

Order 76 – 06/07

Passage: 11/6/06 9-0

JAMES I. COHEN (MAYOR)(5)

WILLIAM R. GORHAM (1)

KAREN A. 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)

ORDER APPROVING EASEMENT TO MDOT OVER CITY PROPERTY RE: ACCESS TO GENERATOR AND TRANSFER BUILDINGS AND ELECTRICAL CONDUIT FOR CASCO BAY BRIDGE

ORDERED, that the Finance Director is authorized to enter into an easement with Maine Department of Transportation for access to its generator and transfer buildings and the underground electrical conduit for the Casco Bay Bridge, said easement to be substantially as attached hereto

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, State of Maine (the "Grantor"), with a mailing address of 389 Congress Street, Portland, ME 04401, for consideration paid, grants to the **STATE OF MAINE**, acting by and through its **DEPARTMENT OF TRANSPORTATION**, with a mailing address of 16 State House Station, Augusta, ME 04333-0016 (the "Grantee"), a perpetual right and easement to enter upon portions of Grantor's land located in said Portland, in Cumberland County, Maine, as shown on a plan entitled, "Standard Boundary Survey for Property at Portland International Marine Terminal, Commercial Street, Portland, Cumberland County, Maine, owned by City of Portland," prepared by North Easterly Surveying, Inc., dated 8/14/02, last revised 9/13/06, to be recorded in the Cumberland County Registry of Deeds (the "Plan"). The rights granted and the descriptions of Grantor's land affected by the easements are as follows:

I. BRIDGE MAINTENANCE FACILITY ACCESS EASEMENT.

A certain tract or parcel of land, located on the southeast side of Commercial Street, City of Portland, Cumberland County, Maine, depicted as "Bridge Maintenance Facility Access Easement" on the Plan, being more particularly described as follows:

Beginning at an iron rod being the west corner of land depicted as Tax Map 43 Lot D-5 on said plan at the southeast sideline of said Commercial Street; thence running N 32° 36' 28" E along the southeast sideline of said Commercial Street a distance of 33.06 feet to a nail; thence running S 32° 32' 17" E a distance of 393.47 feet to an iron rod; thence running S 38° 32' 10" W a distance of 31.71 feet to an iron rod at land now or formerly of Cumberland County; thence running N 32° 32' 17" W along land of said Cumberland County a distance of 389.86 feet to the point of beginning.

Grantor conveys to Grantee the following rights in the above-described property:

- (a) a permanent easement for the purpose of ingress and egress by foot and vehicles, including construction equipment of every nature and description, to the Grantee's Casco Bay bridge maintenance building located near the southwesterly corner of property of Grantor as described in a deed to Grantor from Portland Terminal Company dated February 25, 1971, recorded in the Cumberland County Registry of Deeds, Book 3161, Page 33;
- (b) a permanent easement for utility purposes, including accessing, constructing, installing, operating, maintaining, modifying, repairing, replacing, relocating and removing pipes, conduits and other utility facilities and equipment that supply utility service to said Casco Bay bridge maintenance building; and
- (c) the right to pave the existing road between Commercial Street and said Casco Bay Bridge maintenance building.

Subject to all existing utility easements and installations located on the above described Easement Area, including those shown on the Plan, and to those rights which any utility enjoys over the above-described area for maintenance, location or relocation of poles and other installations. Also subject to any other encumbrances of record.

II. TRANSFORMER FACILITY EASEMENT.

A certain tract or parcel of land, located southeast of but not adjacent to Commercial Street, City of Portland, Cumberland County, Maine, depicted as "Transformer Facility Easement" on the Plan and more particularly described as follows:

Beginning at an iron rod on the southwest boundary line of land of said grantor said rod being S 32° 32' 17" E a distance of 389.86 feet from said Commercial Street at the west corner of land of said grantor; thence running N 38° 32' 10" E along land depicted as "Bridge Maintenance Facility Access Easement" on said plan a distance of 31.71 feet to an iron rod; thence running N 32° 32' 17" W along land depicted as "Bridge Maintenance Facility Access Easement" on said plan a distance of 110.00 feet to a nail; thence running S 89° 23' 57" E a distance of 131.93 feet to a nail; thence running N 38° 32' 10" E a distance of 25.00 feet to a nail; thence running S 51° 47' 55" E partially by a building a distance of 60.45 feet to a drill hole; thence running S 40° 27' 48" W a distance of 62.15 feet to a nail; thence running N 51° 27' 50" W a distance of 18.35 feet to a nail; thence running S 38° 32' 10" W a distance of 125.45 feet to a nail at land now or formerly of Cumberland County; thence running N 32° 32' 17" W along land of said Cumberland County a distance of 2.13 feet to a railroad spike; thence running N 32° 32' 17" W along land of said Cumberland County a distance of 40.15 feet to the point of beginning.

Grantor conveys to Grantee the following rights in the above-described property:

a) a permanent easement for the purpose of ingress and egress by foot and vehicles, including construction equipment of every nature and description, for inspection, repair, maintenance, and emergency purposes, to the transformer pad and appurtenant buildings (the "Transformer Facility"), located easterly of the Casco Bay bridge maintenance building, and to the underground electrical conduit located between said bridge maintenance building and the Transformer Facility (the "Underground Conduit").

In the event Grantee's access to the Transformer Facility or Underground Conduit requires excavation or other activities that may involve disturbance of the surface area around the Transformer Facility or above the Underground Conduit, Grantee shall first notify Grantor of any such proposed activity and coordinate with Grantor, or Grantor's tenant at the Portland International Marine Terminal, to perform such activities at a mutually agreed-upon time. In no event shall Grantee's access to or activities at the Transformer Facility or Underground Conduit interfere with or otherwise impede Grantor's, or its tenant's, rights and/or activities at the International Marine Terminal. Such right of access shall apply to the existing Transformer Facility and Underground Conduit or to any replacement or future building or conduit used to house the electrical equipment currently installed in the Transformer Facility .

The above described easements encumber portions of the premises described in a Quitclaim Deed with Covenant given by Portland Terminal Company to the City of Portland, dated February 25, 1971, and recorded in said Registry in Book 3161, Page 33.

IN WITNESS WHEREOF, the City of Portland has caused this instrument signed and sealed by Duane G. Kline, its duly authorized Finance Director, this _____ day of _____, 2006.

CITY OF PORTLAND

By _____
Its Duly authorized Finance Director

STATE OF MAINE

Cumberland, ss.

_____, 2006

Personally appeared the above-named Duane G. Kline, its duly authorized Finance Director of said City of Portland and acknowledged the foregoing to be his free act and deed and the free act and deed of said corporation.

Before me, _____

Notary Public/Attorney at Law

My commission expires: _____

Printed Name: _____

Seal: _____