estimated term of 20 years.

The validity of this obligation and of the voters' ratification of this obligation may not be affected by any errors in the estimate made pursuant to the above statement. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the obligation is not affected by reason of the variance.

Dated: June 26, 2006 at Saco, Maine

/s/ Lisa Parker

Lisa Parker, Treasurer
City of Saco

Summary of Projects

Public Works Facility Improvements

Lack of adequate office space – using converted storage rooms now and school department is using a trailer

- Storage of vehicles outside – vehicles life could be extended by housing them inside (3± Years)
- Insufficient storage of salt and sand/salt mix – this will need to be addressed through new DEP regulations
- Inadequate space for fleet maintenance – Only one lift, long-term projects take up one on the 4 workstations
- Parts storage and inventory is limited
- Lack of separate fabrication area – mechanics are exposed to welding fumes – bad ventilation – potential health problems
- Site limited by wetlands – will need to address wetlands mitigation and stormwater issues – stormwater detention basin
- Inadequate customer parking – site restricted
- Poor use of existing space for school bus parking
- Handicap accessibility – All offices upstairs are inaccessible
- Ventilation – exhaust fumes
- No conference or training rooms
- No shower facility – Employees working in collection systems and dirty jobs should have showers available for use (after work)
- Heating and cooling systems need to be updated and replaced with more efficient systems
- Roof needs to be replaced

- Lack of a separate wash bay – this would very helpful in control vehicle corrosion

Solution:

The existing facility will be reused, expanded, and modified to meet the needs of the Public Works Department and the School Transportation Department. The rehabilitation will reconstruct the existing building to include:

- Office and meeting space for the school department
- Wash Bay for the vehicle washing
- Expanded maintenance area
- Expanded parts and sign area
- Lubrication storage and pumping area
- Tire storage
- Employee locker room and showers
- Training area

New space will be added for:

- Public Works staff
- Vehicle Storage
- Salt Storage
- Small Equipment

The estimated cost for the new facility is \$5,485,475.

Parks Department Maintenance Building Project

The proposed Parks Maintenance building will be located adjacent to the current Community Center located at 75 Franklin Street where all recreation and parks activities are coordinated. Currently the two smaller parks maintenance buildings are located over 1 mile from the Community Center and one half mile from each other. This requires multiple trips daily to pick up and drop off equipment and supplies needed for parks maintenance operations. The Front Street garage being used by the Parks and Recreation Department is space needed by other departments for storage and the Wastewater Treatment for future expansion. The School Street Maintenance building is too small to house the needs of our maintenance equipment.

By locating one new Parks Maintenance Building approximate to the New Community Center, efficiency of time and scheduling will be realized as well as limiting growing fuel usage costs.

If a suitable building cannot be built at the 75 Franklin Street site additional space will need to be found for equipment and cold storage for the Parks Division's needs.

The estimated project cost is \$200,000.

Main Street Improvements

The new lighting on Main Street ended at City Hall leaving the old trolley poles and cobra head street lighting on the remainder of Main Street. The existing

lighting does not match the new lighting on Main Street and the transition between the old and new lighting would be more appropriate at the major intersection at Main and Beach Streets.

HTA Engineers has estimated the cost to provide underground utilities from City Hall to the intersection of Beach Street at \$600,000. This will include providing underground service to the lighting, new poles and lighting, and overhead (from adjacent streets) or underground service connections to buildings. According to CMP, this would also require a pad-mounted transformer somewhere in this vicinity.

The new lighting on Main Street has made a dramatic improvement to the Main Street and should be continued to the next phase. This is a visual improvement and investment in the downtown. There no immediate safety issues with the existing poles or lighting, however the poles are approaching a reasonable life expectancy.

The City previously acquired property at the corner of Main and Beach Street with the intention of eventually constructing a right hand turning lane from Main onto Beach. The current turning radius is inadequate; negotiating the turn frequently results in over turning into the northbound lane of Beach Street. Creating a turn with proper radius will insure a safe flow of turning traffic. With the improvement will be the creation of a small island for pedestrians to negotiate crossing safely.

Estimated project cost is \$700,000.

Saco Middle School Entrance Renovations

There are several issues that perpetuate the need for renovations to the Middle School entrance. Emergency vehicles need unobstructed access to the School in the event of an emergency, and if the current driveway were closed this would present a public safety problem. On a daily basis, the traffic flow at the entrance to the School on Route 112 at the beginning and end of the school day is extremely congested, and when an event is held at the School, parking is woefully inadequate.

Construction of a new driveway entrance connecting the northwest corner of the current parking lot with Route 112 is proposed - creating a one way flow of traffic into the School and exiting the School. The driveway would follow the edge of the property and be adjacent to the power lines. The driveway will have wide improved shoulders providing significant additional parking for the School.

The benefit of this project is to create a second emergency vehicle access route, relieve traffic congestion, and provide additional parking for peak periods.

Total Estimated Project Cost \$365,000

Temple, Pleasant, Green & Pearl Street – Sewer Separation

The segments Temple, Green, and Pleasant Streets between Elm and Spring Street have roadway pavement deterioration, curbing that needs to be reset, sidewalk that needs to be repaved and stormwater that needs separation from the sewer.

The roadway improvements would include a box cut of portions of these streets, replacing poor, substandard gravels, resetting existing granite curb, profiling and

repaving road and sidewalk, and separating the stormwater from the sewer lines. The project would decrease the stormwater entering the sewer and subsequently the WWTP and would restore the road and sidewalk in this neighborhood. If the utilities were not separated at this time, staff would not recommend that the City commit to full reconstruction of the road and would as a secondary option recommend that the roads be reclaimed and overlaid. Reconstruction would not be cost effective since the deferred separation work would waste the reconstruction project at a future date. The most cost effective approach is to undertake all of the needed work in one project.

The total estimated cost of this project is \$1,249,400.

Exterior Renovations for Parks & Recreation Building at 75 Franklin Street

The Saco Community Center located at 75 Franklin Street is a converted State of Maine Armory, which was built in the 1940's. While the City has made many improvements with money coming from Impact Fees, there is still the need to perform certain preservation activities to protect the City's investment in the Center. The exterior masonry has been patched in areas over the 65 years of use and is in need of more extensive work on certain parts of the building as well as sealing all exposed brick from the deteriorating elements. Renovation work would include taking out and disposing of cracked and damaged masonry; rebuilding damaged and fallen areas to specifications; saw out and repoint bad mortar joints in the building where needed; and seal complete brick exterior of building with a high grade masonry sealer.

The estimated project cost is \$68,700.00

Garfield Street Sidewalk Project

Currently, Garfield Street has sidewalk on that begins at North Street and extends to the northerly intersection of Miranda Circle. There is no sidewalk that connects Bradley Street to the end of the sidewalk at Miranda Circle. A petition was presented to the City Council last year to construct this sidewalk.

The City would need to construct approximately 1000 feet of 5 foot wide sidewalk and address drainage issues and driveway entrances that would be effected by the sidewalk construction. The sidewalk would be constructed on the easterly side of Garfield from the current termination point to Bradley Street.

