

Resolve 8- 05/06

Passed 3/6/06

JAMES I. COHEN (MAYOR) (5)
WILLIAM R. GORHAM (1)
KAREN GERAGHTY (2)
DONNA J. CARR (3)
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

JAMES F. CLOUTIER(A/L)
JILL C. DUSON, (A/L)
NICHOLAS M. MAVODONES,(A/L)
EDWARD J. SUSLOVIC (A/L)

**INDUCEMENT RESOLUTION OF THE CITY OF PORTLAND, MAINE
DECLARING ITS OFFICIAL INTENT WITH RESPECT TO
AERO PORTLAND ME, LLC PROJECT**

WHEREAS, the Finance Authority of Maine Act, 10 M.R.S.A., §§961 et seq. (the “Act”) authorizes and empowers the City of Portland, Maine (the “City”) to provide financing for eligible projects within the corporate limits of the City, and to make and enter into all financing documents, security agreements, mortgages, contracts, and trust agreements necessary or convenient to carry out each such power; and

WHEREAS, Aero Portland ME, LLC (together with any assignee or other designee, the “Company”), intend to finance the cost of acquiring land and acquiring and renovating a small (approx. 19,200 SF) air cargo building located at 261 Yellowbird Road at the Portland International JetPort (the “Project”); and

WHEREAS, the economic development, retention of job opportunities and greater commercial development to be achieved by the construction of the Project will be of benefit to the health and general welfare of the City and its citizens; and

WHEREAS, the Company intends to finance a portion of the costs of the Project with the proceeds of revenue obligation securities (the “Revenue Bonds”) to be issued by the City of Portland, Maine (the “City”) as authorized under the Act; and

WHEREAS, certain costs of the Project may be paid by the Company prior to the issuance of the Revenue Bonds; and

WHEREAS, the City and the Company desire the in the event the City issues said Revenue Bonds, a portion of the proceeds will be applied to reimburse the Company for such prior costs; and

WHEREAS, Treasury Regulations § 1.150-2 require that the City declaration its official intent to reimburse expenditures with proceeds of the Revenue Bonds;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Portland, Maine, as follows:

1 The City finds and determines that the promotion of diversification of economic development and job opportunities within the boundaries of the City is desirable to preserve the health, safety and general welfare of the citizens of the City, and that it is in the welfare of the citizens of the City, and that it is in the public interest that the City take such action as it lawfully may to encourage economic development and promotion of job opportunities in and near said City.

2. The City finds and determines that the Project will help to preserve and promote the economic well-being of the City and to ensure preservation and betterment of the living standards and health of the inhabitants of the City. The City further finds and determines that the issuance and sale of the Revenue Bonds in the maximum aggregate amount of \$3,000,000 in furtherance of the Project and the loan of the proceeds thereof to the Company complies with the purposes and provisions of the Act, will be of benefit to the health and welfare of the State of Maine, the City and their citizens and will serve the public purposes referred to above, in accordance with the Act.

3. The cost of the Project, including all necessary financing costs, will be an amount not to exceed approximately \$3,000,000, to be financed in part through the issuance of the Revenue Bonds.

4. That the City, acting through its City Council, hereby evidences its present intent to issue the City's Revenue Bonds in the aggregate principal amount not to exceed \$3,000,000 upon the conditions set forth herein and subject to the approval of the Finance Authority of Maine, the proceeds of which shall be loaned to the Company to finance a portion of the costs of the Project, and further resolves that the Director of Finance be and hereby is authorized to prepare and to submit to the Finance Authority of Maine on behalf of the City, a municipal application seeking approval for the issuance of such Revenue Bonds, and to take all such other steps as the Director of Finance may deem necessary, appropriate or convenient in order to obtain a certificate of approval from the Finance Authority of Maine pursuant to Section 1063 of the Act.

5. That the City, based upon representations of the Company, and the Company reasonably expect to reimburse expenditures made on the Project with the proceeds of the Revenue Bonds.

