

AGENDA

COMMITTEE ON LANDS AND BUILDINGS

July 7, 2009

Aldermen Smith, Gatsas,
M. Roy, J. Roy, Osborne

5:45 PM

Aldermanic Chambers
City Hall (3rd Floor)

1. Chairman Smith calls the meeting to order.
2. The Clerk calls the roll.
3. Communication from David Wihby, Chairman of Members First Credit Union of NH, submitting lease agreements for an existing ATM at One City Hall Plaza and a new ATM at the Police Department.
Gentlemen, what is your pleasure?
4. Communication from Jonathan Hallet, Jonathan's Quick Eats LLC, requesting permission to operate as a peddler in the Middle Street parking lot on Tuesday nights between the hours of 9:00 P.M. and 2:00 A.M.
Gentlemen, what is your pleasure?

TABLED ITEM

A motion is in order to remove any item off the table.

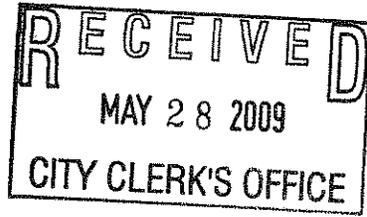
5. Communication from Kevin Sheppard, Public Works Director, advising that the City purchase a certain tract of land adjacent to their current property, on Maple and Valley Street, parcel ID 859-2.
(Tabled 5/19/09, Alderman Gatsas to discuss with Pan AM Railways.)

6. Report of the Board of Mayor and Aldermen advising that is has requested staff to prepare documents to provide that the City agree to extend the term on the 2nd mortgage relating to Lowell Terrace Associates property located at the northwest corner of Lowell and Chestnut Streets to coincide with the expiration of the existing first mortgage in 2013.

(Note: The Committee has requested clarification from Finance as to whether financials from 1984 – 2001 have been provided; Solicitor to provide a fair market value for the property as established by the Superior Court in October; Tabled 8/04/08; The Committee requests the Solicitor to provide an updated Certificate of Insurance for the property; Retabled 12/2/08. Information to be provided by the Assessor.)

On file for viewing with Office of the City Clerk, One City Hall Plaza.

7. There being no further business, a motion is in order to adjourn.



May 27, 2009

Mailing Address
P.O. Box 896
Manchester
New Hampshire
03105-0896

Honorable Mayor Frank Guinta
Board of Mayor and Aldermen
One City Hall Plaza
Manchester, NH. 03101

Manchester Locations
44 Bridge Street
200 Union Street
603-622-8781
Fax 603-622-0391

RE: ATM Lease Agreement

Dear Mayor Guinta and Board of Mayor and Aldermen,

Franklin Location
886 Central Street
603-934-6323
Fax 603-934-6324

I am enclosing an updated addendum to the existing ATM Lease Agreement between the City of Manchester and Members First Credit Union, dated September 6, 2002 with said ATM located at One City Hall Plaza.

Visit us online!
www.membersfirstnh.org

The addendum reflects increases in the rent paid to the City of Manchester, from One Hundred Dollars (\$100.00) per month to One Hundred Fifty Dollars per month (\$150.00) effective July 1, 2009.

I have also enclosed a new Lease Agreement for the placement of an ATM at the Manchester Police Department located at 351 Chestnut St, Manchester NH, with a rental agreement payable of One Hundred Fifty Dollars (\$150.00) per month effective July 1, 2009.

I respectfully submit these Lease Agreements on behalf of the credit union for your approval.

Sincerely,



Federally Insured by NCUA.

David Wihby, Chairman
Members First Credit Union of NH



ATM LEASE/PLACEMENT AGREEMENT

This ATM Lease/Placement Agreement made this twenty first day of May, 2009, having an effective date of July 1, 2009 by and between the City of Manchester, One City Hall Plaza, Manchester in the County of Hillsborough, State of New Hampshire (hereinafter called the "Lessor") and **Members First Credit Union of NH**, 44 Bridge Street, Manchester in the County of Hillsborough, State of New Hampshire (hereinafter called the "Lessee").

WITNESSETH

That the Lessor, for and in consideration of the covenants and agreements hereinafter to be performed by the Lessee has demised and leased to the Lessee a portion or area of the premises located at 351 Chestnut Street, Manchester New Hampshire know as the Manchester Police Department, (hereinafter called the Demised Premises), specifically the front lobby area specified by the Lessor large enough for the placement of an Automatic Teller Machine (ATM), together with access thereto during those hours the Manchester Police Station is open to the public.

TO HAVE AND TO HOLD the same, unto the Lessee from the first day of July, 2009, for an unlimited term, until termination by either party as set forth herein, the Lessee paying the Lessor monthly rent of One Hundred Fifty Dollars (\$150.00) on the 1st day of each calendar month during the term hereof, the first monthly rental to be due and payable on July 1, 2009 and thereafter on the 1st day of each succeeding month.

The parties hereto covenant and agree as follows:

- 1. USE:** Lessee shall use the Demised Premises for the placement and operation of an ATM for benefit of its members and general public while on business at the Manchester Police Station. Placement of said ATM shall be at Lessee's sole cost and expense.
- 2. ALTERATION OR REPAIR:** The Lessee understands and agrees that it shall be solely responsible for the costs associated with any alteration or repair necessary to facilitate the intended use. In particular, the Lessee shall pay the costs associated with installing electrical lines, telephone lines or any other necessary equipment to facilitate the said use. Any construction, alteration, or repair, including the installation of electrical or telephone lines, shall be approved by the Building Department of the City of Manchester.
- 3. UTILITIES:** The Lessor shall provide electrical usage at no additional cost to Lessee. Said "Utilities" (electricity) shall be included in the monthly rental fee of \$150.00 and shall not be intentionally interrupted during the term of the Lease Agreement.
- 4. MAINTENANCE:** The Lessee shall be solely liable to the maintenance and repair of the ATM. Lessor shall be solely responsible for the area where said machine is located and shall maintain the Demised Premises in the condition in

which it existed on the initial date of occupancy by said ATM, normal wear and tear expected.