The construction of this sidewalk is a high concern and priority of the residents in this neighborhood. According to the Bicycle and Pedestrian Study of 2004 by Alta Engineering, this project was not listed as a high priority project. There were no vehicle / pedestrian accidents on Garfield Street from 2000 to present. Construction of this sidewalk would provide pedestrian safety and meet resident's expectations.

The estimated cost of the project is \$75,000.

Fairfield Street Reconstruction Project

Fairfield Street is a heavily traveled street that starts at the signalized intersection on Main Street and is used to access Thornton Academy and as a route to North Street using Union Street or Nott Street. The pavement is deteriorated and it is not a constructed road. Some drainage improvement will be necessary. The curb and sidewalk curb needs to be reset and upgraded. The sanitary sewer is undersized, full of roots, has no access manholes, is problematic and must be replaced.

Sewer improvements would include replacement of existing sewer and house services to the ROW line and construction of manholes. Existing granite curb would be removed and salvaged, existing bituminous curb removed, and all new granite curb installed. The street would be box cut and reconstructed with improved profiling and alignment and coordinated with access needs of Thornton Academy. Corner turning radii would be improved a right turn lane from Main Street incorporated into the design. Sidewalk would be reconstructed on both sides of the street for pedestrian safety and the esplanade improved. The traffic signal at Main Street would be adjusted or improved to some extent as required for future upgrading under a separate project anticipated to be funded by MDOT. .

Without improvement, the sewer will continue to be problematic and a potential health hazard. Without alignment improvements and reconstruction Fairfield Street will continue to deteriorate and will not adequately serve the needs of the community. It would not be cost effective to defer reconstruction of the sewer. The most cost effective approach is to undertake all of the needed improvements in a single project.

The total estimated cost of this project is \$286,600.

Fenderson Road Construction Project

The Fenderson Road has 15 single-family dwellings that utilize the public-way for access to their homes. In addition, the Harvest Place, a group home, is located on the road that adds considerable traffic to the road. In addition, Strawberry Lane was allowed to develop a few years ago allowing a private road off an existing public-way bringing a total of approximately 25 properties which rely on the road for their commute. While a case can be made that the residences chose to live at this location on their own free will, the under lying issue of the situation is the life and safety of the residents and employees that call the Fenderson Road home.

Employ a partnership between the city and the residences of the Fenderson Road that will allow the public-way to become a certified and excepted city street. The residents of both the Fenderson Road and Strawberry Lane have signed an Agreement stating that they agree to contribute their share of the cost of surveying the road as well as agreeing to convey any portion of their real estate that may be required in order to create a 50' wide right of way for the entire length of the Fenderson Road. The residents further agreed to pay one-third the cost, not to exceed \$100,000 dollars toward the improvements on the Fenderson Road.

By upgrading the existing public-way to a excepted city street current residences will have comfort in knowing that the city will be able to provide key services that will contribute to their safety and well being that are currently being offered to other tax payers in the City of Saco. As an added benefit the unsightly lineup of numerous trash and recycling containers will no longer be a part of the Hearn Road landscape.

The estimated cost is \$337,800

Shadagee Road Reconstruction Project

Shadagee Road serves as a connector between North Street and Bradley Street. Four recent residential developments constructed on Shadagee Road have changed its character from relatively rural to densely developed. The street is very narrow, dangerous, does not meet current geometric design standards, and drainage problems exist all along the street. The acute angle intersection at North Street is dangerous. Some turning movements are almost impossible to negotiate. The pavement is severely deteriorated in many areas and it is not a constructed road. There is no sidewalk from Garfield Street to North Street. It is perilous for children to walk in the narrow street to the Young School area on North Street. The specific area for improvement is the densely developed section from North Street to the Stonegate Condominium complex entrance.

In 2005 the Saco Department of Public Works constructed sidewalk and drainage improvements from the Stonegate Condominium project entrance to Hemlock Drive using the limited funds contributed by recent developments. The City has acquired property at the intersection of North Street to re-align Shadagee Road and eliminate the acute angle intersection. The entire road from North Street to approximately the Stonegate Condominium entrance would be box cut, widened, re-aligned horizontally and vertically and reconstructed to meet current geometric design standards for safety. Drainage improvements would be incorporated in the new construction. Sidewalk would be constructed for pedestrian safety connectivity from the Stonegate Condominium entrance to North Street. The intersection of Shadagee Road and Garfield Street would be improved. If property can be acquired, the acute angle intersection at Lina Avenue would be re-aligned with the newly constructed Buckthorn Circle on the south side of Shadagee Road.

Without improvement, Shadagee Road would continue to be a hazard to pedestrians as well as vehicular travel. The road will continue to deteriorate. Constructing just an overlay on the existing will not resolve the issues. Because of unacceptable underlying road subbase and drainage issues, a new overlay atop the existing pavement will not provide a long lasting wearing surface. Total reconstruction of Shadagee Road is necessary. With improvement, Shadagee Road would be a safely improved asset for the citizens of the City of Saco.

The total estimated cost of this project is \$455,000.

Add 80 Common Street

Several different costs are involved in order for the School Department to move the Adult Education and Alternative Education programs from the Open Door, also known as the “Jordan School” to 80 Common Street. The cost of addressing air quality issues in the building is estimated at \$65,000. To bring the building in compliance with City code and improving the functionality is estimated at \$496,345, and the cost to raise the Open Door building is estimated by BBI Waste Industries at \$60,000.

Total estimated project cost is \$621,348.

Trail Improvements

Building the Eastern Trail across Saco will require two bridges: one across Rt. 1 near Goosefare Brook, another over the Saco River near Diamond Park. Maine Department of Transportation allocated funds to design the Eastern Trail across Saco from Cascade Road to South Street in Biddeford. A request for bids is pending. Once complete, the Eastern Trail Management District can apply for limited state and federal funds to build the Saco section. The total cost of construction to cross Saco is expected to exceed \$2 million.

One million dollar trail bond is requested to be included in the proposed bond issue, and that any Saco trail project be allowed to apply for use of the funds made available.

Cost \$1,000,000

B. (Second & Final Reading) Contract Zone Amendment Acapello Salon

Acapello Salons was granted a contract zone on January 17, 2006, in order to establish a hair salon in the existing residential building at 401 Main Street. June Juliano, Acapello president, and her husband David Stanley operate salons in Scarborough and Falmouth, and have a sister company location in Portland. They find the Main Street location attractive due to its visibility, the high volume of traffic on Main Street, and the large side and rear yard that can be converted to parking.

A contract zone was requested due to the existing zoning of the parcel, R-1b, which does not allow a Personal Services use as defined by the Zoning Ordinance.

On May 19, 2006, the Historic Preservation Commission issued a “denial of a certificate of appropriateness” to build a parking lot in the backyard of the property at 401 Main Street. Therefore, an amendment to the Contract Zone has been proposed to the City Council. The Planning Board reviewed the proposed contract zone amendment at its June 13 meeting, did not agree with the proposed amendment, and voted to forward a negative recommendation.

The First Reading for this item was held on June 5, 2006; and the Public Hearing was held on June 19, 2006.

