

Order 174-15/16

Passage as an Emergency: 7-0 (Mavodones, Duson absent) on 3/7/2016

Effective 3/7/2016

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER GRANTING EASEMENTS TO CENTRAL MAINE POWER COMPANY AND
NORTHERN NEW ENGLAND TELEPHONE OPERATIONS, LLC
FOR PORTLAND TECHNOLOGY PARK**

ORDERED, that two easements are hereby granted to Central Maine Power Company and Northern New England Telephone Operations, LLC in substantially the form attached hereto as Attachments 1 and 2, for the Portland Technology Park; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents; and

BE IT FURTHER ORDERED, that this order is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately and thereby not delay the closing for the sale of this property.

WO# 10300035280
Form 1199, Rev. 07/08

Easement
Underground Line

CITY OF PORTLAND, a municipal corporation organized and existing under the laws of the State of Maine with a mailing address of 389 Congress St, Portland, ME, 04101 (Grantor(s)), for consideration given, grants to **CENTRAL MAINE POWER COMPANY**, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336 and its respective successors and assigns (collectively Grantee), with quitclaim covenants, the right and easement, in common with others, to erect, bury, maintain, rebuild, replace, patrol, operate, and remove and do all other actions involving electric distribution equipment and facilities, consisting of wires and cables to be placed in existing underground conduit, together with all necessary fixtures and appurtenances under a portion of the surface of the land conveyed to the Grantor(s) in the City of Portland, Cumberland County, Maine by deed recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31. Said portion (the "Easement Premises") is more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Easement Premises"). The Easement Premises are part of the area identified as "Easement Area 1" on the Second Amended Subdivision Plat Of Portland Technology Park Condominium, Rand Road, Portland, Maine, dated September 29, 2011, prepared by SGC Engineering, LLC for the City of Portland - Declarant, and approved by the City of Portland Planning Board on December 8, 2015, to be recorded in the Cumberland County Registry of Deeds. The said equipment and facilities are attached to a line commencing at Pole/Pad 22H, Rand Rd, Portland and extending to include Pole(s)/Pad(s) manholes 1 through 6, Technology Park Drive (aka Easement Area 1). This easement is an easement in gross and is not for the sole purpose of serving the Grantor(s) or Grantor's land. The rights granted herein include the right to keep the surface of ground above its underground cables and other electrical equipment free from structures, improvements and growth which, in the judgment of the Grantees, may interfere with the proper operation or maintenance of said underground cables; and the right to enter upon the land of the Grantor(s) for any and all of the foregoing purposes.

Grantee shall promptly remove all waste, tools, and all material and equipment after each permitted entry upon Easement Area 1 pursuant to this easement.

The rights herein granted are subject to any leases, easements, rights, restrictions, and/or mortgages of record, including but not limited to those matters addressed in the attached exhibits, insofar as same are now in force and applicable.

WITNESS the hand(s) and seal(s) of Grantor(s) duly authorized representatives on March 8, 2016.

Signed, Sealed and Delivered in the presence of:

CITY OF PORTLAND


Witness


Brendan O'Connell, Finance Director

STATE OF MAINE
CUMBERLAND, ss.

March 8, 2016

Personally appeared the above-named Brendan O'Connell in his capacity as the Finance Director of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the City of Portland.

Before me,

Notary Public/Attorney at Law
NANCY L. ENGLISH
Notary Public, Maine

Printed Name My Commission Expires October 19, 2017

EXHIBIT A

Utility Easement over EASEMENT AREA 1 of the Portland Technology Park:

A certain utility easement across lands situated on the southerly side of Rand Road in the City of Portland, Cumberland County, State of Maine, and bounded and described as follows:

Commencing at a point on the southerly sideline of Rand Road, said point being marked with a 5/8" rebar with cap (PLS#2002) located at the northeasterly corner of a parcel of land now or formerly of the City of Portland as described in a deed recorded in Book 15211, Page 31 of the Cumberland County Registry of Deeds;

Thence, from said Point of Commencement, S62°51'57"W a distance of one hundred twelve and 43/100 (112.43') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence S81°40'58"W a distance of three hundred sixty nine and 39/100 (369.39') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence Westerly along the southerly sideline of Rand Road a distance of forty eight and 62/100 (48.62') feet along a curve to the right with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to a monument to be set and the Point of Beginning of Easement Area 1 herein described,

Thence from said Point of Beginning Southwesterly a distance of two hundred eighty one and 21/100 (281.21') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of S37°22'03"W and a chord distance of two hundred sixty four and 02/100 (264.02) feet

Thence S35°54'43"E a distance of twenty and 97/100 (20.97') feet to a point,

Thence Southwesterly a distance of forty and 37/100 (40.37') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred fifty and 00/100 (250.00') to a point, said curve having a chord bearing of S75°30'34"W and a chord distance of forty and 32/100 (40.32) feet,