5. ACCESS: The Lessor shall provide the Lessee and Lessee's members and the general public with access to its ATM and equipment in the Demised Premises during those hours the Manchester Police Station lobby area is open to the public. In addition, when necessary, Lessor may coordinate after hour's access through the Chief of Police, for ATM repair, maintenance, replacement or other necessitate purposes. Access to the armored car company for purposes of replenishing the ATM shall also be during those hours the Manchester Police Station is open to the public.

6. DAMAGE OR LOSS: The Lessor shall not be liable to the Lessee or any other person for injury, loss or damage by reason of any use of the Demised Premises excepting the willful acts of the Lessor.

7. INSURANCE: The Lessee shall maintain adequate insurance coverage to protect against any loss or damage to the ATM and for any personal injuries sustained in the utilization or use of the ATM.

8. SIGNAGE: Lessee shall be responsible for placement of appropriate signs on the ATM, in the halls or doors in the Demised Premises or the general vicinity of the ATM, sufficient to give the member and the general public notice of the location of the ATM. The Manchester Police Department, in its sole discretion, approve all signage and locations for said signage posted by the Lessee.

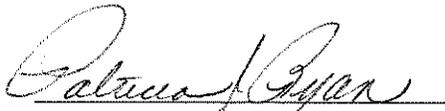
9. TERMINATION: Either party may terminate this lease upon (30) days prior written notice to the other of its intent to terminate.

IN WITNESS WHEREOF, the Lessee and Lessor have hereunto set their hands and seals the day and year first above written.

Lessor:
City of Manchester

Witness

Frank Guinta, Mayor



Witness

Lessee:
Members First Credit Union of NH


David Wihby, Chairman of the Board

ADDENDUM TO ATM LEASE /PLACEMENT AGREEMENT

This addendum is incorporated into the original ATM Lease Agreement dated September 6, 2002 between the City of Manchester and Members First Credit Union of New Hampshire this addendum will serve as a binding agreement to the original ATM lease agreement.

The parties hereto covenant and agree as follows:

TO HAVE AND TO HOLD the same, unto the Lessee from the first day of July 1, 2009, for an unlimited term, until termination by either party as set forth within the original lease agreement. The Lessee paying the Lessor monthly rent of **ONE HUNDRED FIFTY DOLLARS (\$150.00)** on the 1st day of each calendar month during the term hereof, the first monthly rental to be due and payable on the 1st day of July, 2009 and thereafter on the 1st day of each succeeding month.

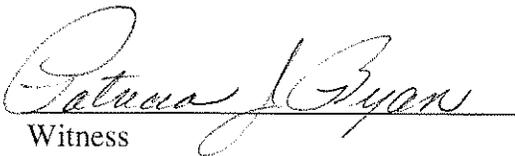
IN WITNESS WHEREOF, the Lessee and Lessor have hereunto set their hands and seals the day and year first above written.

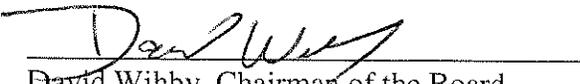
Lessor:
City of Manchester

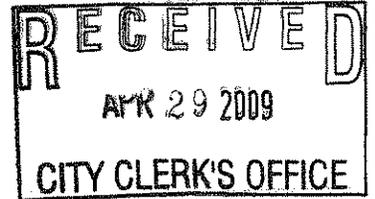
Witness

Frank Guinta, Mayor

Lessee:
Members First Credit Union of NH


Witness


David Wihby, Chairman of the Board



TO: Committee on Lands and Buildings

FROM: Jonathan Hallet

Reason: Permission to operate in the Middle Street Parking Lot

DATE: 04/13/2009

I am requesting permission to operate Jonathans Quick Eats LLC in the middle street parking lot. I am asking for permission to operate on Tuesday nights between the hours of 9PM and 2AM.

I greatly appreciated the opportunity to operate there in the past. I genuinely hope the board will grant this permission to me again. You can contact me at my business number, 860-8593.

Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Hallet".

Jonathan Hallet

Kevin A. Sheppard, P.E.
Public Works Director

Timothy J. Clougherty
Deputy Public Works Director



Commission
William A. Varkas
Henry R. Bourgeois
Joan Flurey
William F. Houghton Jr.
Robert R. Rivard

CITY OF MANCHESTER
Highway Department

May 7, 2009

Committee on Lands and Buildings
Board of Mayor and Alderman
c/o Alderman George Smith, Chairman
One City Hall Plaza
Manchester, NH

Alderman Smith:

The Highway Department advises that the City purchase a certain tract of land adjacent to our current yard, on Maple and Valley St, parcel ID 859-2. Attached is a drawing of the parcel, which is about 20' wide and runs on the south side of Valley St. from Lincoln St. to Maple St.

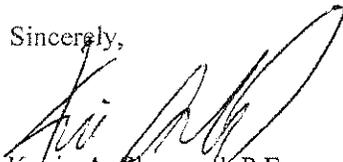
Acquisition of the parcel would create a single contiguous block owned by the City and is advantageous to our current operations as well as any potential redevelopment.