Councilor Cote moved, Councilor McDougal seconded, that the *City of Saco hereby approves the Second and Final Reading of the contract zone document entitled “Contract Zone Agreement by and Between Acapello Salons, Inc., and the City of Saco,” dated November 1, 2005, amended June 13, 2006*”; for the property at 401 Main Street, as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8). The motion passed with five (5) yeas and two (2) nays. Councilors Michaud and Tardif voted in the negative.

Contract Zone Agreement By and Between
Acapello Salons Inc. and the City of Saco

November 1, 2005

(Amended June 13, 2006)

THE CITY OF SACO HEREBY ORDAINS:

I. That the zoning ordinance of the City of Saco, dated January 2, 1985, and amended through June 20, 2005 is hereby amended by adopting this contract by and between the City of Saco and Acapello Salons Inc. (Applicants).

1. The Applicants propose to establish a Full Service Salon and Spa business in the existing building at 401 Main St.
2. The City of Saco Zoning Officer has determined that a Salon and Spa business shall be categorized as a “Personal Service,” a use and defined term in the Zoning Ordinance, as follows: “Establishments engaged in providing services involving the care of the person or personal apparel including but not limited to barber shops, beauty shops and manicurists, tailors, laundromats, shoe repair shops, tattoo parlors, massage therapists, and photographic portrait studios.”
3. Said property is identified as Tax Map 32, Lot 132 on City of Saco tax maps.
4. Said property is in the R-1B zoning district. The property is also located in the Saco Historic Preservation District, ~~and as such subject to review by the Historic Review Commission.~~
5. Personal Services are not an allowed use in the R-1B zoning district.
6. Said property is currently improved in the form of a building that is residential in use and appearance.
7. The Applicants propose to utilize the first and second floors of the existing building for the business. Approximately 2,800 square feet of floor area would be devoted to the salon and spa.

8. Recognizing the limitations of the parcel, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the proposed Personal Services business to be established and operate at 401 Main Street.

II. This contract amends the Saco Zoning Ordinance as follows:

This Contract Zone, specifically and exclusively for the parcel at 401 Main Street, would allow the Applicants to operate a Personal Services business as proposed on the subject parcel, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. A Personal Services business as proposed and described by the Applicants shall be allowed to operate as a permitted use only on the parcel identified herein: Tax Map 32, Lot 132, also referenced as 401 Main Street.
- b. Section 707-4 of the Zoning Ordinance limits a sign in a residential district to four square feet if one-sided, or two square feet per side if two-sided. Section 707-4 is amended to allow the applicant to install one (1) freestanding two-sided, four (4) square foot per side sign. Said sign is otherwise subject to all permitting requirements ordinarily administered by the Code Enforcement Office.
- c. Hours of operation are proposed as 9:00 a.m.-9:00 p.m. Monday through Friday, 9:00 a.m.-4:30 p.m. on Saturday. The Applicants have stated that these are the maximum hours intended for operation, and that earlier closing times or additional days not open for business are possible. Hours of operation shall not extend beyond the stated times, but may be less as the Applicants choose.
- d. The Applicants will restrict the employees in the day spa business to no more than nine (9) full time equivalents. The Applicants will also limit the number of customers at the day spa to no more than nine (9) customers per two (2) hour period.
- e. The Applicants agree to enter into a Parking Agreement with the Trinity Episcopal Church located at 15 Cleveland Street, Saco. Said Parking Agreement shall, without fee or charge, provide church members with parking privileges during those hours of Sunday services, meaning 7:00 a.m. to 12:00 p.m. each Sunday and Christmas, and 4:00 p.m. to Midnight on Christmas Eve day.
- f. Utilization of the existing Main Street entrance shall be limited to the Applicants. All employees and all customers shall park on-site in the proposed parking lot. Off site parking along Main Street and Summer Street is expressly prohibited.
- g. The Applicants shall adhere to all other applicable provisions of the R-1b

zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations except where otherwise noted in this Agreement.

- h. All details as shown on the submitted plans and included in the submitted application are hereby incorporated into this contract by reference. The proposed use shall be operated substantially in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.
- i. ~~Upon~~ After the January 17, 2006 approval of this contract by the City Council, the Planning Board granted site plan approval on May 2, 2006. The Planning Board review is adequate to ensure compliance with design standards of the Ordinance including those of Section 413. Historic Preservation. No further Historic Preservation review is required.
~~the Applicants shall submit materials required for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board.~~
~~Failure of the Applicants to secure site plan approval from the Planning Board within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one year~~
~~deadline may be extended by one year upon written request to the City Council.~~
- j. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City.
- k. Failure of the Applicants to open the proposed Personal Services business as described in application materials for this Contract Zone within one (1) year from the date of approval shall render this approval and Contract null and void.
- l. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for, or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

III. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on November 1, 2005, and the Saco City Council on January 17, 2006, the following findings are hereby adopted:

- A. City Tax Map 32, Lot 132 is a parcel of an unusual nature and location, for the following reasons:
1. The residence at 401 Main Street is a historically significant structure located in the R-1b zoning district and the City's Historic Preservation District.
 2. The residence was identified as the John Gilpatrick house as part of the City's historic resources survey in 1995. The Greek Revival-style structure was built in 1861, and the exterior retains much of its historic character.
 3. The property is unusual in the R-1b zoning district in which it is located in that the parcel is adequately sized at .75 acre to provide parking for a commercial use along the Main Street corridor, and, via the proposed parking agreement, to provide parking for the neighboring Trinity Episcopal Church during the salon's non-business hours.
 4. The parcel's location on the corner of Main and Summer Streets will allow the Applicants, as proposed, to establish a new entrance/exit from Summer Street for employee and customer use, thereby limiting use of the existing driveway off Main Street.
- B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:

Chapter 17, Section B. Local Economy.

Local Goals: To increase the number of jobs available in Saco.

To increase Saco's role in the Southern Maine tourist economy and expand the range of activities available in Saco to meet the needs of travelers and tourists.

Maintaining Downtown Saco as a prosperous core of the community will require that the City play an active role in revitalizing this area...

Chapter 17, Section F. Land Use

General Pattern of Development – To facilitate (the historical pattern of a built-up urban center) the city should plan an active role in encouraging and supporting the redevelopment, reuse, and revitalization of the built-up areas of the City.

Chapter 17, Section K. Cultural Facilities

Local Goal: to provide cultural facilities to meet the needs of the community and reinforce Saco's role as a core community within the region.

The City should support private and public efforts to expand the range of cultural activities that are offered in the City and encourage the use of existing facilities.

- C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the Residential-1b (R-1b) zone, a low density residential district “. . . designated for areas which are predominately single-family residential in character...New land uses in this district are restricted

to low-density residential and associated uses.” (Zoning Ordinance, Section 405-1.) Among the permitted and conditional uses allowed in the R-1b zone are single and two-family housing, churches, daycare centers, elderly congregate housing, offices within converted residential structures, and bed and breakfast establishments.

Examples of uses in the vicinity of the subject property include the Celtic Inn (398 Main St.), Saco Museum (375 Main St.), Home Companions, Inc., (378 Main St.), and the Monarch Center (392 Main St.), as well as single-family and multi-family dwellings. The building is approximately 1,200 ft from the B-2d zone to the north, and 1,000 feet from the B-7 zone to the south.