4. That while this Inducement Resolution is intended to evidence the City's present intent to issue the Revenue Bonds and its initial, official action with respect thereto, the City is not bound and will not be bound to issue such Revenue Bonds unless and until issuance of the Revenue Bonds have been duly approved by the City Council as required by applicable law and until the Revenue Bonds and all documents related thereto are in form satisfactory to the representatives of the City authorized to execute such Revenue Bonds and documents.

5. That the Revenue Bonds, if, as, and when issued shall not directly or indirectly obligate the City to levy or to pledge any form of taxation whatsoever therefor, or to make any appropriation for their payment and shall not constitute any debt or liability of the City, or a pledge of the faith and credit of the City, but shall be payable solely from revenues of the Project. Furthermore, the Company shall be obligated to pay to the City such sums as shall be sufficient to pay the principal of, premium, if any, and interest on such Revenue Bonds as and when the same shall become due and payable, pursuant to financing documents that will contain such provisions as may be required by law and as shall be mutually acceptable to the City and the Company.

6. The Company is hereby authorized to designate the Underwriter or Placement Agent, as the case may be, in connection with the authorization, issuance and sale of the Bonds. These designations shall be made on the condition that the Company agrees that it will be responsible for all Bond Counsel fees and expenses and all financial advisory, underwriting, and placement fees (as applicable) and reasonable and necessary out-of-pocket expenses which the City may incur at the Company's request arising from the Project or this proposed financing and the performance by the City of its obligations pursuant to the Project or this proposed financing.

8. Pierce Atwood, LLP be and hereby is appointed as Bond Counsel and further is authorized and directed to take any legal action necessary or appropriate in connection with the issuance of the Revenue Bonds.

9. All costs of the Project authorized by the Act, including reimbursement or repayment to the Company of moneys expended by the Company for planning, engineering, interest paid during construction, underwriting expenses, and local and bond counsel fees (provided, however, that issuance costs with respect to the Revenue Bonds to be paid out of the proceeds of the Revenue Bonds cannot exceed 2% of the total issue price of the Revenue Bonds), will be permitted to be included as part of the bond issue to finance said Project, and the City will thereafter loan the proceeds of the bond issue to the Company for the Project.

The acceptance of the terms of this Resolution by the Company shall be deemed to mean that the Company agrees to guarantee payment of all such obligations incurred by the City at the request of the City in connection with such contracts or otherwise. The Company may advance any interim funds required in connection with the planning, design, acquisition, construction, equipping and installation of the proposed Project and be reimbursed from the proceeds of the sale of the Bonds when the same are issued and delivered.

10. That this Inducement Resolution shall be maintained as a public record of the City. This resolution constitutes the City's declaration of official intent pursuant to Treasury Regulations § 1.150-2 and "official action" for purposes of compliance with federal and state laws requiring government action as authorization for future reimbursements of expenditures made with respect to the Project described herein with the proceeds of the Revenue Bonds contemplated hereby.

11. That this resolution is adopted under the following conditions:

- (a) That the Company release the City from and agree to indemnify, hold harmless, and defend the City, its officers, agents, and employees from any and all losses, claims, damages, liabilities, or expenses whatsoever, whether based on a tort, contractual, or other claim of any nature whatsoever including, but not limited to, any loss or damage to property or injury to or death of any persons, that arises out of the issuance or sale of the Revenue Bonds or the execution or performance of any of the financing documents or the acquisition, construction, or operation of the Project or the failure of the Company to perform any of its obligations relating to the Project, and
- (b) That the Company further agree to pay promptly upon receipt of an invoice, bill, or other evidence of an expense incurred and all reasonable and necessary out-of-pocket expenses, including but not limited to Bond Counsel fees and other attorneys' fees, that the City may have incurred with respect to the Revenue Bonds, whether or not the said Revenue Bonds are issued.

Passed and adopted this ____ day of _____, 2006.

ATTEST:

City Clerk