We have been in touch with Pan AM Railways, current owner of the parcel, and have come to agreement in principal on purchase price, subject to BMA approval, in the amount of \$58,900. We have contacted Mr. David Cornell, City Assessor, and he has expressed the opinion that this is a fair price. The property is currently assessed at \$73,900.

Funding is currently available through existing sources for this purchase. For your consideration we have also attached correspondence from Pan Am Railways, along with their proposed Purchase and Sale Agreement. These have been concurrently sent to the City Solicitors' Office for review.

Thank you. We will be available at your next Committee meeting should you have any questions.

Sincerely,



Kevin A. Sheppard, P.E.
Public Works Director

Cc: Timothy J. Clougherty
Thomas Clark
William Sanders
David Cornell

Print
Close

Map-Lot: 859-2

Parcel Location: VALLEY ST
Owner Name: BOSTON AND MAINE CORP
Mailing Address: IRON HORSE PARK
Mailing City State Zip: NORTH BILLERICA MA 01862

Land Valuation:
Building Valuation:
Total Valuation:
2005 Land Valuation:
2005 Building Valuation:
2005 Total Valuation:

73,900
73,900 ← CURRENT VALUATION

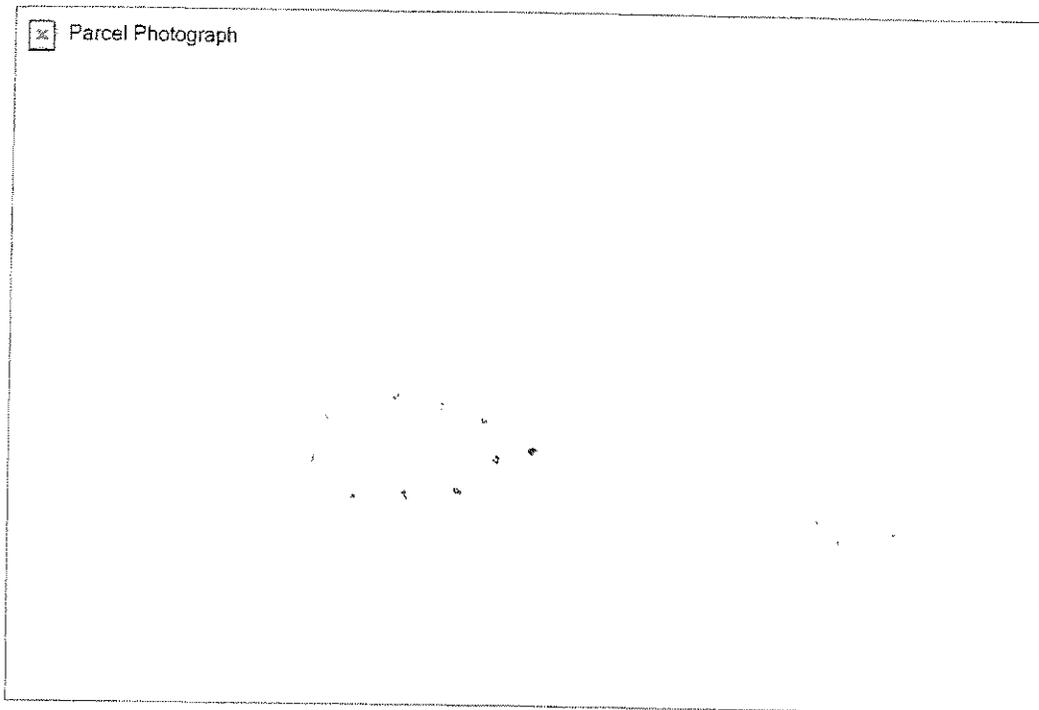
Land Area (acres): .2534
Land Area (sq ft): 11,037
Land Use: Pot Devel
Building Style:
Stories:
Year Built: n/a
Building Condition:

Exterior Siding:
Roof Structure:
Roof Cover:
Gross Building Area (sq ft):
Living Area (sq ft):

Rooms:
Bedrooms:
Bathrooms:
Interior Walls:
Interior Flooring:
Heating Fuel:
Heating System:
Air Conditioning:

Sale Date: Mar 02, 1946
Sale Price:
Book/Page: 1091/ 370
Last Updated Date: Apr 06, 2009

Parcel Image



Tax Account Information

**City of Manchester, NH Tax Collector's Office
Account Summary**

Tax Account ID: **216898**
Owner Name: **BOSTON AND MAINE CORP**
Property Address: **VALLEY
MANCHESTER, NH 03103**
Map-Lot: **0859-0002**

Assessed Value: **\$73,900**

Tax Information for 2008

Billed taxes: **\$1,356.85**
Current Taxes Due: **\$763.22**
Interest and Costs: **\$0.36**
Total Due: **\$763.58**

Type of Tax: **REAL ESTATE TAX**

[Click here for more tax information regarding this parcel.](#)

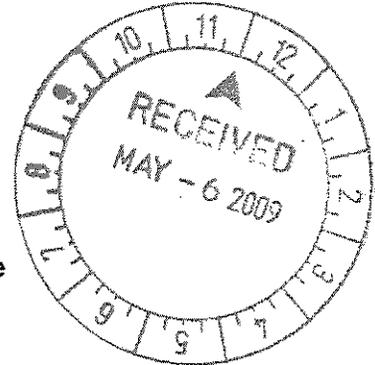


PAN AM RAILWAYS, INC.