Thence S80°08'06"W a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred seventy five and 29/100 (175.29') feet along a curve to the left with a radius of one hundred fifty and 00/100 (150.00') feet to a monument (to be set),

Thence S12°59'08"W a distance of one hundred forty two and 05/100 (142.05') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred forty three and 10/100 (143.10') feet along a curve to the right with a radius of three hundred fifty and 00/100 (350.00') feet to a monument (to be set),

Thence S36°24'40"W a distance of forty two and 76/100 (42.76') feet to a point,

Thence Southwesterly a distance of one hundred forty one and 33/100 (141.33') feet along a curve to the right with a radius of three hundred thirty nine and 00/100 (339.00') to a point,

Thence S75°00'00"W a distance of sixty nine and 87/100 (69.87') feet to a point,

Thence S15°00'00"E a distance of seventeen and 60/100 (17.60') feet to a point,

Thence S29°19'50"W a distance of seventy five and 02/100 (75.02') feet to a point

Thence S87°29'56"W a distance of nineteen and 03/100 (19.03') feet to a point,

Thence Southwesterly, westerly and northwesterly a distance of two hundred seventy three and 30/100 (273.30') feet along a curve to the right (not tangent with the previous course) with a radius of eighty five and 00/100 (85.00') feet to a point, said curve having a chord bearing of N76°47'08"W and a chord distance of one hundred sixty nine and 88/100 (169.88') feet,

Thence N50°49'40"E a distance of one hundred ninety and 32/100 (190.32') feet to a point,

Thence Northeasterly a distance of seventy one and 09/100 (71.09') feet along a curve to the left (not tangent with the previous course) with a radius of eighty nine and 00/100 (89.00') feet to a point, said curve having a chord bearing of N71°42'16"E and chord distance of sixty nine and 21/100 (69.21') feet,

Thence Northeasterly a distance of twenty six and 82/100 (26.82') feet along a reverse curve to the right with a radius of ninety five and 00/100 (95.00') feet to a point, said curve having a chord bearing of N56°54'40"E and chord distance of twenty six and 73/100 (26.73') feet,

Thence N65°00'00"E a distance of five and 88/100 (5.88') feet to a point,

Thence Southeasterly a distance of thirty five and 37/100 (35.37') feet along a curve to the right with a radius of twenty five and 00/100 (25.00') feet to a point, said curve having a chord bearing of S74°28'25"E and chord distance of thirty two and 49/100 (32.49') feet,

Thence N50°25'32"E a distance of sixty two and 08/100 (62.08') feet to a point,

Thence N45°00'00"E a distance of sixty one and 90/100 (61.90') feet to a point,

Thence N23°58'49"E a distance of sixty and 69/100 (60.69') feet to a point,

Thence N63°52'43"W a distance of eight and 11/100 (8.11') feet to a point,

Thence Northeasterly a distance of forty six and 88/100 (46.88') feet along a curve to the left (not tangent with the previous course) with a radius of two hundred seventy and 00/100 (270.00') feet to a monument (to be set), said curve having a chord bearing of N17°57'37"E and chord distance of forty six and 82/100 (46.82') feet,

Thence N12°59'08"E a distance of one hundred forty two and 13/100 (142.13') feet to a monument to be set,

Thence Northeasterly a distance of seventy three and 11/100 (73.11') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a point, said curve having a chord bearing of N22°14'22"E and chord distance of seventy two and 80/100 (72.80') feet,

Thence Northwesterly a distance of sixty four and 22/100 (64.22') feet along a curve to the right (not tangent with the previous course) with a radius of seventy four and 58/100 (74.58') feet to a point, said curve having a chord bearing of N39°39'58"W and chord distance of sixty two and 25/100 (62.25') feet,

Thence N15°00'00"W a distance of two and 94/100 (2.94') feet to a point,

Thence N75°00'00"E a distance of one hundred forty one and 62/100 (141.62') feet to a monument (to be set),

Thence Northeasterly a distance of sixty four and 00/100 (64.00') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of N72°09'49"E and a chord distance of sixty three and 79/100 (63.79') feet

Thence N80°08'06"E a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence N32°26'19"E a distance of twenty three and 23/100 (23.23') feet to a point,

Thence N00°04'04"E a distance of seventy nine and 87/100 (79.87') feet to a point,

Thence S89°51'35"E a distance of one hundred fourteen and 00/100 (114.00') to a monument (to be set),

Thence Northerly a distance of fifty six and 12/100 (56.12') feet along a curve to the left (not tangent with the previous course) with a radius of one hundred seventy and 00/100 (170.00') feet to a monument (to be set) at the southerly sideline of Rand Road, said curve having a chord bearing of N14°13'36"E and a chord distance of fifty five and 87/100 (55.87') feet,

Thence Easterly a distance of sixty and 59/100 (60.59') feet along a curve to the left (not tangent with the previous course) and the southerly sideline of Rand Road with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to the Point of Beginning, said curve also having a chord bearing of N85°30'52"E and chord distance of sixty and 58/100 (60.58') feet.

The above described area is more particularly depicted as "Easement Area 1" on a plan entitled "Second Amended Subdivision Plat of Portland Technology Park Condominium – Rand Road – Portland, Maine" prepared by SGC Engineering, LLC, dated September 29, 2011 and approved by the City of Portland Planning Board on December 8, 2015, to be recorded.

Bearings referenced herein are grid north.

SUBJECT TO all rights, easements, and restrictions of record, including (without limitation) the following:

1. Rights and easements granted to the Portland Pipe Line Company in a deed dated August 28, 1941, recorded in Deed Book 1646, Page 189 (CCRD) and in a deed dated May 24, 2012, recorded in Deed Book 29703, Page 129 (CCRD).
2. Rights and easements granted to Portland Trails in a deed dated July 16, 2012 and recorded in Deed Book 30001, Page 66 (CCRD) as amended by an Amendment to And Partial Release of Conservation Easement to Portland Trails to be recorded in the CCRD of near or even date herewith.
3. Rights and easements granted to Portland Water District to Easement Area 1 in a deed to be recorded in the CCRD of near or even date herewith.
4. Rights and easements granted to Northern Utilities, Inc. d/b/a/ Unitil to be recorded in the CCRD of near or even date herewith.

5. Rights and easements granted to Northern New England Telephone Operations LLC d/b/a Fairpoint Communications-NNE to be recorded in the CCRD of near or even date herewith.
6. Declaration of Condominium for the Portland Technology Park to be recorded.
7. Such statement of facts and conditions as shown on a Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, and recorded in CCRD Plan Book 212, page 324, as amended by a First Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011, last revised May 1, 2015, and recorded in CCRD Plan Book 215, Page 250, and as further amended by a Second Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011, and approved by the City of Portland Planning Board on December 8, 2015, to be recorded in the Cumberland County Registry of Deeds.

EASEMENT DEED
Underground Line

KNOW ALL MEN BY THESE PRESENTS, that **THE CITY OF PORTLAND**, a body politic and corporate organized and existing under the laws of the State of Maine having a mailing address of **389 Congress Street, Portland, Maine 04101** (“Grantor”), in consideration of One Dollar and other valuable consideration (the sum being less than one hundred dollars) paid by **NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC**, (d/b/a FairPoint Communications-NNE) (“Grantee”), a Delaware Limited Liability Company, with a place of business at 1 Davis Farm Road Portland, Maine 04103 the receipt whereof is hereby acknowledged, does hereby grant unto the said **NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC**, their successors and assigns, the rights and easement, to construct, erect, bury, rebuild, replace, operate, maintain and do all other actions involving telecommunication distribution equipment and facilities, consisting of wires and cables to be placed in duct of existing underground conduit, together with all necessary fixtures and appurtenances connected therewith, along, under and across a portion of the land conveyed to the Grantor by deed recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31. Said portion (the “Easement Premises”) are more particularly described in Exhibit A attached hereto and incorporated herein by reference (the “Easement Premises”). The Easement Premises is part of the area identified as “Easement Area 1” on the Second Amended Subdivision Plat Of Portland Technology Park Condominium, Rand Road, Portland, Maine, dated September 29, 2011, prepared by SGC Engineering, LLC for the City of Portland – Declarant, and approved by the City of Portland Planning Board on December 8, 2015, to be recorded in the Cumberland County Registry of Deeds.

(Rand Road, Portland Technology Park Drive)

See **EXHIBIT A: Utility Easement over EASEMENT AREA 1 of the Portland Technology Park**

The Grantee shall have the further right to enter said Easement Area 1 for all of the herein stated purposes and to connect said, conduits, cables and wires which are located or which may be placed in parcels of land, public ways, adjacent or contiguous to the aforesaid premises. Grantee shall also have the right to cut, trim, and remove such trees, bushes and growth as the Grantee may from time to time reasonably deem necessary for the safe and efficient operation and maintenance of Grantees facilities.

Grantee hereby covenants and agrees to indemnify, defend, and hold harmless Grantor from and against any and all loss, damage, cost, expense, or liability based on personal injury, death, loss, or damage to property suffered or incurred by any employee, licensee, or agent of Grantee, which may arise from Grantees exercise of its rights herein granted hereunder, except and in proportion to the extent such loss, damage, cost, expense, or liability is due in whole or in part by Grantor, its agents, employees, guests, or invitees.

IN WITNESS WHEREOF, the said **The City of Portland** has hereunto set its hands and signed as a sealed instrument this 8th day of March, 2016.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF**



THE CITY OF PORTLAND


By: Brendan O’Connell, Finance Director

STATE OF MAINE

County of Cumberland

March 8, 2016

Personally appeared the above named Brendan O'Connell, Finance Director of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the said City of Portland before me,



Notary Public / Attorney

NANCY L. ENGLISH
Notary Public, Maine

My Commission Expires October 19, 2017

~~My Commission Expires/Bar#~~ _____

Printed Name: _____

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