STATE OF MAINE                CITY OF SACO

COUNTY OF YORK

I. CALL TO ORDER - On Thursday, November 2, 2017 at 6:30 p.m. a Council Meeting was held in the City Hall Auditorium.

II. RECOGNITION OF MEMBERS PRESENT – Deputy Mayor David Precourt recognized the members of the Council and determined that the Councilors present constituted a quorum. Councilors present: Roger Gay, William Doyle, Kevin Roche, Alan Minthorn, Eric Cote, Nathan Johnston. City Administrator Kevin Sutherland was also present this evening. Mayor Roland Michaud was absent.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

V. PUBLIC COMMENT

VI. CONSENT AGENDA

Councilor Minthorn moved, Councilor Doyle seconded to approve Consent Agenda Item A, as follows:

A. Be it ordered that the City Council grant the Application for a License to Operate Games of Chance as submitted by the Fraternal Order of Eagles # 3792. Further moved to approve the Order.

The Motion passed with six (6) yeas.

VII. AGENDA

A. Department Presentation – Information Technology

This presentation was postponed for this evening.

B. Department Presentation – Economic Development

William Mann, Saco Economic Development Director gave an informative presentation on the Economic Development Department.

Note: This presentation is available on the City Website at www.sacomaine.org

C. (First Reading) Contract Zone: 15 Oceanside Drive

Applicants George and Nancy Driscoll propose to clarify through the contract zoning process that their property at 15 Oceanside Drive is regarded as two lots: one developed, and one eligible for a building permit. Two lots were established as part of the Kinney Shores subdivision in 1914, and were acquired by the Driscoll’s in 1980, but were combined as a result of a 1985 amendment to the Zoning Ordinance. Today the City regards and taxes the property as a single parcel.

This item was reviewed by the Planning Board during its Oct. 17th meeting. The Board arrived at a negative finding on the four standards found in Sec. 230-1405.F, and voted to forward a negative recommendation to the Council. The City Council discussed during Workshop on September 11, 2017.

Councilor Roche moved, Councilor Johnston seconded and: The City Council hereby ordains and approves the First Reading of the contract zone document entitled "Contract Zone Agreement By and Between J. George and Nancy S. Driscoll and the City of Saco" dated October 17, 2017; and further moves to schedule a Public Hearing for November 14, 2017.

Motion passed with six (6) yeas.
Contract Zone Agreement By and Between  
J. George and Nancy S. Driscoll and the City of Saco 

October 17, 2017 

THE CITY OF SACO HEREBY ORDAINS: 

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through July 17, 2017 is hereby amended by adopting this contract by and between J. George and Nancy S. Driscoll (Applicants) and the City of Saco. 

1. The Applicants seek a single family residential building permit to be issued for a portion of the parcel they own at 15 Oceanside Drive (Subject Property). 

2. Said parcel is improved with a single family dwelling, a permitted use. 

3. Said property is identified as Tax Map 11, Lot 116 on City of Saco tax maps. The current lot (Map 11, Lot 116) was transferred to the Applicants as two separate parcels in 1980, was formerly taxed by the City as two separate parcels, but were merged into a single parcel when Saco adopted its Zoning Ordinance in 1985. 

4. Said merger of the two separate parcels was subject to Section 502-1(2) of the Zoning Ordinance, which reads as follows: “If two or more vacant, contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this Ordinance, if these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendment, the lots shall be combined to the extent necessary to meet the dimensional standards, except where the contiguous lots front onto different streets or where the lots were legally created and recorded as part of an approved subdivision after March 22, 1972, the date of adoption of Saco’s subdivision standards.” 

5. Said property is in the R-1c and Shoreland Overlay zoning districts. 

6. The Applicants contend that the Subject Property is actually two parcels, and have submitted a surveyed plan to that effect dated November 1, 2005. 

7. The Applicants submitted an application for a building permit to the Code Enforcement Office on August 27, 2009 for the construction of a single family dwelling. 


9. An Administrative Appeal and Variance application was submitted to the City on August 18, 2009.
10. A hearing was held on Sept. 14, 2009 by the Zoning Board of Appeals; review was tabled due to missing factual information.

11. The ZBA meeting continued on Oct. 26, 2009, with updated copies of Section 7.1, Shoreland Zoning of the Zoning Ordinance, and with copies of the pending variance notice sent to the Maine Department of Environmental Protection on Sept. 16, 2009 via certified mail.

12. The ZBA voted unanimously to deny the administrative appeal of the Building Inspector's decision based on the merger of the vacant lot with the developed lot pursuant to the Board's understanding of Section 501-1(2) of the Zoning Ordinance.

13. The ZBA continued the meeting on Nov. 30, 2009 to consider the Applicants' request for space and bulk variances, and voted unanimously to deny said requests.


15. The Applicants subsequently appealed the Superior Court decision to the Maine Supreme Judicial Court, which issued a denial of the appeal on Sept. 22, 2011, concluding the two lots had merged.

16. The Applicants have continued to weigh options that may allow them to legally establish the Subject Property as two separate, buildable lots. In so doing, they cite Article 14 of the Zoning Ordinance, which addresses contract zoning.

17. Recognizing the limitations of the Subject Property, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the Subject Property to be legislatively established as two separate, conforming lots.

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

This Contract Zone, specifically and exclusively for the parcel at 15 Oceanside Drive, would allow the Applicants or their designees, upon making application to the City of Saco Code Enforcement Office, a single family residential building permit for "Lot 202" as shown on a "Plan of Land of M.H. Kinney, Saco, Maine Called "Kinney Shores," recorded at the York County Registry of Deeds on April 24, 1919, filed in Plan Book 4, Page 64, or as previously identified by the City of Saco as Tax Map 11, Lot 116-1, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

a. The parcel identified by the City of Saco Assessor's Office as Tax Map 11, Lot 116 is hereby reconfigured into two separate parcels, henceforth to be labeled as Tax Map 11, Lot 116 and Tax Map 11, Lot 116-1.
b. The parcel identified as Tax Map 11, Lot 116 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,293 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.

c. The parcel identified as Tax Map 11, Lot 116-1 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,450 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.

d. Minimum Lot and Yard Requirements set forth in Table 412-1 of the Zoning Ordinance shall be modified for the Subject Property as follows:

For Tax Map 11, lot 116:

1. A reduction in the minimum lot size requirement from 7,500 square feet to 5,293 square feet.
2. A reduction in the minimum lot area per dwelling unit from 7,500 square feet to 5,293 square feet.
3. A reduction in the minimum street frontage requirement from 75 feet to 50 feet.
4. A reduction in the minimum shore frontage requirement from 100 feet to 50 feet.
5. A reduction in the minimum width requirement from 100 feet to 50 feet.
6. A reduction in the minimum width of the side yard setback requirement on the north side from fifteen feet to one foot.
7. An increase in the maximum lot coverage requirement from 20% to 54%.