1700 Iron Horse Park
North Billerica, MA 01862-1681

May 5, 2009

City of Manchester, NH
Department of Highway
227 Maple Street
Manchester, NH 03103
Attention: Kevin Sheppard



RE: Railroad land in Manchester, New Hampshire

Dear Mr. Sheppard:

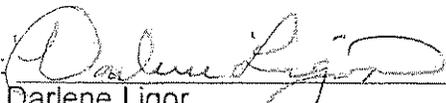
I enclose herewith a Purchase and Sale Agreement with regard to your proposed purchase of Railroad property located in Manchester, New Hampshire, for the amount of Fifty Eight Thousand Nine Hundred and 00/100 (\$58,900.00) Dollars.

This Purchase and Sale Agreement sets forth the various details of the agreement. It should be read carefully, and if you believe that any additions or corrections are necessary, please advise immediately.

If acceptable, the Purchase and Sale Agreement should be executed by you (in duplicate) and returned to this office with a check for the deposit in the amount of \$5,890.00 within ten (10) days of your receipt of this letter. The Agreement will then be signed by a proper officer of the Boston and Maine Corporation and a fully executed original returned to you.

Time is of the essence in this transaction. In the event that you do not return said Agreement and deposit check within the 10 day period as stated above, the transaction contemplated by the enclosed Purchase and Sale Agreement shall be terminated without recourse to either party.

Very truly yours,
BOSTON AND MAINE CORPORATION

By: 
Darlene Ligor
Assistant to the Vice President, Real Estate

DJL/wp

Enclosures - d/data/wp/darlene/clients/Manchester.nh/valleymaplestreet

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT made as of this day of , 2009
by and between the **BOSTON AND MAINE CORPORATION**, a Delaware corporation with
a place of business at 1700 Iron Horse Park, North Billerica, Massachusetts (the "Seller")
and the party hereinafter identified in Paragraph 1(b) (the "Buyer").

WITNESSETH:

1. The following terms shall have the meanings specified whenever used in this Agreement:

(a) **SELLER:**

Boston and Maine Corporation
c/o Pan Am Railways, Inc.
1700 Iron Horse Park
North Billerica, Massachusetts 01862
Attention: Darlene Ligor, Assistant to the Vice President

Send a copy of any notice to:

Boston and Maine Corporation
c/o Pan Am Railways, Inc.
Iron Horse Park
North Billerica, Massachusetts 01862
Attention: Roland L. Theriault, Vice President - Real Estate

(b) **BUYER:**

City of Manchester, NH
Department of Highway
227 Maple Street
Manchester, NH 03103
Attention: Kevin Sheppard

Send a copy of any notice to:

(c) **PREMISES:**

Parcel "A" consisting of approximately 10,900 square feet of land, located in Manchester, County of Hillsborough, State of New Hampshire, as more particularly shown on the sketch attached to this agreement and marked "Exhibit A".

(d) **PURCHASE PRICE:**

The agreed purchase price is Fifty Eight Thousand Nine Hundred and 00/100 (\$58,900.00) Dollars.

(e) **DEPOSIT:**

Five Thousand Eight Hundred Ninety and 00/100 (\$5,890.00) Dollars.

(f) **CLOSING DATE:**

December 18, 2009.

(g) **EXHIBITS:** The following exhibits are hereby incorporated by this reference into this Agreement:

- (i) Exhibit "A": A plan of the Premises entitled: Boston and Maine Corporation, Office of the Vice President-Engineering, Land Sale Plan Manchester, NH-Line: Portsmouth Branch, V.S. 28, Map 40, Mile Post: , Scale 1"=200', Date 2/13/09.
- (ii) Exhibit "B": Deed.
- (iii) Exhibit "C": Plan Specifications.

2. **PURCHASE AND SALE.** In consideration of the mutual covenants and promises contained in this Agreement, and other good and valuable consideration received by each party, the Seller hereby agrees to sell and the Buyer agrees to purchase the Premises, upon the terms and conditions hereinafter set forth.

3. **TITLE.** The Premises shall be conveyed by a release deed running to the Buyer in a form substantially identical to that annexed hereto and marked Exhibit "B" (the "Deed"). The Deed shall contain no warranties or covenants of title whatsoever and shall convey all of the Seller's right, title and interest in the Premises, subject to the following:

- (a) Provisions of existing building, land use, subdivision control and zoning laws;

- (b) Such real property taxes for the then current tax year as are not yet due and payable on the Closing Date;
- (c) Any liens for municipal betterments assessed after the date of this Agreement;
- (d) Such agreements, leases, licenses, easements, restrictions and encumbrances, if any, as may appear of record, or otherwise; and
- (e) The provisions, conditions and covenants set forth in the Deed and hereby expressly incorporated by reference. The Buyer agrees to signify acceptance of such provisions, conditions and covenants contained in the Deed by executing the Deed at closing.

4. **DEED PLAN.** The Seller's obligations under this Agreement are conditioned upon the Buyer furnishing the following items to the Seller no later than ten (10) days prior to the Closing Date:

- (a) A satisfactory linen or mylar deed plan of the Premises (the "Plan") which: (i) is prepared by a registered land surveyor, (ii) is suitable in all respects for recording at the local registry of deeds, (iii) contains a certification by said registered land surveyor as to the actual land area comprising the Premises, (iv) conforms to the requirements set forth in Exhibit "C", and (v) contains such other information as the Seller may reasonably require; and
- (b) A description of the Premises by metes and bounds, consistent with and referring to the Plan, which description shall be attached to and become the Exhibit "A" referred to in the Deed.

The Seller agrees to reasonably cooperate with the Buyer or the Buyer's agents to furnish the information necessary for the Buyer to complete the Plan.