- D. The conditions proposed are sufficient to meet the intent of Section 1403. Contract Zoning, of the Saco Zoning Ordinance.

IV. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on January 17, 2006.

by _____
Richard Michaud
City Administrator

by _____
June Juliano, President
Acapello Salons, Inc.
Applicant

**Contract Zone Agreement By and Between
Acapello Salons Inc. and the City of Saco**

C. (Second & Final Reading) Contract Zone J.W. Group, 439 Main Street

Josh Waterhouse d/b/a the J.W. Group requests consideration of a contract zone for a portion of the property at 439 Main Street, the site of Great American Realty. The plan calls for splitting the parcel in two, leaving the existing building on its own lot with frontage on Main Street, and creating a separate 1.89 acre parcel to the rear. A 13-unit condominium for those 55 years of age and older is proposed on the rear lot, with access only from Smith Lane.

A contract zone is requested due to the existing zoning of the parcel, R-1b, which does not allow multi-family dwellings. A second issue addressed with the contract zone is that of frontage: if split off from the Main Street frontage, the rear parcel is landlocked, but does have an access and utility easement to Smith Lane across the abutting Volunteers of America parcel. The contract zone proposes to recognize this 50-foot easement as adequate frontage for the purpose of this proposal.

The Planning Board reviewed this request at the May 16, 2006 meeting. The Board voted to make a positive finding on each of the four standards required for a contract zone, and has forwarded a positive recommendation to the Council. If the contract zone is approved, the project would be subject to site plan review and subdivision review by the Planning Board prior to development of the site.

The City Council discussed this item at Workshop on May 22, 2006; the First Reading was held on June 5, 2006; and the Public Hearing was on June 19, 2006.

Councilor Morton moved, Councilor Tripp seconded that the City of Saco hereby approves the Second and Final Reading of the contract zone document entitled ‘**Contract Zone Agreement By and Between J.W. Group and the City of Saco,**’ dated May 16, 2006’ for the property at 439 Main Street, as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8). The motion passed with five (5) yeas and two (2) nays. Councilors Tardif and Michaud voted in the negative.

Contract Zone Agreement By and Between J.W. Group and the City of Saco

May 16, 2006

THE CITY OF SACO HEREBY ORDAINS:

I. That the zoning ordinance of the City of Saco, dated January 2, 1985, and amended through March 20, 2006 is hereby amended by adopting this contract by and between the City of Saco and the JW Group.

9. The J.W. Group (Applicant) has submitted an application for a contract zone for a portion of the parcel (Subject Property) at 439 Main Street.
10. The property at 439 Main Street is owned by Great American Realty, and is subject to a Purchase and Sale Agreement with the Applicant dated Nov. 30, 2005, submitted as part of said application.
11. The Subject Property is identified as a 1.89 acre portion of Tax Map 33, Lot 25-1 on City of Saco tax maps. As proposed on a sketch plan dated Dec. 2005, Lot 25-1 would be split into two parcels. One of the resulting parcels, currently developed with an office condominium building and a building utilized as a real estate office, would exist as a conforming lot, with approximately 250 feet of frontage on Main Street, and an area of approximately 0.80 acre. The Subject Property, having been split from the larger parcel, would result in a nonconforming parcel due to lack of frontage on a City or private way.
4. The Subject Property is in the R-1b zoning district.
5. The Applicant proposes a Multi-Family Dwelling of 13 units for buyers 55 years of age and older. Multi-Family Dwellings are not an allowed use in the R-1b zoning district.

6. Recognizing the lack of frontage for the proposed Subject Property, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the proposed Multi-Family Dwelling to be proposed, approved and constructed on the Subject Property as a legally conforming use.

II. This contract amends the Saco Zoning Ordinance as follows:

This Contract Zone, specifically and exclusively for the Subject Property as identified above, would allow the Applicants to propose and construct a Multi-Family Dwelling, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- f. A Multi-Family Dwelling of no more than thirteen (13) units, with no building greater than two (2) stories in height, specifically for buyers fifty-five (55) years of age and older, shall be allowed as a permitted use on the Subject Property.
- b. Section 410-1 of the Zoning Ordinance does not identify Multi-Family Dwellings as either a permitted or a conditional use in the R-1b zoning district. Sec. 410-1 is hereby amended so that Multi-Family Dwellings shall be considered a permitted use on the Subject Property.
- c. Table 412-1 of the Zoning Ordinance requires one hundred (100) feet as minimum street frontage in the R-1b zoning district. Table 412-1 is hereby amended to allow the fifty (50) foot wide "Utility and Access Easement" as labeled on the Sketch Plan drafted by BH2M, dated Dec. 2005, to meet the requirement for minimum street frontage. Said easement provides access to Smith Lane, an existing City Street, for a private driveway to the proposed Multi-Family Dwelling.
- d. Table 412-1 of the Zoning Ordinance states that the front yard setback in the R-1b zone is twenty-five (25) feet, and that the side and rear yard setback in the R-1b zone is fifteen (15) feet. Table 412-1 is hereby amended so that the building setback from all property lines on the Subject Property is twenty (20) feet, except that those property lines on the easterly and southerly sides of the Subject Property that abut lots with frontage on King Street and on Charles Street shall have a building setback of thirty (30) feet.
- e. The Minimum Lot Area per Dwelling Unit for the Subject Property shall be 5,000 square feet.
- f. No single building shall contain more than four (4) dwelling units.
- g. The Applicants shall adhere to all other applicable provisions of the R-1b zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations.

- h. City and Applicant recognize that the sketch plan submitted for contract zone review is a general representation of site layout, but is subject to change as a result of site plan review conducted by the Planning Board. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.
- i. These amendments affect only the portion of the parcel of land (Subject Property) identified as Tax Map 33, Lot 25-1 on City of Saco tax maps that is approved with this Agreement.
- j. Upon approval of this contract by the City Council, the Applicants shall submit materials required for site plan and subdivision review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicants to secure site plan approval from the Planning Board within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one-year deadline may be extended by one year upon written request to the City Council.
- k. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. Accordingly, this contract and the contract zone it creates shall not be transferable.
- l. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for, or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

III. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on May 16, 2006, and the Saco City Council on _____, 2006, the following findings are hereby adopted:

- A. A portion of City Tax Map 33, Lot 25-1 comprises the Subject Property, a parcel of an unusual nature and location for the following reasons:
 - 1. The Subject Property and the remainder of the existing parcel are the site of a Special Exception permit granted by the Zoning Board of Appeals on May 17, 1984, for Professional Offices in what was the R-4 district. That approval remains in effect, though only Phase 1 of that project has been constructed. With existing residential uses to the side and rear of the Subject Property, what was an exception to zoning in 1984 can be changed to residential at this time with the approval of this Agreement.

2. The Subject Property does not meet minimum road frontage requirements under the existing zoning when separated from the remainder of the existing parcel. There is no alternative solution to this issue save for contract zoning.

B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:

Chapter 17, Section A. Population

Local Goal: to accommodate growth in a manner that maintains the character of the City.

