

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the August 3, 2009 City Council Meeting.

I. **CALL TO ORDER** – On Monday, August 03, 2009, at 7:00 p.m. a City Council Meeting was held in the City Hall Auditorium.

I. **ROLL CALL OF MEMBERS** - Mayor Roland Michaud conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: Margaret Mills, Leslie Smith Jr., Ronald E. Morton, Arthur Tardif, Sandra Bastille, Eric Cote and Marston Lovell. Also in attendance this evening were Mr. Richard R. Michaud, City Administrator and Lucette S. Pellerin, City Clerk.

II. **PLEDGE OF ALLEGIANCE**

III. **GENERAL:**

IV. **APPROVAL OF MINUTES:**

V. **AGENDA ITEMS:**

A. **AGA - Gold Certificate of Achievement in Service Efforts and Accomplishments Reporting –Fifth Annual Performance Report, Delivery of Services, Fiscal Year 2008**

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**INTEROFFICE MEMORANDUM**

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**TO:** MAYOR MICHAUD AND CITY COUNCILORS  
**FROM:** RICK MICHAUD, CITY ADMINISTRATOR  
**SUBJECT:** COUNCIL MEETING 8/3/09 ITEM A  
**DATE:** 8/1/2016

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On the Council agenda for Monday August 3, 2009 - item A is the AGA- Gold Certificate of Achievement in Service Efforts and Accomplishments Reporting – ***‘Fifth Annual Performance Report, Delivery of Services, Fiscal Year 2008’***.

Jody Breton from AGA in Augusta will be here on Monday evening to present the Award to Stephanie Weaver (tax collector), on behalf the City of Saco. Stephanie has produced this report since the beginning, first as a graduate student from Muskie School of Public Service, and then as a city employee along with Lisa Parker.

The mission of AGA's Certificate of Achievement in Service Efforts and Accomplishments (SEA) Report Review Program is to stimulate and help state and local governments prepare valuable and comprehensive SEA reports that inform the public, elected officials and management about their government's efficient and effective use of taxpayer dollars. To that end, the program reviews reports and provides recommendations to strengthen the reports ability to provide useful information and to recognize through an award structure, those governments that prepare exemplary reports.

The CIRCLE OF EXCELLENCE award recognizes those governments that have received the "GOLD" award (or the former award) for **five or more consecutive years**.

Saco, Maine is the second government to receive the award since its inception – Palo Alto, California received the Circle of Excellence in July 2009.

Saco submitted their first report for the 2003-2004 fiscal year. Saco's subsequent reports FY05, FY06, FY07 and finally FY08 also were awarded the Certificate.

#### **B. (Second & Final Reading) Contract Zone Amendment – Congregate Care Facility, Smith Lane (Map 33, Lot 25-1)**

Applicant Volunteers of America Northern New England (VOANNE) requests consideration of a contract zone that would allow Elderly Congregate Housing (ECH) on 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 realty building on its own lot with frontage on Main Street, and creating a separate 1.8 acre parcel to the rear for the VOANNE. A 40+/- unit ECH facility 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 or elderly congregate housing. 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/Paul Hazelton House parcel. The contract zone proposes to recognize this 50-foot easement as adequate frontage for the purpose of this proposal.

This item was reviewed by the Planning Board on June 2, 2009. 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 by the Planning Board prior to development of the site.

Councilor Morton moved, Councilor Bastille seconded, that the City of Saco hereby ordains and approves the Second & Final Reading of the contract zone document entitled “Contract Zone Agreement By and Between Volunteers of America Northern New England and the City of Saco, June 2, 2009. The motion passed with seven (7) yeas.

## **Contract Zone Agreement By and Between Volunteers of America Northern New England and the City of Saco**

**June 2, 2009**

THE CITY OF SACO HEREBY ORDAINS:

**I. That the zoning ordinance of the City of Saco, dated January 2, 1985, and amended through December 15, 2009 is hereby further amended by adopting this contract by and between the City of Saco and the Volunteers of America Northern New England.**

1. The Volunteers of America Northern New England, Inc., (Applicant) has submitted an application for a contract zone for a portion of the parcel (Subject Property) at 439 Main Street.
2. The property at 439 Main Street is owned by Great American Realty, and identified as Tax Map 33, Lot 25-1 on City of Saco tax maps. The Subject Property is subject to a Purchase and Sale Agreement between Great American Realty and the Applicant dated April 2, 2009, submitted as proof of right, title and interest.
3. The Subject Property is identified as a 1.8+/- acre portion of Tax Map 33, Lot 25-1. As proposed on a sketch plan dated April 7, 2009, Lot 25-1 would be split into two parcels. The Main Street parcel, currently developed with an office condominium building, would exist as a conforming lot, with approximately 127 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 have an area of approximately 1.8 acres, but 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 an Elderly Congregate Housing facility of up to forty (40) dwelling units intended for elderly congregate care. Elderly Congregate Housing is not an allowed use in the R-1b zoning district.
6. Recognizing the lack of frontage for the proposed Subject Property, and that the proposed use is not allowed by the Zoning Ordinance, the Applicants hereby petition for a Contract Zone that would allow the Elderly Congregate Housing facility to be proposed, approved and constructed and to operate 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 an Elderly Congregate Housing facility, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. An Elderly Congregate Housing facility of no more than forty (40) units, in a building no 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 Elderly Congregate Housing as either a permitted or a conditional use in the R-1b zoning district. Sec. 410-1 is hereby amended so that Elderly Congregate Housing 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 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. The Minimum Lot Area per Dwelling Unit for the Subject Property shall be 2,000 square feet.
- e. 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.
- f. 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.
- g. 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.
- h. Upon approval of this contract by the City Council, 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.

