

JILL C. DUSON (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

order 139-08/09
Feb 19 15-08

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER AMENDING ORDER 23-08/09 ADOPTED AUGUST 4, 2008 RELATING TO HUD SECTION 108 LOAN (BAYSIDE REDEVELOPMENT) AND ISSUANCE OF THE CITY'S TAX INCREMENT FINANCING BONDS/NOTES

WHEREAS, on August 4, 2008 the City Council of the City of Portland adopted Order No. 23-08/09 captioned "Order Authorizing HUD Section 108 Loan and Issuance of the city's Tax Increment Financing Bonds and Notes in the Amount of \$10,200,000" (the "Prior Order ") authorizing a \$10,200,000 Loan from the Department of Housing and Urban Development (HUD) for the purposes described in the Prior Order (as described therein, the "Bayside Improvements"); and

WHEREAS, the Prior Order establishes a maximum annual fixed rate of interest of 8.00%; and

WHEREAS, the loan from HUD will initially be issued at a variable rate, to be converted to a fixed rate at some future date; and

WHEREAS, HUD cannot agree to the 8.00% maximum annual fixed rate of interest as the loan will be converted to a market rate that is unknown at this time; and

WHEREAS, the City Council desires to amend the Prior Order to authorize the HUD loan to be converted to a market a rate of interest then applicable at the time of conversion.

NOW, THEREFORE,

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY**

ORDERED THAT:

1. Paragraph 2 of the Prior Order is amended to delete the language relating to a maximum annual fixed rate of interest of 8.00%. In lieu thereof, upon issuance or later conversion of the Indebtedness (as defined in the Prior Order), such Indebtedness may bear interest at a fixed rate which the Underwriters determine will enable them to sell, under then-prevailing market conditions, the related HUD certificate issued by HUD (or on its behalf) to establish the fixed rate of the Indebtedness, or interests therein, for 100% of the principal amount of such certificate.

2. In all other respects the Prior Order is hereby ratified and confirmed and remains in full force and effect.

3. Because time is of the essence in closing the HUD loan in order to complete and finance the Bayside Improvements, the City Council, pursuant to Article II, Section 8 and Article III, Section 16 of the City Charter, finds, determines and declares that an emergency exists with respect to closing the HUD loan and that in light of such emergency

circumstances, this Order amending the Prior Order shall take effect immediately on the date of its passage.