1. The City should assure that residential growth is accommodated in appropriate locations that are properly zoned and able to be provided with public services.
2. The City should continue to provide for the construction of a wide range of types of housing at a variety of densities to assure that a diversity of people can continue to live in the City.

F. Land Use

General Pattern of Development – To facilitate (the historical pattern of a built-up urban center) the city should plan an active role in encouraging and supporting the redevelopment, reuse, and revitalization of the built-up areas of the City.

3. The City should allow reasonable infill residential development within the built-up area to accommodate some of the demand for residential growth within these areas of the City. The City's land use regulations should allow new development at a density and scale similar to established neighborhood patterns.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original (existing) zone is the R-1b Low Density District, designated for areas which are predominately single-family residential in character. It includes both sewered and unsewered land, with appropriate lot size requirements for each situation. New land uses in this district are restricted to low-density residential and associated uses.” Among the permitted and conditional uses allowed in the R-1b zone are single and two-family dwellings, public and private schools, churches, daycare centers, nursing homes, kennels, and community living uses.

Examples of uses in the vicinity of the subject property include single and two-family dwellings along King Street and Charles Street, multi-family dwellings at the Sunfield condominium off King Street, Elderly Congregate Housing under the terms of a contract zone at the Paul Hazelton House off Smith Lane, retail at the Rite-Aid abutting the Subject Property (461 Main Street), and office uses at 439 and 445 Main Street (Great American Realty, Prudential Realty and others).

D. The conditions proposed are sufficient to meet the intent of Section 1403. Contract Zoning, of the Saco Zoning Ordinance.

IV. Based on the above findings, conditions and restrictions, the City Council

hereby incorporates this Contract Zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on _____, 2006.

by _____

by _____

Richard Michaud
City Administrator

Josh Waterhouse, President
J.W. Group
Applicant

D. Municipal Solid Waste Transfer and Disposal Agreement

In March, the City requested proposals for long and short-term municipal solid waste (MSW) disposal, transportation, and consolidation. The City received 3 proposals on April 10, 2006 from MERC (short term), Regional Waste Systems (short and long term), and BBI (short term). The results of the proposals are:

Respondent	Long Term (Cost/ton)	Short Term (Cost/ton)
BBI		\$79.00
RWS	\$70.50	\$100.27
MERC		\$79.00

In addition to these proposals, the City solicited a tipping fee proposal from Penobscot Energy Recovery Company (PERC) in Orrington for disposal only. The City received a proposal of fixed fee of \$54.00 per ton from PERC through 2018. In addition to the tipping fee, transportation and consolidation (transfer station) of the waste to allow it to be shipped to Orrington will be added to the cost of the tipping fee resulting in an estimated first year expense of \$102.07 per ton.

At the direction of the MSW Task committee, staff conducted an analysis of the long-term disposal options from PERC and RWS for recycling and MSW. Based on that analysis, the RWS proposal of \$70.50 per ton with annual cost adjustments would be the most advantageous to the City provided the annual cost adjustment does not exceed an average annual increase on more than 4% per year.

In addition to the tipping fee of \$70.50 per ton, the city would have to add the cost of transportation of the recyclables and the MSW to the RWS facility in Portland. This cost is estimated at \$16.37 per ton resulting in an expense to the City of \$86.87 per ton in 2007.

Councilor Morton moved, Councilor Tripp seconded, that it be Ordered that the City Council approve and authorize the City Administrator to continue to negotiate a Municipal Solid Waste Transfer and Disposal Agreement with Regional Waste Systems, and Penobscot Energy Recovery Company, and further authorize the City Administrator to discontinue contract negotiations with Maine Energy Recovery Company. Further

move to approve the Order. The motion passed with six (6) yeas and one (1) nay.
Councilor Tardif voted in the negative.

E. Maine Turnpike Authority Interchange Memorandum of Understanding

Councilor Morton moved, Councilor Tripp seconded that it be Ordered that the City Council authorize the City Administrator to sign the ‘**Memorandum of Understanding Regarding a Maine Turnpike Interchange Study - The City of Saco - The Town of Scarborough - The Town of Old Orchard Beach**’, dated June 19, 2006, and further move to appropriate \$10,000 from Park North TIF to fund the city’s share of the local match. The motion passed with seven (7) yeas.

Whereas the three communities believe that cooperating with each other and with the Maine Turnpike Authority and PACTS to study and improve the Turnpike’s capacity and accessibility deficiencies may lead to improved access and safety in the region;

Memorandum of Understanding Regarding a Maine Turnpike Interchange Study The City of Saco The Town of Scarborough The Town of Old Orchard Beach Dated, June 19, 2006

Whereas the towns of Scarborough and Old Orchard Beach and the City of Saco are united by the Saco Bay and shared municipal boundaries;

Whereas the three communities share in a regional road network and form a sub-region within the PACTS Metropolitan Planning organization for transportation planning purposes;

Whereas the Maine Turnpike (Interstate 95) and Route 1 are principal north-south routes for the communities;

Whereas the three communities share concerns about the adequacy, capacity, safety and convenience of the existing highways and interchanges;

Whereas the three communities believe that a new Turnpike interchange between exits 36 and 42 may favorably address capacity, safety and accessibility concerns in the region;

Whereas such an interchange might specifically create improved access to and from Old Orchard Beach, and the Dunstan, Blue Point and Pine Point sections of Scarborough; the outer Route 1 – Route 98 section and other northern sections of Saco;

Whereas such an interchange would relieve congestion at the Saco Maine Turnpike interchange;

Whereas the interchange would relieve congestion at numerous busy intersections on Route 1 in Scarborough and Saco;

Whereas such an interchange might relieve Route 1 of unnecessary through traffic;

Whereas such an interchange might provide improved access to the west:

Whereas the Oak Hill Alternative Study identifies through traffic as a major peak hour safety issue and that a new interchange might eliminate peak hour through trips;

Whereas the (Scarborough) Town Wide Transportation Study indicates annual traffic growth of 2.3% at Route 1 intersections;

Whereas the (Scarborough) Town Wide Transportation Study indicates that delays in the Dunstan Corner area will increase to 17 minutes and reduce travel speeds below 2 mph by the year 2025;

Whereas such an interchange would be consistent with the Comprehensive Plans of each community;

Whereas a new interchange might also provide improved access to the west and should be considered in light of regional planning efforts in the South Portland to Gorham corridor.

Whereas the Scarborough Town Council, the Old Orchard Town Council and/or the Saco City Council have voted favorably upon this agreement:

Therefore the communities hereby agree to the following:

1. The Maine Turnpike Authority should undertake a study of a new interchange between Exits 36 and 42, consistent with the MTA's "Policy for Initiating Studies of Existing and New Interchanges and Access Roads".
2. The Maine Turnpike staff estimates that study of this nature may cost in the range of \$150,000 to \$200,000, and that this is the appropriate scale for the study.
3. The communities will each provide \$10,000 for a total of \$30,000 toward the study budget.
4. The communities will seek additional PACTS funding for a portion of the study.
5. The communities will, as part of the study, examine other alternatives as required by law and by the "Policy for Initiating Studies of Existing and New Interchanges and Access Roads"
6. The communities will join with each other and the Turnpike Authority in a broad based community planning and stakeholder process.