- i. 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 without approval of the City Council.
- j. 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 June 2, 2009, and the Saco City Council on \_\_\_\_\_, 2009, 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.
3. The project parcel's unique location allows for a continuation of an adjacent similar use which was previously permitted under contract zoning. The existing elderly housing facility at 7 Smith Lane (the VOA-owned Paul Hazelton House, a senior care facility approved as a contract zone on Jan. 20, 1998) provides a unique opportunity to locate an abutting facility which is substantially similar with regard to appearance, character, access, utilities, traffic, and demand on City services. The proposed contract zone would allow for access and utility service to the project parcel from the existing infrastructure on Lot 24-1 and consequently not require addition or alteration of such features located within City rights of way. It is also noted that there are no unusual natural resources remaining on the site due to previous clearing efforts associated with the commercial subdivision. The quality of the existing vegetation is low due to the previous removal of native vegetation and presence of invasive plant species.

- 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 property 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.

Residential Development – In its role as a regional service center, Saco is a desirable location for housing to meet the needs of many segments of the population including the elderly and disabled. The City should allow the construction of housing to meet the needs of these groups in designated residential areas of the City at densities that are compatible with the intensity of other development.

- C. The proposed contract zone is compatible with permitted and existing uses within the original zone. This application represents the lowest potential impact to surrounding properties by expanding a similar existing use to an abutting lot without introducing a substantially different use or character. An elderly congregate care facility will appear nearly identical to the existing elderly housing facility in appearance and use to surrounding properties. The primary use would be multi-family residential which is a permitted use in the R-1b District and inclusion of integral medical services at the elderly congregate care facility would not represent traffic, noise, light, or other impact to abutters. It is also anticipated that the proposed contract zone would act as an appropriate buffer between the residential uses along Charles and King Streets and the commercial uses along Main Street. In lieu of a potential commercial abutting use, the presence of a primarily residential use that includes medical services represents a more appropriate abutting use to existing residential 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 \_\_\_\_\_, 2009.

by \_\_\_\_\_

by \_\_\_\_\_

Richard Michaud  
City Administrator

June Koegl, President  
Volunteers of America Northern New  
England, Inc.  
Applicant

**C. (First Reading) Authorize A Bond Question for Paving and Improvement of Public Streets**

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 exhibit details the 2009 paving needs throughout the city. The paving projects are vital to insuring the safety of our citizens, and protecting our investment in our road network.

In the next 8 years we will be retiring \$2,747,840 of indebtedness, principal and interest and the proposed bond would add new indebtedness, principal and interest of approximately \$2,610,500.

The Council discussed this item at Workshop on July 20, 2009.

**Question #** \_\_\_\_

Shall the Order of the City Council of the City of Saco entitled "Order Authorizing the City of Saco to Borrow an Amount Not to Exceed \$2,300,000 for Paving and Improvement of Public Streets" be ratified and approved?"

Yes \_\_\_\_\_

No \_\_\_\_\_

**AMENDED MAIN MOTION:** Councilor Cote moved, Councilor Lovell seconded, that the City of Saco City Council hereby approves the First Reading of the Order entitled, '**Order Authorizing City of Saco to Borrow an Amount Not to Exceed \$2,300,000 for Paving and improvement of Public Streets**', and hereby adopts said Order and directs that a copy of said Order be included in the minutes of this meeting. The motion passed with six (6) yeas and one (1) nay. Councilor Tardif voted in the negative.

**AMENDMENT TO MAIN MOTION:** Councilor Cote moved, Councilor Bastille seconded, that the following language be included in the Title of the Order: It is estimated \$2.3 million will

cover the cost of paving of the street list attached, as Exhibit A and other streets as the need may arise. The motion passed with four (4) yeas and three (3) nays. Councilors Smith, Morton and Tardif voted in the negative.

**ORDER AUTHORIZING THE CITY OF SACO  
TO BORROW AN AMOUNT NOT TO EXCEED \$2,300,000  
FOR PAVING AND IMPROVEMENT OF PUBLIC STREETS**

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

1. Bonds Authorized. Pursuant to Maine law, including 30-A M.R.S.A. 5772 and Section 6.15 of the Charter of the City of Saco and all other authority thereto enabling, there is hereby authorized and approved the issuance of general obligation bonds (the “Bonds”) of the City, and temporary notes in anticipation thereof (the “Notes), in an aggregate principal amount not to exceed \$2,300,000. The Bonds shall be designated “City of Saco, Maine, General Obligation Bonds” and any notes in anticipation thereof shall be designated “City of Saco General Obligation Bond Anticipation Notes.” The proceeds of the Bonds and any Notes shall used to finance the costs of paving and improvements of public streets in the City of Saco (the “Project”) and reasonably related costs, including site work, appurtenances and other facilities reasonably related to the Project, including drainage facilities and manholes, the cost of planning, preparation of specifications, surveys, engineering, legal and other professional services associated with the Project, costs of issuance of the Bonds and any Notes, and capitalized interest prior to and during construction and for a period not to exceed three (3) years from the issue date of the Bonds or Notes. The City Council shall determine which streets or portions thereof are to be paved and improved.