The Buyer agrees to indemnify the Seller for all loss, cost, damage and expense (including reasonable attorneys' fees and expenses) arising in any way out of the presence or activities upon the Premises by the Buyer, said registered land surveyor or the agents, servants, employees or contractors or any of them, whether such loss, cost, damage or expense is incurred by the Seller, the Buyer, said registered land surveyor, or the agents, servants, employees or contractors of the same, or by others.

5. **ADJUSTMENTS TO PURCHASE PRICE.** Water rates, rents, real estate and other property taxes and sewer charges (collectively, the "Taxes") shall be apportioned as of the Closing Date and the net amount thereof shall be added to or deducted from, as the case may be, the Purchase Price payable by the Buyer. If the amount of Taxes is not known at the Closing Date, they shall be apportioned on the basis of the Taxes for the

applicable preceding period and reapportioned as soon as verified current information can be obtained. The latter provision shall survive the delivery of the Deed.

6. **FEES, COSTS, AND TRANSFER TAXES.** The Buyer agrees to pay all recording fees and real estate transfer taxes of any description imposed on either the Buyer or Seller on account of this transaction by any government or governmental authority.

7. **CLOSING.** The Deed shall be delivered and the Purchase Price less the Deposit shall be paid by certified or bank cashier's check (and not otherwise) at Iron Horse Park, North Billerica, Massachusetts at 10 o'clock a.m. on the Closing Date, unless the parties otherwise agree beforehand in writing. It is agreed that time is of the essence in all respects to this transaction.

8. **POSSESSION.** The Seller shall deliver possession of the Premises to the Buyer on the Closing Date, subject only to the provisions of Paragraph 3 hereof, the Premises then being in the same condition as they now are, reasonable wear and tear excepted.

9. **SELLER'S DEFAULT.** In the event that the Seller is unable to give title or make conveyance of the Premises to the Buyer in accordance with the terms of this Agreement for any reason, then any payments made by the Buyer shall be refunded, the obligations of the parties shall cease, this Agreement shall be void and neither party shall have further recourse against the other.

10. **REMOVAL OF ENCUMBRANCES.** The Seller may use the Purchase Price paid by the Buyer at the time of the delivery of the Deed, or any portion thereof, to clear the title of any mortgage or other title encumbrance not in accordance with the terms hereof, provided that reasonable assurances are received from the Seller and any necessary third parties that any necessary curative instruments or discharges will be obtained and recorded as soon as reasonably practical after the delivery of the Deed.

11. **ACCEPTANCE OF DEED.** The Buyer's acceptance of the Deed shall be deemed to be a full performance and discharge of every agreement or obligation of the Seller herein contained, except for such as are, by the terms hereof, to be performed after the delivery of the Deed.

12. **BROKER.** The parties represent and warrant to each other that neither has dealt with any broker in respect to this transaction or the Premises. The Buyer and Seller each agree to indemnify and hold harmless the other party from and against all other claims for brokerage or commission on account of this transaction.

13. **DEPOSIT.** The Deposit shall be held by the Seller subject to the terms of this Agreement and shall be duly accounted for at the time of delivery of the Deed. The parties agree that the Deposit shall not bear interest.

14. **WARRANTIES.** The Buyer acknowledges that the Buyer has not been induced to enter into this Agreement, and the transaction contemplated herein, in reliance upon any warranties or representations of any party not set forth herein. The Buyer hereby expressly waives any claims against the Seller for any matters of public record or matters which a physical inspection of the Premises would reveal. This paragraph shall survive the delivery of the Deed.

15. **BUYER'S DEFAULT.** In the event the Buyer fails to fulfill any one or more of the Buyer's performances under this Agreement, the Seller shall retain the Deposit as liquidated damages. The parties expressly acknowledge that the Seller's damages owing to the Buyer's default hereunder are difficult to ascertain and agree that the Deposit represents a reasonable estimate of the Seller's damages.

16. **APPROVALS, RELEASES.** The Seller's obligations under this Agreement are conditioned upon the Seller obtaining any necessary releases, approvals or permits relating to the sale of the Premises by the Seller from any state or federal government or governmental authority having jurisdiction over the Premises including but not limited to Revised Statutes Annotated, 228:60-b. The Seller agrees to proceed with reasonable diligence to obtain any such approvals. In no event, however, shall the Seller be required to obtain subdivision approval from any governmental authority. If subdivision approval is required by applicable law, the Buyer shall obtain it or shall indemnify the Seller from all loss, cost, damage, and expense arising in any way out of the conveyance of the Premises without first having obtained the same. In the event that the State of New Hampshire or its designee exercise the option to purchase pursuant to Revised Statutes Annotated 228:60-b by accepting in writing the offer tendered by the railroad pursuant to said statute within ninety (90) days of the date the offer is made to the State of New Hampshire, this Agreement becomes null and void and all deposits paid by the Buyer shall be refunded, and the parties shall have no further recourse hereto.

17. **HAZARDOUS WASTE.** The Buyer hereby agrees to indemnify, defend and hold the Seller, its successors, assigns, affiliates, officers, employees, agents, shareholders, and directors harmless from and against all loss, liability, damage, cost, and expense (including reasonable attorneys' fees and expenses) occasioned by any claims, suits, and/or enforcement actions, including any administrative or judicial proceedings and any remedial, removal, or response actions ever asserted, threatened, instituted, or requested by any person (including any government agency) on account of: (a) any release of any pollutants regulated by law or of oil or hazardous materials (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq. or any applicable state law) on, upon, or into the Premises; and (b) any and all damage to real or personal property of any description, natural resources, and/or harm to persons alleged to have resulted from such release of

such pollutants or oil or hazardous materials upon the Premises. This provision shall survive the delivery of the Deed.

18. **NOTICES.** Any notice or other communication in connection with this Agreement shall be deemed given when received (or upon attempted delivery if delivery is not accepted). Such notices shall be in writing and delivered by hand or sent either (a) by registered or certified mail (return receipt requested) with the United States Postal Service; or (b) by Federal Express or other similar overnight mail carrier furnishing evidence of receipt to the sender, at the address set forth in paragraph 1 of this Agreement. Either party may change the address at which notices are to be received by notice given as set forth above.

19. **CONFIDENTIALITY.** The Buyer agrees and acknowledges that Information (hereinafter defined) concerning the Premises obtained by the Buyer in connection with the transaction contemplated in this Agreement (the "Transaction") is unique and confidential to the Seller. If the Transaction does not take place, for any reason whatsoever (including, but not limited to, breach of this Agreement by either party), the Buyer agrees, in addition to the provisions of paragraph 15 hereof, to turn over to the Seller all (i) plans, (ii) surveys, (iii) reports, (iv) site assessment and environmental reports of any description, (v) soil, vegetation, water, air and other samplings collected at the Premises and the fruits of any research, testing, experimentation or study conducted with the same, and (vi) all plans or other information or documents furnished by the Seller to the Buyer (collectively, the "Information"). Furthermore, in the event the Transaction does not take place, the Buyer warrants to the Seller that all Information has been paid for and is free of any and all liens, and that the Buyer, its officers, agents, employees, directors, shareholders and affiliates shall not disclose the Information to any person, entity or government. The Buyer acknowledges and agrees that the Seller may, in addition to all other remedies available to it, obtain injunctive relief against the Buyer for any breach or threatened breach of the provisions of this paragraph.

20. **RECORDING.** The parties agree that neither this Agreement nor any memorandum thereof shall be recorded at the registry of deeds and that any such recording by the Buyer shall constitute a default by Buyer.

21. **AUTHORITY OF SIGNATORY.** If the Buyer executes this Agreement by agent or representative, such agent or representative hereby warrants and represents to the Seller that he is authorized to execute, acknowledge and deliver this Agreement on behalf of the Buyer and to thereby bind the Buyer to the same. This warranty shall survive the delivery of the Deed.

22. **ASSIGNMENT.** The Buyer may not assign this Agreement, or any interest herein, without the prior written consent of the Seller, which consent shall not be unreasonably withheld.

23. **SEVERABILITY.** If any term of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent be deemed invalid or unenforceable, the remainder of this Agreement and the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected.

24. **NO WAIVER.** No delay or omission on the part of the Seller in exercising its rights under this Agreement shall constitute a waiver of such right or any other right under this Agreement. Also, no waiver of any such right on one occasion shall be construed as a waiver of it on any other occasion.

25. **APPLICABLE LAW.** This Agreement shall be governed by and construed in accordance with the laws of the state wherein the Premises lie.

26. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, supersedes all prior oral or written offers, negotiations, agreements, understandings and courses of dealing between the parties relating to the subject matter hereof and is subject to no understandings, conditions, or representations other than those expressly stated herein. This Agreement may only be modified or amended by a writing which states that it modifies or amends this Agreement and which is signed by all parties.

27. **SECTION HEADINGS.** The section headings contained in the Agreement are for reference and convenience only and in no way define or limit the scope and contents of this Agreement or in any way affect its provisions.

28. **MISCELLANEOUS.** This Agreement shall take effect as a sealed instrument and be binding upon and inure to the benefit of the parties and their respective successors, heirs, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in two counterparts, effective as of the day and year first above written.

**SELLER:
BOSTON AND MAINE CORPORATION**

Witness

By: _____
David A. Fink, Chief Executive Officer

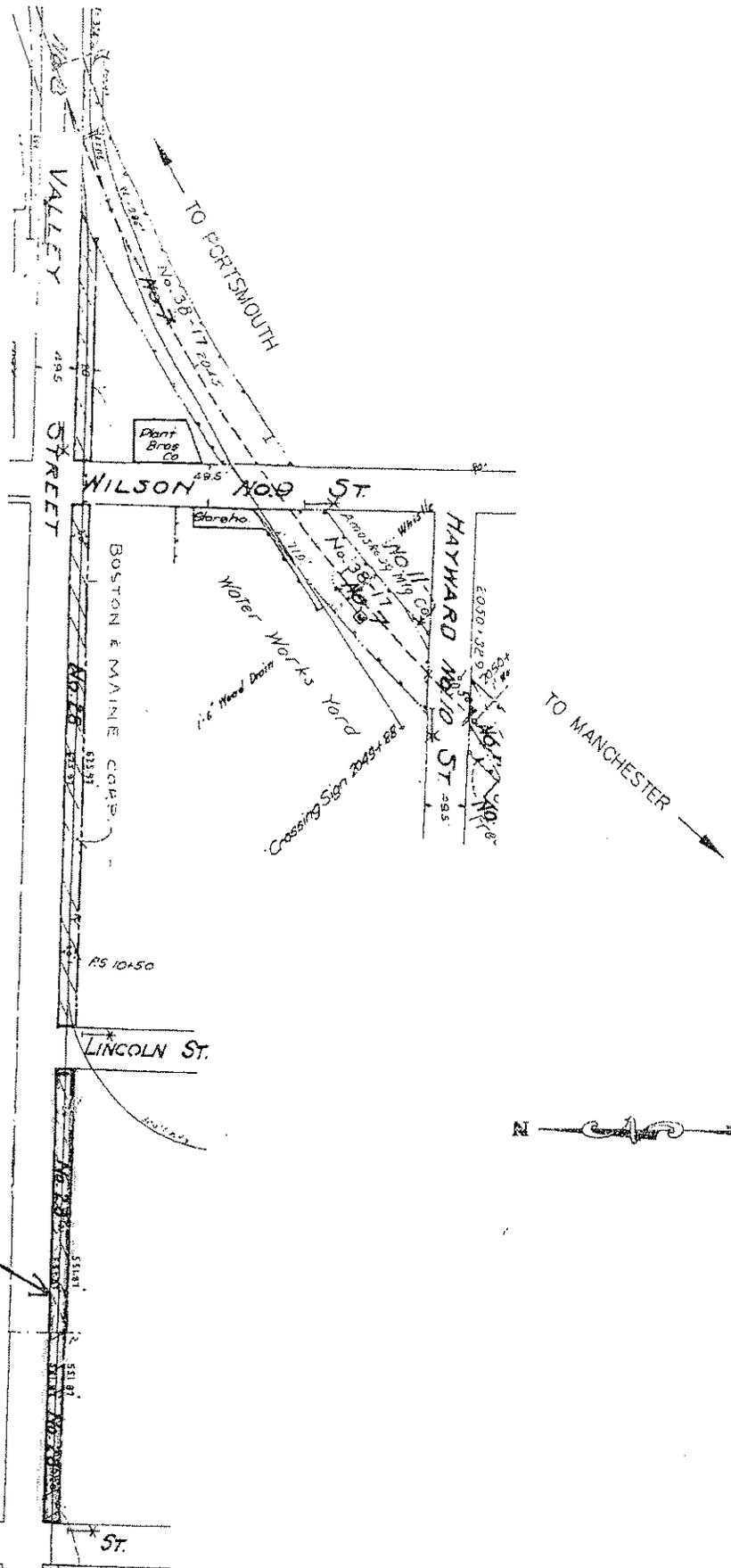
Approved for execution
by the Boston and Maine Corporation.