Saco City Administrator Richard Michaud _____

Date:

Old Orchard Beach Town Manager James Thomas _____

Date:

Scarborough Town Manager Ronald Owens _____

Date:

F. Sebago Energy Conservation Agreement

The Saco Energy Committee has been working with Sebago Energy Conservation, who has completed a "Lighting Efficiency Program" report for the City of Saco. The program is specifically targeted to reduce the high cost of maintaining our lighting environment, citywide. The system is designed to generate savings without compromising the integrity of our present system.

The Energy Committee has also recently solicited a "walk-through energy audit" for City Hall and the Police station, conducted by the Maine Public Utilities Commission, Maine State Energy Program.

Councilor McDougal moved, Councilor Tripp seconded that it be Ordered that the City Council accept the report titled "Lighting Efficiency Program Prepared for the City of Saco" by Sebago Energy Conservation with a cost of \$76,168.46, and authorize the City Administrator to enter into the Agreement for services titled, 'LIGHTING EFFICIENCY PROGRAM AGREEMENT BETWEEN CITY OF SACO, SACO, MAINE AND SEBAGO ENERGY CONSERVATION', and further move to accept the walk-through energy audit, dated May 28, 2006, conducted by the Public Utilities Commission Efficiency Maine program. Further move to approve the Order. The motion passed with six (6) yeas and one (1) nay. Councilor Tardif voted in the negative.

LIGHTING EFFICIENCY PROGRAM AGREEMENT

BETWEEN

CITY OF SACO, SACO, MAINE

AND

SEBAGO ENERGY CONSERVATION

LIGHTING EFFICIENCY PROGRAM AGREEMENT

BETWEEN

CITY OF SACO, SACO, MAINE

AND

SEBAGO ENERGY CONSERVATION

ARTICLE 1: DEFINITIONS. **Error! Bookmark not defined.**
ARTICLE 2. TERM **Error! Bookmark not defined.**
ARTICLE 3. SERVICES CONTEMPLATED **Error! Bookmark not defined.**
ARTICLE 4. DRAWINGS, DESIGNS, AND SPECIFICATIONS **Error! Bookmark not defined.**
ARTICLE 5. RATES AND CHARGES **Error! Bookmark not defined.**
ARTICLE 6. BILLING AND PAYMENT **Error! Bookmark not defined.**
ARTICLE 7. SUPPLEMENTAL CLAUSES **Error! Bookmark not defined.**
ARTICLE 8. SAFETY AND ENVIRONMENTAL **Error! Bookmark not defined.**
ARTICLE 9. MISCELLANEOUS **Error! Bookmark not defined.**
ARTICLE 10. WARRANTIES AND LIMITS OF LIABILITY **Error! Bookmark not defined.**
ARTICLE 11. INSURANCE **Error! Bookmark not defined.**
ARTICLE 12. INDEMNIFICATION **Error! Bookmark not defined.**
ARTICLE 13. ASSIGNMENT **Error! Bookmark not defined.**
ARTICLE 14. APPLICABLE LAW **Error! Bookmark not defined.**
ARTICLE 15. CONFIDENTIALITY **Error! Bookmark not defined.**
ARTICLE 16. ARBITRATION **Error! Bookmark not defined.**
ARTICLE 17. SEVERABILITY **Error! Bookmark not defined.**
ARTICLE 18. CONFLICTING DOCUMENTS **Error! Bookmark not defined.**
ARTICLE 19. FORCE MAJEURE, IMPRACTICABILITY, EXCUSE **Error! Bookmark not defined.**
ARTICLE 20: CONSTRUCTION, HEADINGS **Error! Bookmark not defined.**
ARTICLE 21. NOTICE **Error! Bookmark not defined.**

THIS AGREEMENT, made this _____ day of 2006, is by and between the CITY OF SACO, a municipal corporation, 300 Main Street, Saco, Maine (hereinafter "City") and Sebago Energy Conservation of 3 Karen Drive, Westbrook, Maine 04092 (hereinafter "Engineer" or "Consultant") who together state and agree as follows:

WITNESSETH:

WHEREAS, the City is desirous of securing engineering services to assist it in the regular course of its business; and

WHEREAS, towards that end it caused to be published a certain Request for Proposals (hereinafter “RFP”) seeking bids for services from responsive engineering firms; and

WHEREAS, Sebago Energy Conservation (Consultant) has responded to that RFP with a Proposal for general engineering services (hereinafter the “Proposal”); and

WHEREAS, the City has reviewed and finds acceptable the Proposal, and is desirous of retaining Engineer;

NOW, THEREFORE, in consideration of the promises and covenants herein, the Parties hereby agree as follows:

ARTICLE 1: DEFINITIONS.

1.1 As used in this Agreement:

- (a) “Agreement” shall mean this contract as well as the document incorporated herein by reference Engineer’s Proposal.
- (b) “Budget Letter” shall mean a document generated by Engineer for those special or unique projects, which details Engineer’s estimates of services needed to complete project and the costs of such work.
- (c) “City” shall mean the City of Saco, a municipal corporation, 300 Main Street, Saco, as well as its employees and designated elected and appointed officials.
- (d) “Engineer” shall mean Sebago Energy Conservation, 3 Karen Drive, Westbrook, Maine 04092, as well as its employees, officers, directors and agents.
- (e) “Standard of care” shall mean performance of work by Engineer at a level of care, professional skill, diligence and result equal or better than similarly situated professional engineers within New England.
- (f) “Work Product” shall mean all drawings, sketches, designs, design data, other data, specifications, notebooks, technical and scientific data, photographs, negatives, reports, findings, recommendations, memorandum and any other information reduced to writing, electronic format or otherwise that has been produced by Engineer pursuant to request of City hereunder.

ARTICLE 2. TERM

- 2.1. This Agreement shall run for a period until project completion commencing on the date herein set forth above. The Engineer may request an extension of the Agreement upon terms satisfactory to both parties.
- 2.2. If Engineer shall fail to perform any provision herein contained, City may cancel this Agreement with 60 days prior notice. After revocation, Engineer shall have no claim for damages except for work completed and unpaid at the time of cancellation. City reserves the right to take possession of and hold the work completed, materials furnished, and work product produced. In the event of such termination and taking, City shall pay Engineer any amount due for the work completed or materials furnished.
- 2.3. If Engineer should at any time and for any reason desire to be relieved of the commitments made herein, it may terminate this Agreement by providing 90 days written notice to City. Under such circumstances, Engineer will have the affirmative duty and obligation to assist City in transition by providing necessary files, documents, notes, surveys, plans and work product; as well as cooperation and assistance to that successor engineering consultant selected and designated by the City.