2. Period of Utility. The estimated period of utility of the Project is twelve (12) years.

3. Tax Levy. Pursuant to Section 6.15 of the Charter of the City of Saco, an amount necessary to meet the annual payments of principal and interest on the Bonds (and any Notes not paid from the proceeds of Bonds issued hereunder) shall be included in the tax levy of the City each year until the debt represented by said Bonds and Notes is extinguished.

4. Details of Bonds. To the extent not inconsistent with this Order and the Charter of the City, the discretion to fix the date(s), maturity(ies) of the Bonds and/or Notes, denomination(s), interest rate(s), place(s) of payment, form(s) and other details of said Bonds and Notes, and to provide for the sale thereof, including execution of said Bonds and Notes on behalf of the City of Saco and delivery against payment therefore, is hereby delegated to the Treasurer and Mayor of the City of Saco. The Bonds shall be payable within a fixed term of years to be determined by the Mayor and Treasurer, not to exceed eight (8) years and thirty (30) days, and Notes in anticipation of Bonds shall not exceed a term of three (3) years from the date of the initial issuance of any Notes. Bonds shall be made payable as pertains to interest semi-annually and as pertains to principal in equal, annual serial installments, except that: (1) each year's installments may be adjusted to the nearest multiple of \$5,000; and (2) the amount of each year's installment may vary provided that it is equal to or greater than the installment due and payable in any succeeding year. The Bonds and any Notes shall contain such terms and provisions, not inconsistent herewith, as the Treasurer and Mayor may hereafter determine. All determinations by the Mayor and Treasurer shall be conclusively evidenced by their execution of the Bonds or Notes. The Treasurer and Mayor are authorized to provide that any of the Bonds and Notes be made callable, with or without premium, prior to their maturity. Each Bond or Note issued hereunder shall be signed by the Treasurer and countersigned by the Mayor. The Mayor and Treasurer are authorized to select a financial advisor and/or an underwriter for the Bonds and Notes, and the Mayor and Treasurer are authorized and



empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

5. Sale of Bonds. The Treasurer is authorized to prepare, or cause to be prepared, a Notice of Sale and/or a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds and/or Notes, such Notice of Sale, Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer. Distribution of the Notice of Sale and/or Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds and/or Notes is hereby authorized and approved. The Treasurer is authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of the Notes or 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.

6. Alternate Method of Sale. In lieu or as an alternative to the method of offering of the Bonds described in section 5 above, the Treasurer is authorized to file an application for sale of the Bonds to the Maine Municipal Bond Bank (the "Bank"), and the Treasurer and Mayor are hereby authorized and empowered in the name and on behalf of the City to borrow up to \$2,300,000 from the Bank pursuant to a Loan Agreement between the City and the Bank providing for a loan from the Bank in the principal amount not in excess of \$2,300,000, and the Treasurer is authorized and empowered, in the name and on behalf of the City, to execute and deliver, under the seal of the City, attested by its Clerk, a Loan Agreement to be in the usual and ordinary form utilized by the Bank, which is hereby approved, and to contain such other terms and provisions, not contrary to the general tenor hereof, as the Treasurer may approve, with her approval to be conclusively evidenced by her execution thereof; the Treasurer and Mayor are further authorized to issue, sell and deliver to the Bank as evidence of the aforesaid loan of up to \$2,300,000 and against payment therefore, Bonds in a principal amount not to exceed \$2,300,000, such Bonds to mature and be payable on such dates and in such amounts as approved by the Treasurer and Mayor; to bear interest at the rates specified by the Bank, which rates shall be subject to approval by the Treasurer and Mayor, such approval to be conclusively evidenced by their execution and delivery of such Bonds, payable semi-annually; to be issued as a single, fully registered Bond in the an amount not to exceed \$2,300,000 maturing and payable in installments as aforesaid; to be signed by the Treasurer and countersigned by the Mayor, and sealed with the seal of the City, attested to by its Clerk; and the Treasurer, Mayor and other proper officials of the City be, and hereby are, authorized and empowered in its name and on its behalf, to do or cause to be done all such acts and things as may be deemed necessary or desirable in order to effect the borrowing from said Bank of up to \$2,300,000 and the issue and delivery to said Bank as evidence thereof of a corresponding principal amount of the Bonds of the City as authorized in this Order.

7. Tax Exempt Bonds. The Treasurer is authorized to covenant and certify on behalf of the City that: (a) no part of the proceeds of the issue and sale of the Notes or the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Notes or Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), (b) no part of the proceeds of the issue and sale of such Notes or Bonds (including any notes and bonds in renewal thereof) shall be used, directly or indirectly, in such manner which would cause the Notes or Bonds to be "private activity bonds" within the meaning of Section 141 of the Code, (c) all required information reports shall be filed and any rebate due to the United States in connection with the issuance of said Bonds and Notes shall be paid, and (d) the City shall take all other lawful actions necessary to insure the interest on the Bonds and Notes will be excluded from the gross income of the owners thereof for purposes of federal income taxation and to refrain from taking any action which would cause interest on the Bonds or Notes to become includable in the gross income of the owners thereof. The Treasurer is also authorized and

empowered to designate the Bonds and/or Notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code, to the extent the election may be available and advisable as determined by the Treasurer.

8. Build America Bonds. Notwithstanding any contrary provisions in this Order, the City is authorized to issue all or any portion of any of the Bonds or Notes as taxable governmental bonds, in accordance with the applicable requirements for Build America Bonds, if the Mayor and Treasurer determine, in consultation with the financial advisor of the City, that issuing such Bonds and/or Notes as taxable Build America Bonds will result in a lower cost of funds to the City, such determination to be conclusively evidenced by the execution of Bonds or Notes by the Mayor and Treasurer, designating the same as "Build America Bonds." "Build America Bonds" mean Bonds or Notes issued as taxable governmental bonds or notes with Federal subsidies in the form of either tax credits to holders or refundable tax credits paid to the City as issuer, authorized under the American Recovery and Reinvestment Act of 2009, and Section 54AA of the Code, and any amendments of or successor provision to the foregoing. The terms for any redemption of such Build America Bonds prior to maturity shall be determined by the Mayor and Treasurer. The Treasurer and Mayor are authorized to take such actions as may be required under applicable Federal law to cause such Bonds or Note to qualify for treatment as Build America Bonds and to obtain refundable tax credit payments, including designation of all or a portion of the Bonds and/or Notes as Build America Bonds, election to have Section 54AA of the Code apply to such Bonds and/or Notes, and election irrevocably to have Section 54AA(g) of the Code apply to such Bonds and/or Notes, with the result that the City shall be entitled to the credit provided in Section 6431 of the Code.

9. Documents and Certificates. The Mayor, Treasurer, City Clerk and other appropriate officials of the City of Saco are authorized to execute and deliver on behalf of the City such other documents and certificates as may be required in connection with such Bonds and Notes, and to do or cause to be done all acts and things, not inconsistent herewith, as may be necessary or appropriate in order to effect the issuance, execution, sale and delivery of the Bonds and any Notes, and to carry out the provisions of this Order in connection with the Project.

10. Appropriation. The sum of \$2,300,000 is hereby appropriated to finance the Project costs, such amount to be raised by the issuance of the Bonds and/or Notes of the City. In addition, the investment earnings on the proceeds of the Bonds and Notes, if any, and the excess proceeds of the Bonds and Notes, if any, are hereby appropriated for the following purposes, such proceeds to be held and applied in the following order of priority: (a) to any Project costs in excess of the principal amount of the Bonds or Notes; and (b) in accordance with applicable terms and provisions of the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the Bonds or Notes.

11. Reimbursement. This Bond Order shall constitute the City's declaration of official intent within the meaning of Treasury Regulation 1.150-2 to pay, on an interim basis, costs of the Project in an amount up to the principal amount of the Bonds to be issued, which costs the City reasonably expects to reimburse with proceeds of the Bonds or Notes.

12. Referendum Vote. Pursuant to Section 6.15 of the Charter of the City, the following question shall be submitted to the voters of the City of Saco for ratification or rejection at a referendum vote to be held on November 3, 2009: "Shall the Order of the City Council of the City of Saco entitled 'Order Authorizing the City of Saco to Borrow an Amount Not to Exceed \$2,300,000 for Paving and Improvement of Public Streets' be ratified and approved?"

13. City Clerk. A copy of this order shall be filed with the City Clerk.

City of Saco, Maine  
 Debt Service Summary  
 As of June 30, 2009

	<b>City General Fund **</b>				<i>change from prior year</i>	<i>change from FY2010</i>
	Principal	Interest	Agent Fees	Total		
2010	\$ 963,566	\$ 332,993	\$ 5,840	\$ 1,302,400		
2011	\$ 806,066	\$ 301,004	\$ 5,751	\$ 1,112,821	\$ 189,579	\$ 189,579
2012	\$ 806,066	\$ 274,441	\$ 5,662	\$ 1,086,169	\$ 26,652	\$ 216,231
2013	\$ 803,566	\$ 247,790	\$ 5,573	\$ 1,056,929	\$ 29,240	\$ 245,471
2014	\$ 801,066	\$ 221,142	\$ 5,484	\$ 1,027,692	\$ 29,237	\$ 274,708
2015	\$ 801,066	\$ 194,307	\$ 5,394	\$ 1,000,768	\$ 26,924	\$ 301,632
2016	\$ 726,066	\$ 168,969	\$ 5,155	\$ 900,190	\$ 100,577	\$ 402,209
2017	\$ 726,066	\$ 145,293	\$ 5,066	\$ 876,425	\$ 23,765	\$ 425,974
2018	\$ 481,066	\$ 126,466	\$ 2,833	\$ 610,364	\$ 266,061	\$ 692,036
2019	\$ 481,066	\$ 112,486	\$ 2,805	\$ 596,357	\$ 14,007	\$ 706,043
2020	\$ 290,000	\$ 99,535		\$ 389,535	\$ 206,822	\$ 912,865
2021	\$ 290,000	\$ 87,425		\$ 377,425	\$ 12,110	\$ 924,975
2022	\$ 290,000	\$ 75,315		\$ 365,315	\$ 12,110	\$ 937,085
2023	\$ 290,000	\$ 63,111		\$ 353,111	\$ 12,204	\$ 949,289
2024	\$ 290,000	\$ 50,760		\$ 340,760	\$ 12,351	\$ 961,640
2025	\$ 290,000	\$ 38,355		\$ 328,355	\$ 12,405	\$ 974,045
2026	\$ 290,000	\$ 25,950		\$ 315,950	\$ 12,405	\$ 986,450
2027	\$ 215,000	\$ 13,545		\$ 228,545	\$ 87,405	\$ 1,073,855
2028	\$ 215,000	\$ 4,515		\$ 219,515	\$ 9,030	\$ 1,082,885
<b>Total</b>	<b>\$9,855,661</b>	<b>\$2,583,403</b>	<b>\$ 49,563</b>	<b>\$12,488,627</b>		

\*\* excludes School and WWTP debt

2010 PAVING BOND

Date Revised: 7/24/09

NAME	FROM STREET	TO STREET	TREATMENT	Length (mi)	Tonage	RECLAIM	OTHER	TOTAL	CUMULATIVE
MDOT- BRADLEY ST	SPRING ST.	TASKER ST	Shim/Overlay	0.56	Total: \$385,000	20% match:	\$77,000	\$77,000	\$77,000
MDOT- NORTH ST	ELM ST.	PARK ST.	Resurfacing	0.54	Total: \$587,000	20% match:	\$117,400	\$117,400	\$194,400
CROSS ST.	ELM ST.	MAIN ST.	reclaim	0.09	213	\$2,218	\$1,296	\$16,478	\$210,878
DEERING ST.	WHARF ST.	BARTLETT ST.	reclaim	0.09	203	\$2,112	\$1,235	\$15,694	\$226,572
GRAY AVE.	COMMON ST.	END	reclaim	0.06	189	\$1,971	\$1,152	\$14,648	\$241,220
BARTLETT ST.	COMMON ST.	END	Overlay	0.04	72		\$439	\$4,829	\$246,049
WHARF ST.	FRONT ST.	COMMON ST.	Overlay	0.08	155		\$941	\$10,348	\$256,397
HUTCHINS ST.	MAIN ST.	LYMAN AVE.	Overlay	0.13	151		\$917	\$10,089	\$266,486
JENKINS RD	NORTH ST	WINDING BROOK	reclaim	0.88	1984	\$20,651	\$12,073	\$153,451	\$409,848
JENKINS RD B	WINDING BROOK	FLAGPOND RD	reclaim	1.60	3607	\$37,547	\$21,950	\$279,001	\$688,849
BRENDA CIRCLE	WENDY WAY	END	reclaim	0.14	379	\$3,942	\$2,305	\$29,295	\$718,144
DOUGLAS AVE.	HILLVIEW AVE.	JEFFERY	reclaim	0.38	1028	\$10,701	\$6,256	\$79,515	\$797,659
JEFFERY AVE.	HILLVIEW AVE.	END	Overlay	0.13	201		\$1,223	\$13,452	\$811,111
HILLVIEW AVE.	RTE 112	END	Overlay	0.39	603		\$3,669	\$40,357	\$851,469
HILLVIEW AVE. EXT.	HILLVIEW AVE.	RTE 112	Overlay	0.12	170		\$1,035	\$11,383	\$862,852
WENDY WAY	RTE 112	DOUGLAS AVE.	Overlay	0.28	433		\$2,634	\$28,975	\$891,826
BERRY ROAD	BOOM RD.	END	reclaim	0.84	1515	\$15,770	\$9,219	\$117,180	\$1,009,007
MICHELLE WAY	BERRY ROAD	END	Overlay	0.23	356		\$2,164	\$23,801	\$1,032,807
WINTER ST. EXT.	WINTER @ KING	KING ST.	reclaim	0.18	487	\$5,069	\$2,963	\$37,665	\$1,070,472
KING ST.	WASHINGTON AVE.	MAIN ST	reclaim	0.47	1272	\$13,235	\$7,738	\$98,348	\$1,168,820
LILLIAN AVE.	LAFAYETTE ST	END	reclaim	0.10	180	\$1,877	\$1,098	\$13,950	\$1,182,770
SCHOOL ST.	WILLOW ST.	MAIN ST.	reclaim	0.35	767		\$4,664	\$51,309	\$1,234,079
LAFAYETTE ST.	MAY ST.	LILLIAN ST	Overlay	0.29	374		\$2,273	\$25,008	\$1,259,087
MIDDLE ST.	COMMON ST.	BEACH ST.	Overlay	0.04	93		\$564	\$6,209	\$1,265,296
CLARK ST.	UNION	MAIN	Overlay	0.13	184		\$1,121	\$12,331	\$1,277,627
NYE ST.	NORTH ST.	CENTRAL ST	reclaim	0.26	528	\$5,491	\$3,210	\$40,804	\$1,318,431
CANTARA AVE.	BRADLEY ST.	NYE ST.	Overlay	0.17	164		\$1,000	\$10,995	\$1,329,426
LINCOLN ST B	MARKET ST	BOOM RD	Overlay	0.70	1082		\$6,585	\$72,436	\$1,401,862
LINCOLN ST A	ELM ST.	MARKET ST.	Overlay	0.52	1005		\$6,115	\$67,262	\$1,469,125
MAIN AVE	CAMP ELLIS AVE	NORTH AVE	Overlay	0.17	230		\$1,399	\$15,393	\$1,484,517
OLD ORCHARD RD.	BEACH ST	TIMBER OAKS LN	reclaim	0.86	2327	\$24,218	\$14,158	\$179,956	\$1,664,473
MECHANIC ST.	SPRING ST.	SCAMMON ST.	Overlay	0.17	307		\$1,866	\$20,524	\$1,684,997
PEABODY LANE	ELMWOOD DR.	END	Overlay	0.09	139		\$847	\$9,313	\$1,694,310
SUMMER ST.	MAIN ST.	WINTER ST.	Overlay	0.27	383		\$2,328	\$25,611	\$1,719,921
ELMWOOD DR.	FERRY RD.	END	Overlay	0.36	557		\$3,387	\$37,253	\$1,757,174
PARK RD.	VIRGINIA AVE.	END	Overlay	0.21	216		\$1,317	\$14,487	\$1,771,661
STOCKMAN AVE. EXT.	MABEL AVE.	END	Overlay	0.07	108		\$659	\$7,244	\$1,778,905
TIMBER OAKS LN.	OLD ORCHARD RD.	END	Overlay	0.13	201		\$1,223	\$13,452	\$1,792,357
RICKER RD B	HOUSE #66	FLAG POND RD	reclaim	0.63	1420	\$14,784	\$8,643	\$109,857	\$1,902,214
FOSS RD.	RTE 112/BUXTON RD.	END	reclaim	0.04	90	\$939	\$549	\$6,975	\$1,909,189
LEBANON RD.	LINCOLN RD.	END	Overlay	0.05	42		\$255	\$2,803	\$1,911,992
ANDERSON LN.	FLAGPOND RD.	END	Overlay	0.04	36		\$220	\$2,415	\$1,914,406
BOOM RD C	HIGH POINT DR	SMUTTY LN	Overlay	0.60	773		\$4,704	\$51,740	\$1,966,147
BOOM RD	OVERPASS	SKYLINE DRIVE	Overlay	0.55	709		\$4,312	\$47,429	\$2,013,575
McKENNEY RD	GRANT RD	MAST HILL RD	Overlay	0.99	1403		\$8,537	\$93,908	\$2,107,484
SMUTTY LN B	RT 5	BOOM RD	Overlay	1.35	1739		\$10,583	\$116,415	\$2,223,899
FERRY RD	SEASIDE	BAYVIEW RD	Overlay	1.13	1747		\$10,630	\$116,933	\$2,340,832
FERRY RD D	ELMWOOD DR	OLD ORCHARD RD	Overlay	0.48	804		\$4,892	\$53,810	\$2,394,642
FOX HILL LANE	WILDWOOD DR.	END	Overlay	0.07	126		\$768	\$8,451	\$2,403,093
OCEANVIEW CIR.	BAYVIEW TERRACE	END	Overlay	0.05	74		\$451	\$4,958	\$2,408,051
FERRY LANE	FERRY RD.	END	Overlay	0.19	220		\$1,341	\$14,746	\$2,422,797
FERRY RD B	BAYVIEW RD	GLENHAVEN CR	reclaim	0.83	2433	\$25,321	\$14,803	\$188,151	\$2,610,948
FERRY RD C	GLENHAVEN	ELMWOOD DR	Overlay	0.63	893		\$5,433	\$59,760	\$2,670,708
BAYVIEW TERRACE	BAYVIEW RD.	END	Overlay	0.21	311		\$1,893	\$20,825	\$2,691,534
MARSHWOODS CIR.	BAYVIEW TERRACE	END	Overlay	0.05	77		\$470	\$5,174	\$2,696,708

Miles of Road: 20.01

## D. Tax Anticipation Note

A tax anticipation note is a short-term borrowing tool utilized to meet current obligations by “bringing forward” tax revenues expected later in the fiscal year. Due to the increasing delay in repayment of federal and state funding, the slowing tax collection rates, as well as the anticipated delay in banks turning over escrowed funds, we need to be prepared for a cash flow shortage prior to the fiscal 2010 tax due date of September 11, 2009. The note is drafted on a tax exempt basis and will be drawn down as a lump sum as needed. If no shortfall arises, then no funds will need to be drawn. We do, however, need to be prepared in the case of delayed revenues as we have continuing expenditure obligations to meet in the near term. One such example is the RSU payment of \$1.4m due on July 20<sup>th</sup> and August 20<sup>th</sup> for taxes being collected on their behalf on September 11, 2009.

Councilor Lovell moved, Councilor Morton seconded, that it be ordered that the City Council approve the ‘**ORDER AUTHORIZING CITY OF SACO TO ISSUE TAX ANTICIPATION NOTE FOR 2009-2010 FISCAL YEAR**’. Further move to approve the Order. The motion passed with six (6) yeas and one (1) nay. Councilor Tardif voted in the negative.

### **ORDER AUTHORIZING CITY OF SACO TO ISSUE TAX ANTICIPATION NOTE FOR 2009-2010 FISCAL YEAR**

- 1) That under and pursuant to 30-A M.R.S.A. §5771 and Section 6.14 of the Charter of the City of Saco, the City borrow in anticipation of the receipt of taxes the sum of not more than \$2,000,000.00 from TD Bank, N.A., at an interest rate of not more than 1.79% per annum, which sum shall be available to be drawn down on a “lump-sum” basis;
- 2) That the loan be evidenced by a general obligation note issued in the name of the City, payable within the current fiscal year out of receipts from taxes levied for the current fiscal year (the “Note”);
- 3) That the offer of TD Bank, N.A., to purchase the Note, be approved, and that the sale of the Note be awarded to TD Bank, N.A.;
- 4) That to the extent not inconsistent with this Order, the Treasurer be authorized to select the issue date, maturity, denomination, interest rate, place of payment, form and other details of the Note, as the Treasurer determines to be in the interest of the City;
- 5) That the Note may be made redeemable or callable, with or without premium, prior to its maturity;
- 6) That the Note 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;
- 7) That the Treasurer be authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the Note shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause the Note to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended;
- 8) That the Treasurer be 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 Note, to take all other lawful actions necessary to insure that interest on the Note 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 Note to become includable in the gross income of the owners thereof;

- 9) That the Treasurer be authorized to designate the Note as a qualified tax exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986;
- 10) That the Treasurer be 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;
- 11) That the Treasurer and other proper officials of the City be 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 Note in accordance herewith and any such prior action by them be hereby ratified and confirmed;
- 12) That if the Treasurer, Mayor, Clerk or any other City officer or official is for any reason unavailable to approve, execute or attest the Note or any related financing documents, the person or persons acting in any such capacity, whether as an assistant, a deputy, or otherwise, be authorized to act for such official with the same force and effect as if such official had herself/himself performed such act; and
- 13) That a copy of this Order be filed with the City Clerk.



Government Banking Division  
Two Portland Square  
P.O. Box 9540  
Portland, ME 04112-9540  
Toll Free: 800 532-6654  
TDBanknorth.com

July 17, 2009

Beth A. Cote  
Finance Director  
City of Saco  
300 Main Street  
Saco, ME 04072

Re: \$2,000,000 Tax Anticipation Note

Dear Ms. Cote:

Thank you for the opportunity to respond to your request for Tax Anticipation Note in the amount of \$2,000,000. TD Bank, N.A. (the "Bank"), is pleased to offer the Tax Anticipation Note subject to the following conditions:

1. ISSUES DATE: The Note will be issued on or about August 10, 2009.
2. MATURITY DATE: All principal and interest on the note will be repaid on or before September 11, 2009.
3. INTEREST RATE:  
  
The rate of interest on a Bank Qualified "Lump Sum" basis will be **1.79%** based of a 30/360 day year.  
The rate of interest on a Bank Qualified "As Needed" basis will be **2.29%** based of a 30/360 day year.
4. DENOMINATION: There will be one Note issued in the denomination of \$2,000,000.00.
5. PREPAYMENT PROVISION: The Note may be prepaid at any time without penalty.
6. LEGAL OPINION: This bid is subject to a legal opinion from bond counsel acceptable to the Bank, the cost of which will be borne by the City. The opinion must include a statement that the Note represents a valid and binding general obligation of the issuer.



TD Banknorth is a trade name of TD Bank, N.A.

650-500819981

### E. Thornton Academy TV Grant Agreement

The agreement between Thornton Academy TV (TATV) and the city for financial support of the TATV program and airing of city meetings was first approved by the City Council on September 4, 2007. The original agreement expired in August 2008; however, the practice of live broadcasting and rebroadcasting has continued to date.

The new TATV Committee met on two separate dates and developed a proposed TATV Agreement. The Information Technology Director was at the second meeting, whereby the Regional School Unit (RSU) technical requirements and revised needs were discussed and language was subsequently added to the agreement to account for this activity as the impacts and solutions to related issues were developed.

Councilor Tardif moved, Councilor Morton seconded that it be Ordered that the City Council approve the document titled, ‘**Agreement of Services between City of Saco, Thornton Academy and TATV August 3, 2009**’, and further authorize the City Administrator to execute said agreement. Further move to approve the Order. The motion passed with seven (7) yeas.

***Agreement of Services between City of Saco, Thornton Academy and TATV  
August 3, 2009***

The following agreement is between Thornton Academy (TA), Thornton Academy Television (TATV), and the City of Saco, regarding certain broadcasting services.

**Whereas**, the City will contribute a one-time payment of \$12,500.00 to TATV, for the purposes of ongoing support and growth of the TATV program; and

**Whereas**, the Parties are desirous of seeing TATV expand its operations in the future, and

**Whereas**, the City has an ongoing need for LIVE airing and subsequent re-broadcasting of certain City business, and has an interest in exploring other avenues for distribution of broadcasts to the public via various media formats;

NOW THEREFORE, the Parties agree as follows:

- I. **Payment:** The City shall pay TATV the sum of \$12,500.00 within 7 days of the full execution of this Agreement.
- II. **Terms:** During the term of this Agreement, the following Conditions/Schedule shall be met by the Parties as applicable:
  - a. Two (2) Council Meetings a month – These meetings would be held the first and third Monday of every month at 7:00 PM; however, due to a Monday Holiday or when City Hall is closed on a Monday in observance of a holiday, the regularly scheduled Council Meeting typically is moved to the Tuesday immediately after; and
  - b. One (1) RSU Board Meeting month – These meetings would be the second Tuesday of every month at 7:00 PM.



- c. Due to unforeseen events, these meetings and/or additional Council or RSU meetings could be scheduled for an alternate evening, which meetings also should be aired live and taped for later airing.
- d. All the Council meetings are to be held in the Saco City Hall Auditorium. The RSU meetings will alternate between being held in the Saco City Hall Auditorium and in the Old Orchard Beach facilities. Airing and recording of all the Council and *RSU meetings at City Hall* will be done from Saco City Hall. *Airing of RSU meetings held at Old Orchard Beach will necessitate TATV to shut down its broadcast so the meeting can be shown live; the RSU will be responsible for the camera work and recording of these meetings.*
- e. It would be the City's responsibility to notify the TATV contact person of the specific meeting information for Council meetings; it would be the RSU's responsibility to notify the City and TATV contact person of the specific meeting information for RSU meetings. Sufficient notice will be needed from the City and the RSU in order for TATV to arrange for coverage by its staff of alternately scheduled meetings *at City Hall, or to arrange to shut down the TATV broadcast for RSU meetings held at Old Orchard Beach.*
- f. It will be the City's responsibility to train TATV representatives in the workings of the equipment being used at City Hall for airing and recording the meetings. After the meetings have been aired and taped, the created media (DVD) will be taken to TATV facilities and set into their programming for playback at the specified times. *The RSU will be responsible for getting recorded media to TATV by the Wednesday following a meeting in Old Orchard Beach in order to allow time for TATV to program rebroadcasts.*

**III. Schedule:** The playback time frames are as follows:

- a. Monday 7:00 PM (1<sup>st</sup> and 3<sup>rd</sup> Monday) will be the live meetings being aired for the City Council Meeting.
- b. Tuesday 7:00 PM (2<sup>nd</sup> Tuesday) will be the live meeting being aired for the RSU meeting.
- c. During the week that corresponds with the live Council meeting and during the next week after, that meeting should be replayed three (3) times during each week. In order to keep the programming more current, TATV will not rebroadcast any meeting over two weeks old.
- d. The Council meeting replay times should be Wednesday Evening at 7:00PM, Saturday Morning at 10:00 AM and Sunday Evening at 7:00PM.
- e. During the week that corresponds with the live RSU meeting and during the next week after that, that meeting should be replayed three (3) times during each week. In order to keep the programming more current, TATV will not rebroadcast any meeting over two weeks old.
- f. The RSU Meeting replay times should be Thursday Evening at 7:00PM, Saturday Morning at 11:00 AM, and Sunday Evening at 6:00PM.
- g. TATV has the right to adjust program times due to special events that need to be aired at the same times.

**IV. Staffing:**

- a. After June 16<sup>th</sup> and until TATV is back in session in September, the City's Information Technology Director will provide staff for the camera work.

- b. The replacement could be one of the Technology Department’s staff or other personnel adequately trained to operate the equipment.
- c. During the School year, it will be the responsibility of TATV to provide staffing. If TATV does not staff the cameras for a meeting, the media (DVD) will be left for the City Technology Staff and procedure will be developed to get the recorded DVD to TATV representatives to be added to the programming. Procedures also will be developed to ensure: (a) that TATV contacts the City IT Director if TATV will not be able to staff a meeting; (b) to develop a process for continued coverage if the TATV person must leave prior to the end of a meeting.

**V. Community Sporting Events:**

- a. The community has expressed an interest in seeing sporting events on TATV.
- b. The City realizes that there are possible staffing issues for these live events or gathering the footage for re-broadcast. In an attempt to get equal time for multiple sports, TATV will attempt to air during each session at least one game per sports team as part of the programming within the NEXUS system. In order to build capacity of its volunteer staff, TATV will attempt to recruit adult volunteers for sports and other coverage.

The term of this Agreement will be one year from its date of execution, which date shall be the first date any Party below signs this document. The Parties may amend the term of this Agreement after the passage of six months should conditions warrant.

\_\_\_\_\_  
Richard Michaud, City Administrator

\_\_\_\_\_  
Dated

\_\_\_\_\_  
David Lawler, City IT Director

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Ray Lund, TATV Representative

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Lloyd Hunt, TA Representative

\_\_\_\_\_  
Dated

**VI. Executive Session –**

**Councilor Mills moved, Councilor Bastille seconded, that it be Ordered that the City Council, Pursuant to [1 M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (D)] move to enter into Executive Session for Land Acquisition. The motion passed with seven (7) yeas TIME: 7:47 p.m.**

Councilor Mills moved, Councilor Bastille seconded, to come out of executive session. The motion passed with seven (7) yeas.

Upon return from executive session Mayor Roland Michaud conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: Margaret

Mills, Leslie Smith Jr., Ronald E. Morton, Sandra Bastille, Arthur Tardif, Eric Cote and Marston Lovell. Also in attendance this evening was Mr. Peter Morelli, Acting City Administrator.

**a. Report from Executive Session**

There was no report from the executive session.

**VII. ADJOURNMENT**

Councilor Mills moved, Councilor Bastille seconded, to adjourn. The motion passed with seven (7) yeas. TIME: 9:00 p.m.

ATTEST: \_\_\_\_\_  
Lucette S. Pellerin, City Clerk