**BUYER:
CITY OF MANCHESTER, NH
DEPARTMENT OF HIGHWAY**

Witness

By: _____
Print Name: _____

EXHIBIT "A"



PARCEL AREA = 10,900± S.F.
(0.25± ACRES)

S#1470

BOSTON & MAINE CORPORATION	
OFFICE OF THE VICE PRESIDENT - ENGINEERING	
LAND SALE PLAN MANCHESTER, NH	
LINE : PORTSMOUTH BRANCH	
V.S. 28	MAP 40
MILEPOST :	
SCALE : 1" = 200'	DATE : 2/13/09
DRAWN BY : M.S.	CHECKED BY : V.C.M.
	APPROVED BY : R.L.T.

5-14

DRAFT

EXHIBIT B

RELEASE DEED

The **BOSTON AND MAINE CORPORATION**, a corporation duly organized and existing under the laws of the State of Delaware, with offices at 1700 Iron Horse Park, North Billerica, Middlesex County, Massachusetts (the "Grantor") in consideration of (\$) Dollars paid to it by (the "Grantee") hereby grants to the Grantee all the Grantor's right, title and interest, without any warranties or covenants of title whatsoever, in a certain parcel of land, and the buildings, bridges, structures, crossings, fixtures and improvements thereon, If any, situated in (the "Premises") described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND
MADE A PART HEREOF BY THIS REFERENCE.

This conveyance is subject to the following reservations, conditions, covenants and agreements:

1. This conveyance is made without granting any right of way, either by necessity or otherwise, over any remaining land or location of the Grantor.
2. ~~The Grantor hereby reserves a permanent, exclusive right of way and easement in, on, over, under, across and through the Premises for the purpose of accessing, constructing, installing, operating, maintaining, modifying, repairing, replacing, relocating and removing a telecommunications system or other system for transmission of intelligence or information by any means, whether now existing or hereafter devised, including such poles, pipes, wires, fibers, fiber optic cables, repeater stations, attachments, appurtenances, structures or other equipment and property of any description necessary or useful for the same (the "Telecommunications Easement"). The Grantor further reserves the right to freely lease, license, mortgage, assign, pledge and otherwise alienate the Telecommunications Easement. The Grantee hereby covenants with the Grantor to recognize the Telecommunications Easement and, without the payment of any further consideration, to execute, acknowledge and deliver such instruments suitable for recording with the registry of deeds as the Grantor may reasonably require to acknowledge title to the Telecommunications Easement in the Grantor. The Grantor covenants to reasonably repair and restore the surface of the easement area after any work.~~

3. ~~The Grantor excepts from this conveyance any and all railroad tracks, railroad track materials (including, but not limited to, ties, connections, switches and ballast) and/or related equipment of any description located in whole or in part within the Premises (the "Trackage") and this conveyance is subject to the right of the Grantor to enter the Premises from time to time and at any and all times within the ninety (90) day period commencing with and subsequent to the date of delivery of this deed, with such men, equipment and materials as, in the reasonable opinion of the Principal Engineering Officer of the Grantor, are necessary for the removal of the Trackage. Days during the months of December, January, February and March shall not be included in the aforesaid ninety (90) day period. If the Trackage is not removed from the Premises by the expiration of said ninety (90) day period, the Trackage shall be deemed abandoned by the Grantor and shall then become the property of the Grantee.~~
4. ~~The Grantor excepts from this conveyance any and all advertising signs and/or billboards located upon the Premises which are not owned by the Grantor. Furthermore, this conveyance is subject to the right of the owners of said signs and/or billboards to go upon the Premises and remove them within ninety (90) days from the date of delivery of this deed.~~
5. ~~By the acceptance of this deed and as part consideration therefor, the Grantee hereby assumes any and all agreements, covenants, obligations and liabilities of the Grantor in respect to any underground facilities, drainage culverts, walls, crossings and/or other structures of any nature and description located in whole or in part within the Premises.~~
6. ~~By the acceptance of this deed and as part consideration therefor, the Grantee agrees to indemnify, defend and hold harmless the Grantor (including its officers, employees, agents, directors, shareholders and affiliates) from and against any and all loss, liability, damage, cost and expense (including reasonable attorneys' fees) occasioned by or associated with any claims, suits and/or enforcement actions (including any administrative or judicial proceedings and any remedial, removal or response actions) ever asserted, threatened, instituted or requested by any person and/or governmental agency on account of: (a) any release of oil or hazardous materials or substances of any description on, upon or into the Premises in contravention of any ordinance, law or statute (including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq., as amended); and (b) any and all damage to real or personal property, natural resources and/or harm or injury to persons alleged to have resulted from such release of oil or hazardous materials or substances.~~

DRAFT

7. ~~By the acceptance of this deed and as part consideration therefor, the Grantee hereby agrees to build and forever maintain fences (together with any necessary gates), suitable to the Principal Engineering Officer of the Grantor, along the boundaries of the Premises which are common to remaining land or location of the Grantor (the "Fences").~~
8. ~~This conveyance is subject to the following restriction for the benefit of other land or location of the Grantor, to wit: that from the date of delivery of this deed, the Grantor shall not be liable to the Grantee or any lessee or user of the Premises (or any part thereof) for any damage to any buildings or property upon them caused by fire, whether communicated directly or indirectly by or from locomotive engines of any description upon the railroad operated by the Grantor, or otherwise.~~
9. ~~By the acceptance of this deed and as part consideration therefor, the Grantee hereby agrees to make no use of the Premises which, in the sole and reasonable opinion of the Principal Engineering Officer of the Grantor, adversely affects, increases or decreases drainage to, from, upon or in any remaining land or location of the Grantor. The Grantee agrees to indemnify and save the Grantor harmless from and against any and all loss, cost, damage or expense including, but not limited to, the cost of defending all claims and/or suits for property damage, personal injury or death arising out of or in any way attributable to any breach of the foregoing covenant.~~
10. ~~The Grantor excepts from this conveyance any and all overhead, surface or underground signal and communication line facilities of the Grantor located within the limits of the Premises and this conveyance is subject to the Grantor's use of any such facilities in their present locations and entry upon the Premises from time to time to maintain, repair, replace, renew, relay or remove such facilities.~~
11. Whenever used in this deed, the term "Grantor" shall not only refer to the **BOSTON AND MAINE CORPORATION**, but also its successors, assigns and affiliates and the term "Grantee" shall not only refer to the above-named Grantee, but also the Grantee's successors, assigns and grantees, as the case maybe.
12. The several exceptions, reservations, conditions, covenants and agreements contained in this deed shall be deemed to run with the land and be binding upon the Grantee forever. In addition to the acceptance and recording of this deed, the Grantee hereby signifies assent to the said several exceptions, reservations, conditions, covenants and agreements, by joining in its execution.

DRAFT

IN WITNESS WHEREOF, the said BOSTON AND MAINE CORPORATION has caused this release deed to be executed in its name and its corporate seal to be hereto affixed by David A. Fink, its Chief Executive Officer, thereunto duly authorized this _____ day of _____, 2009.

GRANTOR:
BOSTON AND MAINE CORPORATION

DRAFT

By: _____
David A. Fink, Chief Executive Officer

Witness

GRANTEE:

By: _____
DRAFT

Witness

DRAFT

COMMONWEALTH OF MASSACHUSETTS

On this _____ day of _____, 2009, before me, the undersigned notary public, personally appeared David A. Fink, the Chief Executive Officer of the **BOSTON AND MAINE CORPORATION** as aforesaid, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

DRAFT

Notary Public: _____
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

On this _____ day of _____, 2009, before me, the undersigned notary public, personally appeared _____, the _____ of _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

DRAFT

Notary Public: _____
My Commission Expires: _____

EXHIBIT "C"

Two Pages

Engineering Department Minimum Requirements for Deed Plans

1. Title Block shall be similar to the attached sample and located in the bottom right corner of plan.
2. Plan is to include metes and bounds, physical features, Railroad baseline and engineering stations for the extremities of the parcel to be conveyed, culverts and street locations.
3. Railroad file numbers (to be assigned) are to appear in the top right and bottom left corners of plan.
4. Registered Land Surveyor's seal and signature must appear on plan.
5. Plan is to meet all requirements of and be acceptable for recording by the appropriate Registry of Deeds.
6. Parcel distance from centerline of location of track must be indicated.
7. No reference to "Railroad" shall appear on plan. The term Boston and Maine Corporation shall be used.
8. Plan to include the tax map and parcel number of area to be conveyed.
9. Two (2) copies of proposed plans shall be submitted for review prior to sending original.
10. Recordable original tracing and linen or mylar duplicate thereof are to be furnished this office. The original tracing will be forwarded to the Real Estate Department at the time of Closing. The duplicate will be retained in the Railroad's permanent files.

All correspondence regarding the particulars of the plan should be addressed to:

Vernon C. MacPhee, Jr.
Land and Clearance Engineer
Boston and Maine Corporation
Iron Horse Park
North Billerica, MA 01862-1681
(978) 663-1144
FAX: (978) 663-1199

SAMPLE TITLE BLOCK

LAND IN

WHEREVER, MA

BOSTON AND MAINE CORPORATION

TO

WHATEVER CORPORATION CO. INC.

SCALE: 1" = 40'

DATE: January 2, 2008