ARTICLE 3. SERVICES CONTEMPLATED

- 3.1 Engineer shall provide those consulting services set forth in its Proposal dated June ____, 2006, which Proposal is specifically incorporated herein by reference.
- 3.2 City may use, retain, hire, consult with, and/or employ any other consultant or engineer to provide additional, similar or comparable services as those detailed herein, at its sole option and discretion, without such retention constituting a breach hereof, this Agreement in no manner constituting an exclusive employment arrangement between City and Engineer.
- 3.3 The Engineer designates Joseph A. Disanza, President, Sebago Energy Conservation, as its primary point of contact with the City for all services performed hereinunder. Mr. Disanza shall be reasonably available during regular business hours, excluding vacation, sick and other leave. He shall acquaint himself and shall be otherwise familiar at all times with all work/services on-going between City and Engineer.
- 3.4 When required or requested, Engineer shall also be available for meetings of City bodies such as City Council, Planning Department, Planning Board, Zoning Board of Appeals, Department of Public Works, Saco Energy Committee etc. at its regular stated rates herein set forth below.
- 3.5 Engineer shall employ a capable, experienced and reliable workforce in connection with the services contemplated herein.

- 3.6 Engineer shall prosecute and complete the work according to generally accepted work methods, and with and by Engineer's own means and employees, free from detailed supervision, inspection or control by City, except such inspection as may be necessary to enable City to confirm that the work performed complies with the requirements of this Agreement, including satisfactory rate of progress.
- 3.7 Notwithstanding the preceding paragraph, the City and Engineer agree that as often as practice and reason permits, the Engineer shall provide City with an initial "Budget Letter" detailing a specific project and services needed thereunder, as well as Engineer's best faith estimate of completion costs. City will then provide written reply authorizing said work, authorizing with modifications or requesting further information or detail. Engineer shall not initiate projects until City has provided written instructions. Such process is intended for those special and discrete projects requested of City as opposed to certain on-going work.
- 3.8 Engineer shall be and remain at all times an Independent Contractor, not a City employee, and nothing herein shall be construed as inconsistent with that status.
- 3.9 During the course of this Agreement, the Parties may agree to additional work or services, and Engineer is not precluded from bidding on such work or services.
- 3.10 Engineer may engage subcontractors to perform certain services, upon the prior written approval of City. Engineer is responsible for deliverables, schedules, and for ensuring that work performed by any subcontractors meets City requirements.
- 3.11 Engineer will not represent other clients whose projects are intended for location in Saco without the express written consent of City.
- 3.12 Engineer will work cooperatively with other parties retained by City as requested such as its attorneys, surveyors, real estate agents, etc.

ARTICLE 4. DRAWINGS, DESIGNS, AND SPECIFICATIONS

- 4.1. Engineer shall complete all work in a timely and responsive manner consistent with sound, prudent engineering practices and the standard of care set forth above.
- 4.2. Engineer shall be responsible for maintaining and providing all labor, tools, equipment, software and support necessary to fully and effectively complete all requested services.
- 4.3 All drawings, sketches, designs, design data, specifications, notebooks, technical and scientific data, photographs, negatives, reports, findings, recommendations, data, information, memoranda, and other work products (hereinafter "work product") of every description produced at the request and expense of the City shall become and remain at all times the intellectual property of the City upon full payment thereof. The City is free at all times hereafter to use, re-use, employ,

transfer and forward such work product for its purposes and advantage without further permission, fee or obligation from and to Engineer. Engineer waives, upon full payment, all right, claim, title or interest in such work product.

- 4.4 Title to all documents, information and data of City provided to or received by Engineer for the purpose of this Agreement shall remain in City's name. Engineer will retain these documents until the termination of this Agreement. Any charges for shipment of documents back to City at termination will be to City's account. In the event that Engineer does not receive written instructions regarding document disposition within sixty (60) days of the termination of this Agreement or the completion of the services, whichever first occurs, then Engineer may dispose of such documents, information and data in a manner of Engineer's choice and Engineer shall incur no liability thereby, except Engineer may not in any manner place or permit third parties to use or employ such materials.
- 4.5 Engineer acknowledges that City is bound by Maine's Public Access Law, 1 M.R.S.A. § 401 et seq. which law makes most City records available for public review and inspection. Engineer will cooperate with City when and where necessary to comply with requirements of such statutes. However, Engineer will not independently disclose any information to any third party, except an authorized subcontractor, without knowledge and consent of City.

ARTICLE 5. RATES AND CHARGES

- 5.1 Engineer will charge those rates set forth in its Lighting Efficiency Program Prepared for City of Saco, Maine, for all work performed hereunder for the term of this Agreement.
- 5.2 If certain work requested by City requires use and retention of other Engineers, consultants, experts, staff, specialized equipment or services, etc. not otherwise contemplated or shown on the Fee Schedule, Engineer shall consult in advance with City, and the Parties shall reach a separate written agreement respecting such employment of services or parties.

ARTICLE 6. BILLING AND PAYMENT

- 6.1 The Engineer shall submit a detailed invoices in a form or forms satisfactory to City, showing the amount due under this Agreement for completed work and effort expended during the current period. Engineer shall include a summary of work signed by the Engineer with the invoice. If found correct, City will pay each invoice within thirty (30) calendar days of invoice receipt. If City disputes any portion of an invoice, it shall notify Engineer within fifteen (15) days from receipt

of such invoice of the reasons for such dispute, and City and Engineer shall cooperate in resolving such dispute.

6.2 All invoices, original and two (2) copies, are to be mailed to:

City of Saco
Attn: Finance Director
300 Main Street
Saco, ME 04072

ARTICLE 7. SUPPLEMENTAL CLAUSES

7.1 This Agreement incorporates the following clauses by reference, with the same force and effect as if they were given in full text.

- (a) Engineer agrees to comply with the rules and regulations of the Department of Labor concerning equal opportunity.
- (b) Engineer agrees to comply with the rules and regulations of the Department of Labor concerning affirmative action for disabled veterans and veterans of the Vietnam Era.
- (c) Engineer agrees to comply with the rules and regulations of the Department of Labor concerning affirmative action for handicapped workers.
- (d) If subcontractors are used, Engineer agrees to comply with the rules and regulations of the Federal Government concerning the utilization of small business and small disadvantaged business concerns, including the provisions of the Utilization of Small Business and Small Disadvantaged Business Concerns.
- (e) If subcontractors are used, Engineer agrees to comply with the rules and regulations of the Federal Government concerning women-owned small business concerns.
- (f) If subcontractors are used, Engineer agrees to comply with the rules and regulations of the Federal Government concerning the utilization of labor surplus area.
- (g) Engineer agrees to comply with all applicable rules and regulations of the Federal Government concerning environmental protection.
- (h) Engineer agrees to comply with all applicable statutes, ordinances, rules and regulations pertaining to the work place safety, including the latest rules and standards established by the Occupational Safety and Health Act of 1970, as amended.

ARTICLE 8. SAFETY AND ENVIRONMENTAL

- 8.1 Engineer agrees at all times to prosecute the work with utmost safety for its employees and the public and to conduct the work in such manner as not to disturb or interfere with the employees of the City.
- 8.2 City reserves the right to require the removal of any employee of Engineer if, in the judgment of City, such removal is necessary in order to protect the interests of City.