For Tax Map 11, lot 116-1:

1. A reduction in the minimum lot size requirement from 40,000 square feet to 5,293 square feet.
2. A reduction in the minimum lot area per dwelling unit from 20,000 square feet to 5,293 square feet.
3. A reduction in the minimum street frontage requirement from 75 feet to 50.10 feet.
4. A reduction in the minimum shore frontage requirements from 100 feet to 50 feet.
5. A reduction in the minimum width requirements from 100 feet to 50 feet.

e. The Applicants shall adhere to all other applicable provisions of the R-1c and Shoreland Overlay zoning districts and of the City of Saco Zoning Ordinance.

f. 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.
g. 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.

h. Upon approval of this contract by the City Council, the Applicants shall submit an application 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.

j. Failure of the Applicants, or buyers of a second lot that is created by virtue of this Agreement, to seek a single family dwelling building permit as described in application materials for this Contract Zone within two (2) years from the date of approval shall render this approval and Contract null and void. This two year deadline may be extended by one year upon written request to the City Council.

k. 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 October 17, 2017, and the Saco City Council on _____ 2017, the following findings are hereby adopted:

A. City Tax Map 11, Lot 116 is a parcel of an unusual nature and location, for the following reasons:

1. The parcel is one of 131 in Saco with beach frontage.

2. A portion of the parcel (the former Lot 202) has been previously prepared in anticipation of building a residence with the installation of a 50 foot seawall and plantings of sea grass, as well as a second sewer service to the property.

3. The parcel dates to 1919, identified as Lots 201 and 202 on a “Plan of Land for M.H. Kinney, Saco, ME called Kinney Shores” and existed for several decades as two separate lots.
B. The proposed rezoning is consistent with the Saco 2011 Comprehensive Plan, based on the following goals:

Chapter 3, Section D. Marine Resources --
Saco’s coastline, in the face of mounting development pressure in southern Maine, has managed to stay relatively undeveloped. Marine industries still have a foothold in Saco. To help maintain that foothold, commercial development should generally be limited to marine and tourism related uses at Camp Ellis. Development on the bulk of the beach area should be limited to primarily small-scale residential uses.

Chapter 5, Section A. Population and Demographics
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.

Chapter 6. Land Use Goals and Policies
Limited growth areas are the parts of the community where the City desires a limited amount of growth and development over the next ten years (see Figure 6.1). Limited growth areas include two types of environments:

   *Established Residential Neighborhoods* -- areas that are essentially fully developed and therefore have limited development potential where the City’s objective is to maintain the current land use pattern while allowing limited infill or redevelopment that is in character with the neighborhood…

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zones are, a) the Residential-1c (R-1c) zone, a low density residential 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.” (Zoning Ordinance, Section 405-1.) Among the permitted and conditional uses allowed in the R-1c zone are single and two-family dwellings, churches, daycare centers, elderly congregate housing and bed and breakfast establishments. And, b) the Shoreland Overlay zone, which “…is intended to assure that activities that occur within close proximity of the waterbodies subject to state mandated shoreland zoning are carried out in a manner that protects water quality, promotes wildlife movement, and preserves the scenic quality of these shorelands.”

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 _______ 2017.

by ___________________________  by ___________________________

Kevin L. Sutherland  J. George Driscoll
City Administrator  Applicant

by ___________________________

Nancy S. Driscoll  Applicant

Applicant
Sequence of Conveyances, 15 Oceanside Drive

Oct. 4, 1980 – Lots 201 and 202 per the “Plan of Land of M.H. Kinney, Saco Maine called Kinney Shores” dated April 1914 are conveyed by Leandre R. Charest to George Driscoll and Nancy Driscoll, per warranty deed, Book 2708 Page 314.

Oct. 4, 1980 – Lot 202 is conveyed by George Driscoll to Nancy Driscoll, per quitclaim deed, Book 3778 Page 314.

June 18, 1981 – Lots 201 and 202 are conveyed by George and Nancy Driscoll to Celeste Murray, per warranty deed, Book 2811 Page 262-263.

June 18, 1981 – Lots 201 and 202 are conveyed by Celeste Murray to George and Nancy Driscoll, per warranty deed, Book 2811 Pages 264-265.

1985 – The following language was included in a significant update of the Zoning Ordinance: “§230-502-2. If two or more vacant, contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this chapter, if these lots do not individually meet the dimensional requirements of this chapter or subsequent amendment, the lots shall be combined to the extent necessary to meet the dimensional standards, except where the contiguous lots front onto different streets or where the lots were legally created and recorded as part of an approved subdivision after March 22, 1972, the date of adoption of Saco’s subdivision standards.”

Feb. 28, 1986 – Lot 201 conveyed by Nancy Driscoll to George Driscoll, per quitclaim deed, Book 3778 Pages 312-313.
15 Oceanside Drive Sewer Connections

22.3' (9 o'clock)

95.9' (9 o'clock)

155.3' (3 o'clock)

268.0' (3 o'clock)

269.4' (3 o'clock)

Tee-wye @ 23' from house cleanout
(Per Girard Plumbing Report)

56' from house cleanout
(Per Girard Plumbing Report)

271.9' (9 o'clock)
Pipe Graphic Report of PLR

SSN0078

AGENDA ITEM: C
Date: October 30, 2017
EXHIBIT ITEM: 4

PipeLogix Inc.
Phone: 866-299-3150
Fax: 760-406-6023
AGENDA ITEM: C
Date: October 16, 2017
EXHIBIT ITEM 8652

GIRARD PLUMBING & HEATING, INC.
4 Girard Avenue
OLD ORCHARD BEACH, MAINE 04064
(207) 934-5638

BILL TO
Name: George O'Mara
15 December Drive
Saco, ME 04072

ANNUAL
WATER

O R T H N A R T N O T I C E

IMPROVEMENTS PERFORMED
1. Ran main from inside chest. Snapped 14" at 234r cut. Marked with paint outside.
2. Checked to see if we could run main in sewer to locate stub. Found
3. Continued running out. At every natural sewer, found stub at 90r. Located outside
in front of next lot (as noted)

Paid chk #9001

Due Upon Receipt. After 30 Days All Unpaid Balances Will Be Subject To 1% Interest Charges Per Month.

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Signature: [Signature] 10/12/2017 276
D. (Public Hearing) Credit Enhancement / Economic Development Incentive related to the sale of Lot #6 in the Mill Brook Business Park to: FFC Realty Group, LLC.

The Sale off Lot #6 (22 Mill Brook Road) is scheduled to close on October 31, 2017 to FFC Realty Group, LLC for $180,000.00. FFC Realty is a realty holding entity set up to acquire this property by the owners of the related operating entity, Pond Cove Millwork, Inc. FFC Realty has been approved to build a 28,000 sq. ft. manufacturing facility and business headquarters for Pond Cove Millwork on the lot. The project cost has been disclosed as $2,032,666.15. Pond Cove will have an initial workforce of 41 employees with the expectation that the workforce will grow to 50+ in the next year or two, subject to the company’s ability to find qualified employees.

A Credit Enhancement Agreement (CEA) returning 50% of the incremental tax revenue to FFC Realty was unanimously approved by the City Council on June 5, 2017. What is now before Council is a proposal for a minor modification to the CEA: Increase the percentage of incremental tax revenue returned to FFC Realty, from 50% to 52% and decrease the term from “up to 30 years” to 25 years. The Credit Enhancement will be capped at 25% of the final project development cost of $508,166.54. All other changes that will be made to the proposed CEA will be of form on the advice of the City’s Legal Counsel and/or as requested by the Maine Department of Economic and Community Development to meet with their approval requirements. At their October 11, 2017 meeting the City’s economic Development Commission unanimously recommended the City Council approve a CEA paying 52% of incremental tax revenue to the Buyer for up to 25 years.

Councilor Doyle Moved, Councilor Minthorn Seconded to open the public hearing on the authorization of an enhancement agreement with FFC Realty, LLC and Pond Cove Millwork, LLC”

Motion passed with six (6) yeas.

There were no comments from the public.

Councilor Johnston asked Economic Development Director Bill Mann about the 48% of the City’s taxes being returned to the City, and whether this money would be going into the general fund or would it be locked into the TIF district. Mr. Mann replied that all of the tax revenue from all of the lots in that district go into a special omnibus revenue fund for that TIF district. Each year a budget will be created, as of now only one lot has been sold, the majority of the revenue is going back to that client, so there is a relatively small amount currently in there. But as that account grows as lots are sold, each year a budget will be created for what is going to be expended. Mr. Mann said that he is looking to return before the Council on November 20th to ask to amend that to allow for portability of whatever funds might be in there, and he will also be asking to adjust the original assessed values which were not correct when this was originally done.

Councilor Johnston also asked about the new requirements that have been set forth throughout all of the TIF’s, and how are they going to be tracked. He said that in the past, The City has not done a good job in tracking such things as employment requirements. Will there be a new annual form that will be submitted? Mr. Mann said that The City would be looking at the employment forms that are submitted to the Department of Labor: The City begins measuring the number of those employees who have been with the employer more than one year, and as is shown in the Credit Enhancement, the levels of payment can go down if the company loses employees, and if the number of employees increases during the following year, the share can go back up.

Councilor Johnston asked if the company went out of business, would this be transferrable to another owner of that property, or would that issue have to come back for Council approval. Mr. Mann replied that credit enhancement would have to be approved and assigned by the Council.
Councilor Roche asked in regard to the requirements, that they reference the end of the next calendar year. Was this the same language for Saco River Die? Mr. Mann replied that it is the end of the first calendar year following their occupancy. Councilor Roche said that he didn’t remember seeing that language, but if that is the case, then next year, near December 31, Saco River Die needs to come back before the Council and talk about where they stand in regard to their jobs, and their update. Mr. Mann responded that it would actually be the company that owns the property that the City has the credit enhancement with. They have two companies that are tenants, and the owners are required to get that, and the companies have signed onto that, but both of the companies are included in that calculation of employment levels. Councilor Roche said that it needed to be clear that the City would be expecting updates on those numbers.

Councilor Roche then asked Mr. Mann about a statement that was made during the Economic Development Director’s departmental presentation earlier in the evening, to clarify for the company that was currently present, which has a great reputation, that politics are getting in the way of economic development. Mr. Mann replied that with all due respect, his intent, with the slide that he used, was to say that if everyone works together, the City can move forward together positively. Councilor Roche asked if this was not happening currently. Mr. Mann replied that he did not say that. Councilor Roche then said that Mr. Mann was not a politician, that the City Councilors are the politicians and that they make the votes and they provide goals and the City department heads and employees work to enact those goals. Councilor Roche asked how, then, are we divergent? Mr. Mann replied that respectfully, for the third time, he did not say that. Councilor Roche said that the slide could be looked at and could be read again.

Deputy Mayor Precourt then said that the workforce and training had been mentioned. He asked if this company would be interested in taking on an internship for training. The two representatives of the company indicated that they would. Deputy Mayor Precourt said that he knew this is a problem with all of the workforce currently, and he said it was important for the companies to step up to the training process, knowing that sometimes those employees leave after they are trained. Mr. Mann said that the current Public Works Director, Pat Fox, had his first job with Pond Cove Millworks.

Councilor Doyle Moved, Councilor Minthorn Seconded, to close the public hearing and be it ordered that the City Council authorize the City Administrator to enter into a Credit Enhancement Agreement (CEA) with FFC REALTY GROUP, LLC and Pond Cove Millwork, Inc. along the terms set forth in the attached Draft Credit Enhancement Agreement including the payment of 52% of incremental tax revenue to FFC REALTY GROUP, LLC and Pond Cove Millwork, Inc. for up to 25 years. Motion passed with six (6) yeas.
CREDIT ENHANCEMENT AGREEMENT

This Credit Enhancement Agreement dated as of October 31, 2017, between the City of Saco, Maine (the "City"), a municipal body corporate and politic and a political subdivision of the State of Maine, and FFC Realty Group, LLC, a Maine limited liability company (the "Company").

WITNESSETH THAT

WHEREAS, the City designated the Maine Molecular Quality Controls Omnibus Municipal Tax Increment Financing District (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote at a City Council meeting held on January 5, 2015 and pursuant to the same City Council meeting action adopted a development program and financial plan for the District (the “Development Program”), and

WHEREAS, the Maine Department of Economic and Community Development has reviewed and approved the District and the Development Program pursuant to a letter dated March 20, 2015, and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the City and the Company, subject to a public hearing of the City Council, and

WHEREAS, the City Council held such public hearing on October 30, 2017 and approved the execution and delivery of a credit enhancement agreement as described in the Development Program, and the City and the Company desire and intend that this Credit Enhancement Agreement be and constitute the Credit Enhancement Agreement contemplated by and described in the Development Program;

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

ARTICLE I: DEFINITIONS; INTERPRETATIONS

Section 1.1. Definitions. The terms defined in this Article 1 shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Agreement" shall mean this Credit Enhancement Agreement between the City and the Company.

"Calculation Date" shall mean the later of (a) April 1, or (b) 45 days after the last Tax Payment Date, of each year during the term of this Agreement.

"Capital Program" shall mean the proposed development in the District by the Company as described in the Development Program.

"City" means the City of Saco, Maine.

"Company" means FFC Realty Group, LLC, a Maine limited liability company. For purposes of this Credit Enhancement Agreement, references to Company shall also include Pond Cove Millwork, Inc. as set forth in Section 8.11 of this Agreement.

"Company’s Project Cost Account" means the Company Project Cost TIF Account described in the Development Program, which is the Company’s Project Cost Account established and maintained pursuant to Article II hereof.
"Current Assessed Value" shall mean the assessed value of the real property in the District, as certified by the municipal assessors as of April 1st of each year of the term of this Agreement.

"Development Program" means the Maine Molecular Quality Controls Omnibus Municipal Tax Increment Financing District Development Program, which is the development program for the District, as adopted by the City of Saco at a City Council meeting held on January 5, 2015.

"Development Program Fund" means the development program fund described in the Financial Plan section of the Development Program and in Section 2.1 of this Agreement.

"District" means the City of Saco, Maine Molecular Quality Controls Omnibus Municipal Tax Increment Financing District approved by the City on January 5, 2015 pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

"Financial Plan" means the financial plan described in the "Financial Plan" section of the Development Program.

"Fiscal Year" means July 1 to June 30 of each year or such other fiscal year as the City may from time to time establish, for purposes of this Agreement, the first Fiscal Year or Fiscal Year 1 means the Fiscal Year commencing July 1, 2018 and ending June 30, 2019.

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

"Original Assessed Value" means initially $208,500, as of the date of this Agreement pursuant to 30-A M.R.S.A. §5222 (13), as the same may be adjusted from time to time in accordance with Section 3.7 hereof.

"Project" means the Development Program within the District as described in the Development Program.

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

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

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

"Tax Increment" means the Property Taxes assessed by the City and paid to the City within the meaning of Section 3.1 of this Agreement, in excess of any state, county or special district tax, upon the Increased Assessed Value of the real property in the District, and any payments received by the City pursuant to Section 3.5(d) hereof.

"Tax Increment (City’s Share)" means that portion of the Tax Increment, for each year during the term of this Agreement, with respect to real property in the District, which is to be deposited by the City in the City Project Cost Account, to the extent provided in Article III of this Agreement.
"Tax Increment (Company’s Share)" means that portion of the Tax Increment, for each year during the term of this Agreement, with respect to real property in the District, which is to be deposited by the City in the Company’s Project Cost Account, to the extent provided in Article III of this Agreement.

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

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

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

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

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

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

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

ARTICLE II: COMPANY’S PROJECT COST ACCOUNT AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund. The City hereby confirms the creation and establishment of a segregated fund in the name of the City designated as the Maine Molecular Quality Controls Omnibus Municipal Tax Increment Financing District Program Fund (the "Development Program Fund") pursuant to, and in accordance with the terms and conditions of, the Development Program. The Development Program Fund shall consist, as described in the Development Program, of a Project Cost Account. The Development Program Fund Project Cost Account shall consist of a subaccount or fund consisting of the Company’s Project Cost Account. All of the Tax Increment other than the Tax Increment (Company Share) shall be deposited in the general fund of the City and shall be the sole and exclusive property of the City and shall not be subject in any way to the terms or provisions of this Agreement.

Section 2.2. Liens. The City shall not create, except as otherwise provided in this Agreement, any liens, security interests or encumbrances of any nature whatsoever with respect to the Company’s Project Cost Account, other than the interest of the Company granted under this Agreement in and to the amounts on deposit in the Company’s Project Cost Account, provided, however, nothing herein shall prohibit creation of real and personal property tax liens on the Company’s property in accordance with, and entitled to the priority provided under, Maine law and any trustee process, attachment and judgment liens and other liens obtained in accordance with applicable law.
Section 2.3. Deposit into Project Cost Account. During the term of this Agreement, the City shall deposit into the Company’s Project Cost Account, within 30 days after each Calculation Date an amount equal to that portion of each payment of Property Tax actually received by the City, as determined under Section 3.1(b) hereof, since the last Calculation Date, thereof constituting the Tax Increment (Company’s Share) for the period to which the payment relates. All interest and earnings on amounts in the Company’s Project Cost Account shall be the sole property of the City and shall transferred to the General Fund of the City free and clear of any interest of the Company under this Agreement.

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

Section 2.5. Investments. Monies in the Company’s Project Cost Account may be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts so invested are needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to direct the sale or conversion to cash of investments made with monies in the Company’s Project Cost Account.

ARTICLE III: PAYMENT OBLIGATIONS

Section 3.1. Credit Enhancement Payments.

(a) The term of this Agreement shall commence on the date of the first Fiscal Year and shall end on the earlier of (i) June 30, 2045, or (ii) any earlier expiration or termination of this Agreement in accordance with the terms of this Agreement. Commencing with the first Fiscal Year and continuing until the expiration or termination of this Agreement, the City agrees to pay to the Company within 45 days following each Calculation Date, payments equal to the Tax Increment (Company’s Share) actually received by the City as of the most recent Calculation Date, subject to the limitations set forth in this Agreement, for each such Fiscal Year of the City during the term of this Agreement, provided that such payments by the City shall not be due and payable unless the Company, on or before the date on which such payment is due from the City to the Company or simultaneously therewith, has paid to the City the amounts due under Section 3.1(b) and under Section 3.8 of this Agreement. The Tax Increment (Company’s Share) for each year of the term of this Agreement shall be calculated as follows: First, the amount of the Tax Increment shall be determined by subtracting the real Property Tax for such year on the Original Assessed Value from the total real Property Tax for such year on the Current Assessed Value for such year; Second, a percentage based on the Company’s number of employees shall be multiplied by the Tax Increment for the Fiscal Year, and the product thereof shall constitute the Tax Increment (Company’s Share) for such year. The percentage of the Tax Increment due to the Company shall be determined by the number of full time employees of the Company, subject to verification by payroll records or a certification of the City in a form acceptable to the City, at the end of the first full calendar year in which Company operates a business in the District and annually thereafter as follows:

i. If the Company employs 36 or more full time employees, the Tax Increment (Company’s Share) shall be 52% for that year.

ii. If the Company employs 30 - 36 full time employees, the Tax Increment (Company’s Share) shall be 40% for that year.

iii. If the Company employs 25 - 30 full time employees, the Tax Increment (Company’s Share) shall be 30% for that year.
iv. If the Company employs 20 – 25 full time employees, the Tax Increment (Company’s Share) shall be 20% for that year.

v. If the Company employs less than 20 full time employees, the Tax Increment (Company’s Share) shall be 0% for that year.

Notwithstanding the foregoing and notwithstanding any other provision of this Agreement, the amount of the Tax Increment (Company’s Share) to be paid to the Company to pay a portion of the costs of the Project will be equal to, and shall not exceed in any event, the lesser of 25% of the total cost of the Project or $508,166.54. The City will allocate the foregoing percentages of the Tax Increment in any fiscal year from the increased Assessed Value of real property in the District for the lesser of 25 years, beginning with Fiscal Year 1, or the time in which the total payments of the Tax Increment (Company’s Share) to the Company equals the TIF Limit, whichever occurs first.

Notwithstanding any other provision of this Agreement, the obligation of the City to make payments of the Tax Increment to the Company shall be limited by any terms or conditions set forth in the approval of the Development Program by the Department of Economic and Community Development.

On the earlier of (a) June 30, 2045 or any earlier termination of this Agreement, or (b) the date when and if the TIF Limit is achieved, the term of the District and this Agreement shall end, and any remaining funds in the Company’s Project Cost Account shall thereupon be transferred to the general fund of the City, free and clear of any interest of the Company. When the funds in the Company’s Project Cost Account combined with prior payments by the City to the Company pursuant to this Agreement equal the TIF Limit, any excess in the Company’s Project Cost Account together with all further amounts of the Tax Increment that would otherwise have been deposited in the Company Project Cost Account may be transferred to the general fund of the City, free and clear of any interest of the Company.

(b) Notwithstanding Section 3.1(a), the amounts payable thereunder shall be due and payable only if: (i) all real property taxes and assessments and all personal property taxes that are due and payable with respect to all of the property in the District (other than property that has been redeveloped by the Company and sold by the Company to unrelated or unaffiliated parties in an arms length negotiation) have been paid in full, and (ii) all real property taxes and assessments and all personal property taxes that are due and payable with respect to any other real and personal property owned by the Company, its successors and assigns, in the City have been paid in full, and (iii) all amounts due and payable under Section 3.8 of this Agreement have been paid in full, provided, however, that this Section 3.1(b) shall not apply to any portion of the property in the District that has been substantially redeveloped and sold by the Company. If any of such property taxes or other amounts due under this Agreement are not paid when due, the property taxes actually paid by Company, its successors and assigns shall, first, be applied to taxes due on account of Original Assessed Value, second to any personal property taxes with respect to any personal property located in the District, third to all amounts due under Section 3.8 of this Agreement, fourth, to any real property taxes and personal property taxes with respect to property of the Company, its successors and assigns located outside of the District and, fifth, to the Property Taxes with respect to real property in the District, and the portion thereof constituting the Tax Increment (Company’s Share) of the amounts allocated under this clause “fifth” shall be applied to make the deposits to the Company’s Project Cost Account. If such property taxes and assessments and other amounts are not paid when due, the City may withhold and suspend all payments under this Agreement until such property taxes and assessments and other amounts due hereunder are paid in full. In addition, if the Company institutes any tax abatement proceeding with respect to any property in the District, the City may withhold and suspend all payments of the Tax Increment (Company’s Share) with respect to the amount of value of the items of property subject to the abatement proceeding, and upon final action and completion of such abatement proceeding, the proper amount (based on the results of the abatement proceedings) shall be deposited in the proper accounts and the appropriate amount, as required hereunder, disbursed to the Company.
(c) The Company agrees that all payments made by the City to the Company pursuant to this Agreement will be used and applied, subject to the limitations set forth in Sections 3.1(a) and 3.1(b), to either pay debt service on indebtedness incurred to finance or refinance "Project Costs" as that term is defined under the Act and described in the Development Program or used to pay directly, amortize or reimburse Company for payment of qualified Project Costs. The City shall be required to make payments under this Agreement only upon receipt of satisfactory documentation that the amounts are being paid for Project Costs and for Qualified Costs, which documentation shall be in the form of properly completed certificates, executed by the Company in the form attached hereto as Schedule A. The Company shall submit with Schedule A detailed documentation, evidencing that the payments requested are for Qualified Costs.

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

Section 3.3. Manner of Payments. The payments provided for in this Article III shall be paid directly to the Company in the manner provided hereinafore for the Company's own use and benefit by check drawn on the City.

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

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

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

Section 3.6. Calculation. The City shall maintain records which are adequate to calculate the Tax Increment (Company's Share) and the amounts payable to the Company under this Agreement, and the Company shall cooperate with the City's requests for any information needed in order for the City to make such calculations. Such amounts shall be calculated by the City annually as of each Calculation Date. If the Company does not object to such calculations within 120 days of receipt thereof or of any payment of Tax Increment (Company's Share) for such year, the calculations shall be final and binding on Company.

Section 3.7. Original Assessed Value. The Original Assessed Value of the District as approved in the Development Program was incorrect and as of the date of this Agreement, the City intends to submit an amendment to the Development Program to correct the Original Assessed Value of the District to reflect that the taxable assessed value of the District was $0 at the time of adoption of the District and Development Program. Such an amendment requires approval by the City Council and Maine Department of Economic and Community Development. In the event the proposed amendment to the Development Program is approved, the Original Assessed Value for purposes of this Agreement shall be as set forth in the approved amendment to the Development Program. In the event there is a City-wide revaluation of taxable property within the City, the Original Assessed Value may be increased in proportion to the City-wide increase in property values resulting from such revaluation.

Section 3.8. Company's Obligations. The Company shall perform the following obligations and shall pay to the City the following amounts:

(a) The Company shall pay to the City an annual administrative fee equal to 1% of the Tax Increment (Company's Share) or $250, whichever is greater.

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

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

(d) The Company covenants and agrees that in the event that title to any property in the District is hereafter transferred to any entity exempt from the payment of Property Taxes, including, without limitation, any charitable corporation or the State of Maine or any agency or authority thereof, then the
owner of the such property in the District, as a covenant running with the land, shall be obligated to pay to
the City each year during and after the expiration or termination of this Agreement, an amount equal to
100% of the Property Taxes and 100% of all other property taxes (including personal property taxes) that
would be assessed by the City on the property in the District, as if and under the assumption that the
property in the District were fully taxable and owned in fee by Company and not exempt from Property
Taxes or other property taxes. The Company agrees to record a memorandum of this paragraph in the
York County Registry of Deeds within 15 days from the date of this Agreement and also immediately after
each deed to the Company of any property in the District.

The amounts due under this Section 3.8 (other than pursuant to clause (d) hereof) may be set off or
deducted from any amount due to the Company under this Agreement, and if not so deducted, shall be due
and payable within 30 days of written notice from the City to the Company. Notwithstanding any other
provision of this Agreement, the provisions of this Section 3.8 shall survive any expiration or termination
of this Agreement.

ARTICLE IV: PLEDGE AND SECURITY INTEREST

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

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

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

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

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

ARTICLE V: DEFAULTS AND REMEDIES

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

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

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

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

ARTICLE VI: TERM AND TERMINATION

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

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

ARTICLE VII: ASSIGNMENT AND PLEDGE OF COMPANY’S INTEREST

Section 7.1 Consent to Pledge and/or Assignment. The City hereby acknowledges that it is the
intent of the Company to pledge and assign its right, title and interest in, to and under this Agreement as
collateral for financing for the Project, although no obligation is hereby imposed on the Company to make
such assignment or pledge. Recognizing this intention, the City does hereby consent and agree to the
pledge and assignment of all the Company’s right, title and interest in, to and under this Agreement
(provided that such collateral assignment shall be effective only as long as the assignee holds a first
mortgage on the property in the District) and in, and to the payments to be made to Company hereunder, to
a lender making commercial loans as collateral or security for financing of any substantial portion of the
Development Program, on one or more occasions during the term hereof. Nothing herein shall prevent the
Company from granting multiple security interests in funds actually received pursuant to this Agreement.
In the event of a default on such financing, this Agreement may be sold as a secured party sale by such
mortgagee only after such mortgagee has realized upon all other collateral for the loan and applied the
proceeds of such collateral to such loan; in addition, following any secured party sale, the obligations of the
City under this Agreement shall be limited to payment of the deficiency (from payments out of the
Company’s Project Cost Account) remaining after application of the proceeds of the other collateral for
such loan, and after satisfaction of such deficiency, the obligations of the City under this Agreement shall
terminate. The City agrees to execute and deliver any assignments, pledge assignments, consents or other
confirmations on terms reasonably satisfactory to City (including that any pledgee or secured party
succeeding to Company’s rights hereunder assume in writing, in form satisfactory to the City, the
obligations of Company under this Agreement) required by the prospective pledgee or assignee, including
without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein
and as the payee of amounts due and payable hereunder and any and all such other documentation as shall
confirm to such pledge or assignee the position of such assignee or pledgee and the irrevocable and binding
nature of this Agreement and provide to the pledgee or assignee such rights and/or remedies as the parties
may reasonably deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.2. Other Assignments. The Company shall also have the right and obligation to
transfer and assign its rights under this Agreement to any person or entity that acquires title to all of the
property in the District, provided, that (a) such owner assumes in writing, in form satisfactory to the City
Council of the City, the obligations of Company under this Agreement and (b) prior to any such
assignment, Company shall obtain the written consent of the City Council of the City. In making any
request for such written consent of the City, the Company shall submit such information as the City may
reasonably request relating to the identity of the proposed assignee and their plans regarding use of the
property in the District. Such consent shall not be unreasonably withheld, delayed or continued except as
otherwise provided in the last sentence of this section 7.2. In the event that such written consent is not
given, upon transfer of title to the property in the District then owned by the Company, this Agreement and
all rights of Company, its successors and assigns under this Agreement shall terminate. No assignment
shall be permitted under this Section 7.2 to any person or entity that is not a wholly owned subsidiary of
the Company until after the substantial completion of the Project in accordance with the development plan
dated October 10, 2017 submitted by the Company to the City, subject to such changes as may be made in
the process of obtaining municipal, state and federal permits and authorizations of the Project and subject
to such further changes as the Company may determine in its sole discretion are necessary or advisable for
the success of the Project. Except as set forth herein or approved in writing by the City, the
Company shall not assign or transfer this Agreement or any interest herein or in any of its rights
hereunder.

ARTICLE VIII: MISCELLANEOUS

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

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

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

Section 8.4. No Personal Liability of Officials of the City. No covenant, stipulation, obligation
or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any
present or future elected or appointed official, officer, agent, servant or employee of the City in his
individual capacity and neither the members of the City Council of the City nor any official, officer,
employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any
personal liability or accountability by reason hereof.

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

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

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

If to the City: City of Saco
300 Main Street
Saco, Maine 04072

If to the Company: FFC Realty Group, LLC
49 Lufkin Road
Yarmouth, Maine 04096

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

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

Section 8.9. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and the Company relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.10. Disputes and Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment (Company's Share), estimated amounts of the Tax Increment (Company's Share), estimated development costs and other estimates. The City and the Company hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way: (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to Company's property for purposes of ad valorem property taxation or any tax abatement proceeding, or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.11. Joinder of Pond Cove Millwork, Inc. FFC Realty Group, LLC is a Maine limited liability company that was formed for the purpose of purchasing and owning the real estate subject to this Agreement. However, Pond Cove Millwork, Inc., a Maine corporation, is the entity that will operate the business within the District and hereby consents to the provisions of this Agreement and to its compliance therewith.

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

WITNESS:        City of Saco

__________________________________________
By: ________________________________
    Its

FFC Realty Group, LLC

__________________________________________
By: ________________________________
    Its

Pond Cove Millwork, Inc.

__________________________________________
By: ________________________________
    Its
Schedule A

Request for Payment

The undersigned FFC Realty Group, LLC, a Maine limited liability company, with a place of business in Saco, Maine (the "Company") does hereby request payment in the amount of $_______ from the City of Saco out of the Company Cost Account established under the Development Program of the City of Saco Maine Molecular Quality Controls Omnibus Municipal Tax Increment Financing District and does hereby certify to the City of Saco that the amount requested will be used to pay Project Costs as that term is defined in Chapter 206 of Title 36-A of the Maine Revised Statutes, as follows: [check applicable provisions]

☐ Direct payment of Project Costs in the amount of $_________: and/or

☐ Reimbursement to the Company for Project Costs previously incurred, in the amount of $_________

There are attached hereto invoices or other documents showing the incurring by the undersigned of Project Costs in the amount of $_________. None of these invoices have been the subject of a previous request for payment from the Company Project Cost Account. Detailed documentation evidencing that such Project Costs are Qualified Costs is also attached hereto; such documentation shall also indicate the property or location to which the costs relate.

The Company further certifies that all of such Project Costs constitute Project Costs as defined in the Credit Enhancement Agreement, dated as of __________, 2017 between the City of Saco and the undersigned, and that the Company has complied with all terms, conditions and covenants of such Agreement and that no default or event of default exists under said Agreement.

The Company further represents and warrants that (a) such Project Costs also constitute Qualified Costs and are not costs which may not be reimbursed or captured pursuant to the terms of the Department of Economic and Community Development approval of the Development Program, and (b) such amount requested hereunder is due and payable under the terms of said Credit Enhancement Agreement and such amount and all prior payments by the City to the Company such to said Agreement do not exceed the TIF Limit, as defined in said Agreement.

Dated: __________

FFC Realty Group, LLC

____________________________________

By: _________________________________

Its
Options

Lot # 6 Mill Brook Business Park

Existing Building in Sq. Ft. 0

Original Assessed Value (OVN) $0.00

***NOTE:*** The Parcel is owned by the City of Saco and for the current tax year has a tax of $0.00.

Listed Selling Price - Existing Building - Lot $211,500.00

Land Offer Price Per Acre $48,177.68

Number of Useful Acres 3.99

Land Offer Price Per Useful $53,816.79

Total Lot size in Acres 4.58

Land Offer Price @ Listed Selling Price @ $45,807 per usable acre $100,000.00

Sewer and CSO Impact Fees ($3,648.65 + $3,527.50) $7,176.15

Electrical Permit Cost - Est. $1,820.00

Est. Plumbing Permit $150.00

Credit Enhancement Fee $550.00

Legal Fee - Estimated $3,000.00

Building Permit Fee ($11.00 per $1,000 in construction cost) $20,020.00

Pest Control per $1,000 in construction value $31.00

Total Building Size Desired in Sq. Ft. 28,000

Est. Building Cost Per Sq. Ft. $65.00

Improvements Needed to have final building size at 30,000 Sq. Ft.

Earthwork ext. Included in building package

20,000 Sq. Ft. @ $65.00 Sq. Ft. est. $1,280,000.00

Est. Total Investment $2,032,666.15

Cost per building Sq. Ft. $72.60

Current Tax Rate (FY 2016-2017) City of Saco, Maine $19.38

Annual Tax if valued at 100% of Total Investment Cost $39,393.07

Amount Eligible for TIF (Total Project Cost - Current Assessed Value of Lot) $2,333,666.15

Total land value for tax purpose will be $0.00 as City is Tax Exempt.


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25% of Estimated Project Costs

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<td>No NPV discount and assumption of flat tax rate over term of Credit Enhancement</td>
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Potential Credit Enhancement Options for Discussion

Propose 25 Year Credit Enhancement
with a cap equal to 25% of the final development cost.

Number of years at Highlighted Credit Enhancement Rate
to reach 25% of the project cost

NOTE: The Parcel is owned by the City of San
and for the current tax year has a tax of $0.00 so TIF Credit Enhancement

50% of Incremental New Value for up to 25 Years;
in no event will Credit Enhancement payments exceed 25% of final project costs.
Dollars %

$20,484.40 52.00%

$0.00 0.00%

$18,908.67 48.00%

$39,395.07 100.00%

$18,908.67 48.00%

$1,524,499.61

*Note: The lots in the Mill Brook Business Park were owned by the City of Saco when Municipal Development District #14 was approved by the State of Maine Department of Economic and Community Development on March 20, 2015. This District includes Lots 1 thru Lot 9 in the Mill Brook Business Park. At that time, the Assessor indicated the "Assessed Value" as being the value as though the lots were privately owned and taxable. The lots were and had been owned by the City of Saco for a number of years and accordingly should have been listed at the "Taxable Assessed Value" which was $0.00 until April 1 of the year following the purchase by the City of Saco. The City will be sending this Credit Enhancement to the State of Maine and will be requesting an amendment to the Development District to reflect the appropriate original tax assessed values. We are hopeful that they will allow this as a straightforward technical amendment, we proceed as directed by the State of Maine.

Prepared By: W.J. Mann
Last Updated: 11/2/2017 7:22

Notes: Est. New Jobs to Saco:
PCM 41 + initially with 10 additional within 24 months.

Impact Fee and Permit Cost Estimates

Impact Fees
Sewer Impact Fee $3,646.65
Combined Sewer Overflow Fee $3,527.50
Total Impact Fees $7,174.15

Building Permit Based on Cost Budget
$11.00 per $1,000 of cost with a $40.00 minimum $20,020.00

Plumbing Permit $10.00 Per Fixture 150

Electrical Permit $0.0550
Based on 6.5 cents per Sq. Ft. - Est. on 20,000 sq. ft. Building $1,320.00

Credit Enhancement
Application Fee $500.00
Legal Fee? $3,000.00
Annual Admin. Fee - Credit Enhancement 1% of amount remitted to Company with a $250,000 minimum $20,844.84

FOR DISCUSSION PURPOSES ONLY - CONCEPTUAL NOT APPROVED - NON-BINDING Until and Unless Approved by the Saco City Council.
VIII. COUNCIL DISCUSSION AND COMMENT

A. Councilor Gay asked that status of a new sign on the Saco Fire Department. He said that the current sign has been falling down for years. City Administrator Kevin Sutherland said that he was unaware of that issue, and that he would pursue it with the Fire Chief.

B. Councilor Gay also said that he had been approached by his constituents about a full time employee stationed at the North Saco Fire station. The population in that area seems to be growing and it would be helpful to have someone on duty full time. Mr. Sutherland replied that a comprehensive study is currently being done that was part of last year’s budget. That report will be presented to the Council in February and will speak about what needs to be done in the field of public safety as Saco continues to grow.

C. Councilor Roche spoke in regard to the jetty project. He said that the Council thought they might have heard from the D.C. attorney by now, but the City Administrator had reached out to them, and they replied that they would report to the City next week. Councilor Roche asked if it looks like those attorneys want to do research in order to try to build a case for the City, not to file suit, but to bring pressure. He asked if they are giving any indication of their plans. The City Administrator said that the attorney is definitely interested in the City’s case and will deliver a range of options, and would outline where the City’s strengths and weaknesses are. That information as well as estimated costs will be available next week. Kevin Roche said that the Shoreline Commission meets next week. Kevin Sutherland said that if anything comes in from those attorneys, he would get it to the Shoreline Commission for their meeting.

D. Councilor Johnston said that, as Councilor Roche had noted earlier, an email regarding the Driscoll’s was part of the packet. In reading through the email, he found it ironic that it was implied that the Driscoll’s were being unlawful or bad people for breaking the City’s rules, when he finds that time and time again, the City doesn’t follow its own rules, which brings him to one of his favorite topics – contract zones. He said that over a year ago, the developer from Park North came before the Council for a handful of amendments for his contract zone. As part of those amendments, he was supposed to pay the City over one-hundred thousand dollars in fees that have been owed to the City from years prior, to install phase one of a trail system by April 1, 2017, to install a sidewalk alongside the Cascade Road by November 1, 2017. He asked how this could keep happening. Regarding Ross Ridge development, the Planning Board’s agenda for tomorrow is to accept Trailside Circle. Councilor Johnston said that he has tried to look at the original document, but has never been able to receive it from the City. Finally, he was able to obtain a copy, which shows that tennis courts, a baseball field, and a trail system were supposed to be installed. None of them are completed. This happens over and over. He asked if the impact feels, the recreation fees or the traffic fees that were part of the original agreement have been paid. The City Administrator did not have that information immediately available. Councilor Johnston said that these issues really bothered him, taking up a great deal of his own time to research. Why was this issue ever approved at all?

Councilor Johnston went on to say that in the newspaper the previous weekend was a listing for Horton Meadows up for a foreclosure auction. In 2014, the City Council had approved a contract zone amendment to allow Solniere Development to take possession of that property. It is now being foreclosed on, yet it is listed as an approved thirty lot subdivision. The City Administrator said that that issue had been resolved. Councilor Johnston said that it had not been resolved on the website and prospective buyers would be looking at the property believing that an approval was in place. The contract zone agreement said that it would lapse in two years, and that has passed. The Administrator agreed that it had lapsed. Councilor Johnston said that whoever buys that property would have to come back before the Council and go through the process once more, and that fact is an important element. It is being listed on the MLS as a thirty lot subdivision, and he has found the same
information on the auction site. The City Administrator said that the auctioneers have been informed of this, and the current owner said that he would make payment before the property goes to auction.

Deputy Mayor Precourt asked if it wasn’t supposed to have been a thirty lot subdivision, fifty-five years and older? The Administrator said that was what was approved, but it was now lapsed, and it would all have to go back through the contract zone process.

Councilor Roche said that he comes from the business community, and that they City continues to have its favorites for developers. Regarding the relationships that exist, he would not go so far as to say the word corrupt, but it is unbelievable what some of these people get away with.

Councilor Roche offered a suggestion. He said that there is a new Finance Director in place who seems great and very smart. He said that the City should set up something called a “receivable”, so that when there is money due to come in, there is some kind of notification when a date that money is due comes around, and that would be the Finance Director’s responsibility to go after that. In regard to contract zones, when there is a sale, something could pop up to notify the City. But asleep at the switch is not an excuse any more. We have made enough changes in City Hall that we need to be on top of this and proactive. By the way, when the TIF money that comes in on this approval, that should not go to the general fund. That money is only to be spent on the Industrial Park, so that we do something proactive and bring in more business with that, but that does not reduce our taxes. It does reduce our commercial base, but when we do a TIF, it is for set things in that park or in that district.

Deputy Mayor Precourt said that it does reduce our state funding levels. Councilor Roche agreed.

IX. EXECUTIVE SESSION

Councilor Roche Moved, Councilor Doyle Seconded “Be it Ordered that the City Council, Pursuant to [M.R.S.A Title 1, Chapter 13, Subchapter 1, 405(6)] move to enter into Executive Session to discuss A.1. Personnel and employee relation matters and A.3. Real Estate and Economic Development Negotiations – Unit 91, 110 Main Street. The motion passed with sex (6) yeas. TIME: entered into executive session 7:23 p.m.

X. REPORT FROM EXECUTIVE SESSION

Councilor Minthorn moved, Councilor Roche seconded to move from the Exective Session. The motion passed with six (6) yeas. TIME: 8:53 p.m.

Deputy Mayor Precourt conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: Roger Gay, William Doyle, Kevin Roche, Alan Minthorn, Eric Cote and Nathan Johnston. Mayor Ronald Michaud was absent.

Councilor Roche moved “Be it ordered that the City Administrator negotiate a contract with the Dunham Group to market and sell the property at 110 Main St.-Unit 91. There will be an exclusion in the contract that eliminates obligation for commission for the broker of the three parties that had previously submitted a proposal for purchase.” The motion passed with six (6) yeas.

XI. ADJOURNMENT

Councilor Minthorn moved, Councilor Roche seconded to adjourn the meeting. Deputy Mayor Precourt adjourned the meeting the unanimous consent of the Council at 8:54 p.m.

Attest ______________________________
William T. Rankin, Deputy City Clerk