ARTICLE 9. MISCELLANEOUS

- 9.1 City reserves the right to stop work of services hereunder in whole or in part at any time before completion. Upon receipt of notice to such effect, Engineer shall comply promptly therewith. Engineer shall have no claim whatsoever for damages by reason of stopping the work, except for work completed or in progress and unpaid at the time of cancellation. Upon receipt of a properly completed invoice, City agrees to pay for work that is completed or in progress and unpaid in accordance with the terms of Article 6 of this Agreement.
- 9.2 City reserves the right at any time to modify or change the plans and specifications covering the details of the work by written change order signed by City and provided to and signed by Engineer. In the event that such modifications or change in plans or services require services outside of current scope of identified services, Engineer shall provide a written estimate of the cost of the change and the Parties shall execute a written amendment to cover such change in the work.

ARTICLE 10. WARRANTIES AND LIMITS OF LIABILITY

- 10.1 Engineer warrants that the services, materials and work provided pursuant to this Agreement will be completed in accordance with the standard of care described in Article 1. City will notify Engineer within sixty (60) days of completion of any work or services in the event that any portion thereof is found and believed to be defective. If performance is found to be defective with reference to the scope or standard for services of this Agreement, Engineer will re-perform such portion of the services under the same conditions of the work, without additional compensation from City.
- 10.2 Under any circumstance or dispute, except as conditioned pursuant to Article 12, City agrees that any City claim, and the limits of liability for Engineer for any defective work or service performed hereunder, shall not exceed the insurance coverage limits set forth below in Article 11, which means and includes both base coverage and the umbrella combined.

10.3 Engineer warrants it will for all times this Agreement is in force and effect maintain those professional licenses and/or accreditation necessary to fully and lawfully perform hereunder.

ARTICLE 11. INSURANCE

11.1 For all times this Agreement is in force and effect, Engineer shall maintain at a minimum the types and amounts of insurance coverage set forth below:

Type:	Limit:
Comprehensive General Liability	\$2,000,000.00
Automobile Liability	\$2,000,000.00
Professional/Malpractice	\$2,000,000.00
Workmen's Compensation	\$1,000,000.00
Umbrella Coverage	\$2,000,000.00

11.2 Engineer shall provide a certificate for all coverages listed above, and such certificate shall name the City as a certificate holder.

ARTICLE 12. INDEMNIFICATION

12.1 Engineer shall defend, indemnify and hold City harmless from any and all demands, claims, suits, losses, damages or expenses (including reasonable attorney's fees) on account of injuries to or death of any and all persons, as well as any and all property damage, arising from, related to or in any manner connected with, the performance of work under this Agreement or caused or occasioned by reason of the negligence of Engineer, its employees or agents.

ARTICLE 13. ASSIGNMENT

13.1 Each and all of the covenants and Agreements herein contained shall extend to and be binding upon the heirs, administrators, executors, successors and/or assigns of the parties hereto. Neither Party shall assign its rights under this Agreement without the written approval of the other Party.

ARTICLE 14. APPLICABLE LAW

14.1 The construction, interpretation, and performance of this Agreement shall

be governed by and construed in accordance with the laws of Maine.

ARTICLE 15. CONFIDENTIALITY

15.1 Engineer will not disclose to third parties, excepting authorized subcontractors or other parties authorized by City, information concerning work of services undertaken pursuant to this Agreement without the express approval of City.

ARTICLE 16. ARBITRATION

16.1 Any and all claims, disputes, and other matters in question arising out of or relating to this Agreement which are not disposed of by mutual discussion and agreement of the Parties shall be submitted to mediation. Only if mediation fails may a Party secure relief by legal action.

ARTICLE 17. SEVERABILITY

17.1 If any term or provision of the Agreement or the application thereof is held invalid, unlawful, or unenforceable in any respect, such invalidity, unlawfulness, or unenforceability shall not be deemed or construed to affect other terms or provisions of the Agreement. To this end, the terms and provisions of the Agreement are agreed to be severable; and as a rule of construction, the Agreement shall be construed and applied as if such invalid, unlawful, or unenforceable term, provision, or application had never been contained in the Agreement.

ARTICLE 18. CONFLICTING DOCUMENTS

18.1 The Parties shall make every effort to assure the Agreement, the RFP and the Engineers Proposal are read and interpreted in harmony. To the extent the documents referenced herein conflict with the provisions of this Agreement, this Agreement and the terms and conditions herein shall take precedence and govern.

ARTICLE 19. FORCE MAJEURE, IMPRACTICABILITY, EXCUSE

19.1 Engineer shall not be charged with any liability for failure to perform when such failure is due to any cause beyond the control and without the fault or negligence of

Engineer, provided that the Engineer shall have used its best efforts and rendered to City prompt notice in writing when it appears that such cause will result in non-performance.

ARTICLE 20: CONSTRUCTION, HEADINGS

- 20.1 This Agreement having been freely and voluntarily negotiated by the Parties, the rule that ambiguous contractual provisions are construed against the drafter of the provision shall be inapplicable.
- 20.2 The headings in this Agreement are for the convenience of the Parties and shall not be construed to limit or otherwise define the terms of this Agreement.
- 20.3 This Agreement is the final, complete and exclusive statement of the agreement between Engineer and City. It supersedes all prior agreements and inducements relating to the subject of this Agreement. No promises or agreements made at or after the execution of this Agreement are binding unless in writing and signed by the Parties.

ARTICLE 21. NOTICE

- 21.1 Whenever any provision of the Agreement requires or allows the giving of written notice, such notice will be properly given if delivered personally to the party or sent by a recognized overnight delivery service, or mailed to the party first class postage pre-paid addressed as follows:

For: Sebago Energy Conservation
 3 Karen Drive
 Westbrook, ME 04092

Attention: Joseph A. Disanza, President
Phone: 207-773-4453

For: City of Saco
 300 Main Street
 Saco, ME 04072

Attention: City Administrator
Phone: 207-282-4191

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above

BY: _____

BY: _____

Print Name

Richard Michaud
City Administrator

TITLE: _____

VII. Recess the Meeting Move to Workshop

Mayor Johnston called a recess.

Councilor Michaud moved, Councilor Tripp seconded, to recess at 7:28 p.m. The motion passed with seven (7) yeas.

I. ADJOURN THE WORKSHOP - RECONVENE THE MEETING

Mayor Johnston re-convened the meeting to order at 9:00 p.m.

IX Councilor Michaud moved, Councilor Morton seconded, that it be Ordered that the City Council, Pursuant to M.R.S.A. Chapter 13, Subchapter 1, § 405(6)(C) move to enter into EXECUTIVE SESSION to discuss:

-
- A. Use of Property - Granting of Easement

Report From Executive Session:

The Council by unanimous consent moved to come out of executive session.
TIME: 9:07 p.m.

Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith, Jr. Ronald Morton, Roland Michaud, Arthur Tardif, Eric Cote and Jesse McDougal.

Councilor Michaud moved, Councilor Smith seconded to send a letter to Mary Plumber denying permission to conduct a survey. The motion passed with four (4) yeas and three (3) nays. Councilors Cote, Tripp and Morton voted in the negative.

X. ADJOURNMENT

Councilor Michaud moved, Councilor Morton seconded, to adjourn. The motion passed with yeas. TIME: 9:08 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk