

**ADDENDUM  
TO  
AGENDA**

**CITY COUNCIL MEETING**

**MONDAY, OCTOBER 21, 2013**

7:00 p.m.

City Council Chambers, City Hall - 45 Lyon Terrace  
Bridgeport, Connecticut

**ADDED:**

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

- 183-12** Communication from Mayor re: Appointment of Eric L. Johnson, Sr. (D) to the Fair Housing Commission, referred to Miscellaneous Matters Committee.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

- \*130-12** Economic and Community Development and Environment Committee Report re: Grant Submission: Connecticut State Library for an Every Child Ready to Read (ECRR) Library Services and Technology Act (LSTA) Grant.
- \*148-12** Economic and Community Development and Environment Committee Report re: Grant Submission: State Department of Economic and Community Development for an Urban Act Grant Program.
- \*149-12** Economic and Community Development and Environment Committee Report re: Tax Incentive Development Agreement for 1803 Stratford Avenue, Affordable Housing Development – Bridgeport Neighborhood Trust.
- \*155-12** Economic and Community Development and Environment Committee Report re: Grant Submission: State of Connecticut Department of Economic and Community Development's (DECD) Office of Brownfield Remediation & Development Grant for the East End Urban Agriculture Center.
- \*156-12** Economic and Community Development and Environment Committee Report re: Grant Submission: State of Connecticut Department of Economic and Community Development's (DECD) Office of Brownfield Remediation & Development Grant for the Security Building Remediation Project.
- \*157-12** Economic and Community Development and Environment Committee Report re: Grant Submission: United States Environmental Protection Agency (EPA) for FY 2013 Supplemental Funding for Brownfields Revolving Loan Fund Grantees Program.
- \*160-12** Economic and Community Development and Environment Committee Report re: Bridgeport Harbor Management Plan Revision.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR) CONTINUED:**

- \*166-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: State of Connecticut Historic Preservation Office for Sandy Disaster Relief Grant concerning Historic Properties – Fayerweather Lighthouse Repair.
- \*167-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: USCM 2014 Childhood Obesity Prevention Program for a Healthy Corner Store Initiative Grant.
- \*171-12** Economic and Community Development and Environment Committee  
Report re: Resolution regarding the creation of a “Trees for Bridgeport” Task Force related to the Improvement of the Urban Forest of the Park City.
- \*172-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: State of Connecticut Department of Economic and Community Development Urban Action Grant for the Andean Bear Exhibit at the Beardsley Zoo.
- \*173-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: State of Connecticut Office of Policy & Management Youth Services Prevention Grant Program.
- \*179-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: Historic Restoration Fund (HRF) grant through the State Historic Preservation Office to continue the restoration of the Barnum Museum Site, 820 Main Street.

**MATTERS TO BE ACTED UPON:**

- 165-12** Economic and Community Development and Environment Committee  
Report re: Resolution Authorizing the Acquisition of Redevelopment Properties in the East End.

# AGENDA

## CITY COUNCIL MEETING

MONDAY, OCTOBER 21, 2013

7:00 P.M.

CITY COUNCIL CHAMBERS, CITY HALL - 45 LYON TERRACE  
BRIDGEPORT, CONNECTICUT

Prayer

Pledge of Allegiance

Roll Call

- 119-12** Public Hearing re: Disposition of City-Owned Properties to the Housing Authority (HACB).
- 120-12** Public Hearing re: Disposition and Redevelopment of City-Owned Property located at 18-20 Island Brook Avenue.
- 135-12** Public Hearing re: Disposition of Properties located at "The Davidson's Block" in the Downtown North Redevelopment Area and Authorizing a Tax Incentive Agreement in support of the Block's Historic Renovation and Redevelopment as a Mixed-Use Residential, Retail and Commercial Complex.
- 168-12** Public Hearing re: Option Agreement for the Acquisition of 141 Stratford Avenue and 173 Stratford Avenue for the Development of a Commercial Office Complex.
- 169-12** Public Hearing re: Disposition of City-Owned Properties in the East End for the Development of an Urban Agriculture Center.
- 170-12** Public Hearing re: Disposition of City-Owned Properties in the Downtown North Redevelopment Area for the Construction of a Commercial Office Complex.

### **MINUTES FOR APPROVAL:**

Approval of City Council Minutes: September 16, 2013

### **COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

- 180-12** Communication from City Attorney re: Proposed Settlement of Pending Litigation with Antonia Dieujuste, referred to Miscellaneous Matters Committee.
- 181-12** Communication from City Attorney re: Proposed Settlement of Pending Litigation with Maria Diaz, referred to Miscellaneous Matters Committee.

**RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.:**

- 182-12** Resolution presented by Council Member Olson and Brantley re: Request that memorial signage be placed by the Goosetown City Park with the name "Donnelly Run", referred to Board of Park Commissioners.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

- \*164-12** Contracts Committee Report re: Power Purchase Agreement for Solar Photo-Voltaic Electric Generation at the WPCA (East Side), Public Facilities Complex, Barnum, Waltersville and Jettie Tisdale Schools, High Horizons Magnet School (JFK Campus) and Read School.

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, OCTOBER 21, 2013 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

**NAME**

**SUBJECT**

---

Ethan Book  
144 Coleman Street  
Bridgeport, CT 06604

Issues relating to the municipal fiscal integrity.

**CITY OF BRIDGEPORT  
CITY COUNCIL  
PUBLIC SPEAKING SESSION  
MONDAY, OCTOBER 21, 2013  
6:30 PM**

**ATTENDANCE:** Council members: Brannelly, Stafstrom, Taylor-Moye, Brantley, T. McCarthy, dePara, Ayala, Marella, Holloway

**ABSENT:** Council members: Banta, Olson, Austin, Lyons, Vizzo-Paniccia, Bonney, Blunt, Silva, Martinez, Paoletto, Baker

*Public Speaking Session absences were due to some of the council members being delayed at the Public Safety & Transportation Committee meeting.*

*The stenographer wasn't available to record the public speaking session, due to being delayed at the Public Safety & Transportation Committee meeting.*

Council President McCarthy called the public speaking session to order at 6:50 pm.

**NAME**

**SUBJECT**

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, OCTOBER 21, 2013 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

*Please go to [www. SoundviewTV.org/Bridgeport](http://www.SoundviewTV.org/Bridgeport) to view or listen to the detailed comments that the speaker addressed to the City Council on October 21, 2013.*

**NAME**

**SUBJECT**

Ethan Book  
144 Coleman Street  
Bridgeport, CT 06604

Issues relating to the municipal fiscal integrity.

*A copy of Ethan Book's statement will be submitted to the city clerk's office.*

RECEIVED  
CITY CLERK'S OFFICE  
2013 OCT 25 P 2:20  
ATTEST  
CITY CLERK

*The following person signed up to speak prior to the Public Speaking Session.*

Conrad DeJesus

*Please go to [www. SoundviewTV.org/Bridgeport](http://www.SoundviewTV.org/Bridgeport) to view or listen to the detailed comments that the speaker addressed to the City Council on October 21, 2013.*

The public speaking session ended at 7:00 pm.

**CITY OF BRIDGEPORT**

**CITY COUNCIL MEETING**

**MONDAY, OCTOBER 21 2013**

**7:00 PM**

**City Council Chambers, City Hall - 45 Lyon Terrace**

**Bridgeport, Connecticut**

**ATTENDANCE:** Council members: Brannelly, Stafstrom, Banta, Taylor-Moye, Olson, Brantley, T. McCarthy, Lyons, Blunt, dePara, Silva, Ayala, Martinez, Marella, Baker, Holloway

**ABSENT:** Council members: Austin, Vizzo-Paniccia, Bonney, Paoletto

Mayor Finch called the meeting to order at 7:10 pm.

Prayer - Council member Olson offered the prayer.

Pledge of Allegiance - Council member Brantley led the pledge of allegiance.

Moment of Silence - there was a moment of silence for Jim McMann, retired fire chief who recently passed away.

Roll Call - the city clerk took the roll call and announced there was a quorum.

Mayor Finch reminded everyone that there was a long agenda and addendum tonight.

Council President McCarthy announced the following persons were absent:

Council member Vizzo-Paniccia had a family issue and Council member Paoletto was participating in Homeland Security training.

## **MINUTES FOR APPROVAL:**

Approval of City Council Minutes: September 16, 2013

**\*\* COUNCIL MEMBER LYONS MOVED TO ACCEPT THE MINUTES  
\*\* COUNCIL MEMBER TAYLOR-MOYE SECONDED  
\*\* MOTION PASSED UNANIMOUSLY**

**119-12** Public Hearing re: Disposition of City-Owned Properties to the Housing Authority (HACB).

Mayor Finch asked if there was anyone present to speak in favor of the item.

Joy Van Hemerd stated that she would like to keep the community gardens going. She said she believed that the lots are being used for the highest and best use.

Ms. Weks emphasized the importance of cultivating fresh fruits and vegetables, noting her support of the community gardens.

Another speaker in support of the community gardens expressed the importance of keeping the community gardens in the south end, because they benefit Seaside Village and they help beautify the south end. They asked the city council to consider preserving them.

Ms. Zoya stated that she was from the Ukraine. She urged the city council to keep the community gardens, noting that she liked the fruits and vegetables that are grown.

Karen Martin stated that Ms. Zoya taught her a lot about gardening, noting that she has been very gracious sharing her knowledge. She said the community gardens have become a place where people gather and come together and she would like to think that the community garden is a part of sustainability, which is in line with the Mayor's mission statement.

Robert Halsted spoke about the problems that the area has seen with water seeping into the ground and the property surrounding Seaside Village. He asked for consideration to continue maintaining the community gardens.

Logan Daniels urged to continue maintenance of the community gardens.

Mayor Finch asked if there was anyone present to speak against the item.

Hearing none, the public hearing was closed.

**120-12** Public Hearing re: Disposition and Redevelopment of City-Owned Property located at 18-20 Island Brook Avenue.

Mayor Finch asked if there was anyone present to speak in favor of the item.

Mayor Finch asked if there was anyone present to speak against the item.

Hearing none, the public hearing was closed.

**135-12** Public Hearing re: Disposition of Properties located at "The Davidson's Block" in the Downtown North Redevelopment Area and Authorizing a Tax Incentive Agreement in support of the Block's Historic Renovation and Redevelopment as a Mixed-Use Residential, Retail and Commercial Complex.

Mayor Finch asked if there was anyone present to speak in favor of the item.

Mayor Finch asked if there was anyone present to speak against the item.

Hearing none, the public hearing was closed.

**168-12** Public Hearing re: Option Agreement for the Acquisition of 141 Stratford Avenue and 173 Stratford Avenue for the Development of a Commercial Office Complex.

Mayor Finch asked if there was anyone present to speak in favor of the item.

Charles Neale, stated he was there to speak on behalf of the abutting property owner. He stated that the matter was pending in Superior Court regarding the change of zone and whether or not the street was properly abandoned. He explained that all will be decided soon, so he felt that it was premature that the item was on the agenda until the matter is resolved. He stated that there is also the issue of the proposed developer, because he hasn't been able to find any detailed information about their ability to develop. He commented that although the resolution outlines that the property is needed for expansion, there are no further details of what they plan to do there. He also mentioned the issue of an option agreement. Overall, he clarified that there were a number of reasons that the resolution as it stands, is vague.

Ray Demeglio, stated he was the consultant for the property. He clarified that the company has been registered in Delaware since 2001. He relayed that they have been in negotiations about the site for over one year. He explained that they looked at numerous buildings and sites and his client felt that the location chosen is one where they can easily grow. He went on to say that it's an owner occupied business that relocated from Texas and they expect other business tenants to take occupancy in the building. He further explained that over a year ago, they were prepared to buy the property, but it took six

months to work out other details of the project. However, his client has agreed to accept an alternative site downtown. Overall, he emphasized that they are not a fly by night developer coming in, they are a vital industry with services that they feel Bridgeport could use the most. He clarified that the AIG site is attached to the project and is needed for the success of the project.

Mayor Finch asked if there was anyone to speak against the

Conrad DeJesus stated that Bridgeport should be loyal to Bridgeport and they shouldn't go to another state for a developer.

Hearing none, the public hearing was closed.

**169-12** Public Hearing re: Disposition of City-Owned Properties in the East End for the Development of an Urban Agriculture Center.

He gave an update about the site, to say that it is formerly the property named Mt. Trashmore. He expressed that he was glad it will be developed for an urban agriculture center.

Mayor Finch asked if there was anyone present to speak in favor of the item.

Sean Richardson stated that the project will assist sustainability. He asked for and urged support of the project that will consist of 80,000 sq. ft. of greenhouse space, noting that the food will come from local sources with no pesticides, noting that it will be an organic vegetable farm.

Mayor Finch asked if there was anyone present to speak against the item.

Conrad DeJesus questioned what water source will be utilized for use at the Urban Agriculture Center. Sean Richardson responded that according to the scientist and the city engineer, Bridgeport water has a very good source of water.

Hearing none, the public hearing was closed.

**170-12** Public Hearing re: Disposition of City-Owned Properties in the Downtown North Redevelopment Area for the Construction of a Commercial Office Complex.

Mayor Finch asked if there was anyone present to speak in favor of the item.

Mayor Finch asked if there was anyone present to speak against the item.

Hearing none, the public hearing was closed.

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

**180-12** Communication from City Attorney re: Proposed Settlement of Pending Litigation with Antonia Dieujuste, referred to Miscellaneous Matters Committee.

**181-12** Communication from City Attorney re: Proposed Settlement of Pending Litigation with Maria Diaz, referred to Miscellaneous Matters Committee.

**ADDED:**

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

**183-12** Communication from Mayor re: Appointment of Eric L. Johnson, Sr. (D) to the Fair Housing Commission, referred to Miscellaneous Matters Committee.

**\*\* COUNCIL MEMBER MARELLA MOVED TO REFER COMMUNICATIONS TO BE REFERRED TO COMMITTEES**

**\*\* COUNCIL MEMBER MARTINEZ SECONDED**

**\*\* MOTION PASSED UNANIMOUSLY**

## RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.:

**182-12** Resolution presented by Council Member Olson and Brantley re: Request that memorial signage be placed by the Goosetown City Park with the name "Donnelly Run", referred to Board of Park Commissioners.

**\*\* COUNCIL MEMBER OLSON MOVED TO REFER RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.**

**\*\* COUNCIL MEMBER BRANTLEY SECONDED**

**\*\* MOTION PASSED UNANIMOUSLY**

Mayor Finch called for a 5-minute recess for the purpose of a brief caucus among the council members.

The council members recessed to caucus at 7:45 pm.

The caucus ended at 7:50 pm.

## MATTERS TO BE ACTED UPON (CONSENT CALENDAR):

Mayor Finch asked if there were any items to be removed from the consent calendar.

Council member Stafstrom requested to remove **\*160-12** Economic and Community Development and Environment Committee Report re: Bridgeport Harbor Management Plan Revision.

Council member Brantley requested to remove **\*179-12** Economic and Community Development and Environment Committee Report re: Grant Submission: Historic Restoration Fund (HRF) grant through the State Historic Preservation Office to continue the restoration of the Barnum Museum Site, 820 Main Street.

The city clerk read the remaining consent calendar items into the record.

**\*164-12** Contracts Committee Report re: Power Purchase Agreement for Solar Photo-Voltaic Electric Generation at the WPCA (East Side), Public Facilities Complex, Barnum, Waltersville and Jettie Tisdale Schools, High Horizons Magnet School (JFK Campus) and Read School.

**ADDED:**

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

**\*130-12** Economic and Community Development and Environment Committee Report re: Grant Submission: Connecticut State Library for an Every Child Ready to Read (ECRR) Library Services and Technology Act (LSTA) Grant.

**\*148-12** Economic and Community Development and Environment Committee Report re: Grant Submission: State Department of Economic and Community Development for an Urban Act Grant Program.

**\*149-12** Economic and Community Development and Environment Committee Report re: Tax Incentive Development Agreement for 1803 Stratford Avenue, Affordable Housing Development – Bridgeport Neighborhood Trust.

**\*155-12** Economic and Community Development and Environment Committee Report re: Grant Submission: State of Connecticut Department of Economic and Community Development's (DECD) Office of Brownfield Remediation & Development Grant for the East End Urban Agriculture Center.

**\*156-12** Economic and Community Development and Environment Committee Report re: Grant Submission: State of Connecticut Department of Economic and Community Development's (DECD) Office of Brownfield Remediation & Development Grant for the Security Building Remediation Project.

**\*157-12** Economic and Community Development and Environment Committee Report re: Grant Submission: United States Environmental Protection Agency (EPA) for FY 2013 Supplemental Funding for Brownfields Revolving Loan Fund Grantees Program.

- \*160-12** Economic and Community Development and Environment Committee  
Report re: Bridgeport Harbor Management Plan Revision. - *removed*
- \*166-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: State of Connecticut Historic Preservation Office for Sandy Disaster Relief Grant concerning Historic Properties – Fayerweather Lighthouse Repair.
- \*167-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: USCM 2014 Childhood Obesity Prevention Program for a Healthy Corner Store Initiative Grant.
- \*171-12** Economic and Community Development and Environment Committee  
Report re: Resolution regarding the creation of a “Trees for Bridgeport” Task Force related to the Improvement of the Urban Forest of the Park City.
- \*172-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: State of Connecticut Department of Economic and Community Development Urban Action Grant for the Andean Bear Exhibit at the Beardsley Zoo.
- \*173-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: State of Connecticut Office of Policy & Management Youth Services Prevention Grant Program.
- \*179-12** Economic and Community Development and Environment Committee  
Report re: Grant Submission: Historic Restoration Fund (HRF) grant through the State Historic Preservation Office to continue the restoration of the Barnum Museum Site, 820 Main Street. – *removed*

- \*\* COUNCIL PRESIDENT McCARTHY MOVED TO APPROVE**
- \*\* COUNCIL MEMBER BRANTLEY SECONDED**
- \*\* MOTION PASSED UNANIMOUSLY**

Mayor Finch returned to \*160-12 Economic and Community Development and Environment Committee Report re: Bridgeport Harbor Management Plan Revision.

**\*\* COUNCIL MEMBER BRANTLEY MOVED TO APPROVE  
\*\* COUNCIL MEMBER LYONS SECONDED**

Council member Stafstrom stated that he would abstain from voting on this item, because of the involvement his law firm has with this piece of property.

**\*\* MOTION PASSED WITH FOURTEEN VOTES IN FAVOR AND ONE  
ABSTENTION (COUNCIL MEMBER STAFSTROM)**

Mayor Finch returned to \*179-12 Economic and Community Development and Environment Committee Report re: Grant Submission: Historic Restoration Fund (HRF) grant through the State Historic Preservation Office to continue the restoration of the Barnum Museum Site, 820 Main Street.

**\*\* COUNCIL MEMBER MARELLA MOVED TO APPROVE  
\*\* COUNCIL MEMBER LYONS SECONDED**

Council member Brantley made a request to amend by substitution, the corrected amendment that wasn't technically reported.

**\*\* COUNCIL MEMBER BRANTLEY MOVED TO AMEND BY SUBSTITUTION –  
AMENDED COPY SUBMITTED TO THE CITY CLERK  
\*\* COUNCIL MEMBER BAKER SECONDED  
\*\* MOTION PASSED UNANIMOUSLY**

**\*\* COUNCIL MEMBER BRANTLEY MOVED TO APPROVE AS AMENDED  
\*\* COUNCIL PRESIDENT McCARTHY SECONDED  
\*\* MOTION PASSED UNANIMOUSLY**

**MATTERS TO BE ACTED UPON:**

**165-12** Economic and Community Development and Environment Committee Report re: Resolution Authorizing the Acquisition of Redevelopment Properties in the East End.

**\*\***  
**\*\*** **COUNCIL MEMBER BRANTLEY MOVED TO APPROVE**  
**COUNCIL MEMBER BRANNELLY SECONDED**

Council member Holloway stated that this property was an old bank where there were a couple of other buildings surrounding it. He explained that when it was torn down, it required remediation because of contamination. At the time, it was agreed that they would give the property to Bridgeport and every study that was done found that the property was crucial to the block. However, they reneged on donating the property to the city. He urged the Mayor to take the property back.

Council member Baker stated that from Newfield Avenue to Central Avenue, the city has been in negotiations for the building located on the corner of Central Avenue as well as other properties. He urged the city to move forward, noting that money has been allocated in the capital plan; so the funds are available to acquire the other properties in the area. He urged approval of the item.

Council member Brantley said she understood regenerating development in this area. She mentioned the plan to put in a pharmacy on the east end that is part of the plan development and she thanked Bill Coleman for his recommendation.

A roll call vote was taken.

**\*\*** **MOTION PASSED WITH FOURTEEN VOTES IN FAVOR AND ONE VOTE**  
**IN OPPOSITION (COUNCIL MEMBER MARTINEZ)**

Other business:

Council member Brantley commended Mayor Finch's staff for doing an excellent job with the city wide cleanup and those that came from the Poconos, PA; Windsor, CT and other towns. She expressed that it was a job well done.

Mayor Finch stated that the clean up was the beneficiary of (400) volunteers from different churches.

New business:

**\*\* COUNCIL MEMBER BLUNT MOVED TO SUSPEND THE RULES FOR THE PURPOSE OF SCHEDULING A PUBLIC HEARING FOR ITEM 136-12(A)**  
**\*\* COUNCIL MEMBER MARTINEZ SECONDED**  
**\*\* MOTION PASSED UNANIMOUSLY**

**\*\* COUNCIL MEMBER BLUNT MOVED TO ORDER A PUBLIC HEARING AT THE NEXT SCHEDULED CITY COUNCIL MEETING ON NOVEMBER 4, 2013 FOR ITEM 136-12(A) RE: MILL HILL AVE NRZ**  
**\*\* COUNCIL MEMBER MARTINEZ SECONDED**  
**\*\* MOTION PASSED UNANIMOUSLY**

**\*\* COUNCIL MEMBER MARELLA MOVED TO SUSPEND THE RULES FOR THE PURPOSE OF ADDING TWO (2) ITEMS TO THE AGENDA.**

**\*\* COUNCIL MEMBER BRANNELLY SECONDED**  
**\*\* MOTION PASSED UNANIMOUSLY**

**\*\* COUNCIL MEMBER MARELLA MOVED TO ADD ITEM 132-12 re: Service Agreement with Pro-Act, Inc to provide a free discount prescription card to residents of Bridgeport.**  
**\*\* COUNCIL MEMBER McCARTHY SECONDED**  
**\*\* MOTION PASSED UNANIMOUSLY**

**\*\* COUNCIL MEMBER MOVED TO AMEND ITEM 174-12 BY SUBSTITUTION re: Seventh Amendment to Captain's Cove Lease Providing For the Release of a 2.23 Acre Portion of its Leasehold to Facilitate the Location of an Anaerobic Digester Adjacent to the West Side Treatment Plant.**

Associate City Attorney Pacacha stated that the matter involved WPCA for a project related to Proposed Anaerobic Digester Site Adjacent to the West Side Treatment Plan. The project involves a process will create heat produced from sludge.

**\*\* COUNCIL PRESIDENT McCARTHY SECONDED**  
**\*\* MOTION PASSED UNANIMOUSLY**

- \*\* COUNCIL MEMBER BRANTLEY MOVED TO APPROVE THE AMENDMENT BY SUBSTITUION – *amendment submitted to the city clerk***
- \*\* COUNCIL MEMBER BRANNELLY SECONDED**
- \*\* MOTION PASSED WITH FOURTEEN VOTES IN FAVOR AND ONE VOTE IN OPPOSITION (COUNCIL MEMBER dePARA)**
- 
- \*\* COUNCIL PRESIDENT McCARTHY MOVED SUSPEND THE RULES FOR THE PURPOSE OF REFERRING AN ITEM TO THE POLICE COMMISSION**
- \*\* COUNCIL LYONS SECONDED**
- \*\* MOTION PASSED UNANIMOUSLY**
- 
- \*\* COUNCIL PRESIDENT McCARTHY MOVED TO REFER THE MATTER OF THE REMOVAL OF A HANDICAP SIGN AT 62 TREMONT AVENUE**
- \*\* COUNCIL MEMBER BRANTLEY SECONDED**
- \*\* MOTION PASSED UNANIMOUSLY (ITEM #184-12)**

Other business continued...

Council member Lyons reminded everyone about the hazardous waste recycling that will take place at Blackham School from 9:00 am – 1:00 pm on Saturday, October 26, 2013 – *it was noted that everyone should bring all their hazardous materials, paints and other liquids for recycling.*

Council member Brantley asked everyone to keep Theresa Wilson in their prayers for the college tour that she will sponsor to Washington DC and Maryland. She expressed that she has done a great job with this annual event.

Council President extended Happy Birthday wishes to Council member Carlos Silva!

**ADJOURNMENT**

- \*\* COUNCIL PRESIDENT McCARTHY MOVED TO ADJOURN**
- \*\* COUNCIL MEMBER HOLLOWAY SECONDED**
- \*\* MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 8:20 pm.

Respectfully submitted,

Diane Graham  
Telesco Secretarial Services

**CITY OF BRIDGEPORT  
CITY COUNCIL  
NOTICE OF PUBLIC HEARINGS**

Public Hearings will be held before the City Council of Bridgeport at a regular meeting to be held on Monday evening, October 21, 2013 beginning at 7:00 p.m., in the City Council Chambers, City Hall, 45 Lyon Terrace, Bridgeport, Connecticut, relative to Disposition of the following:

**Item #119-12**

- 1). Disposition of City-Owned Properties to the Housing Authority (HACB).

<b>NUMBER</b>	<b>ADDRESS</b>	<b>TYPE</b>	<b>Block/Lot</b>
123	Ridge Avenue	Lot	406-11A
139	Ridge Avenue	Lot	406-13A
139	Walnut Street	Lot	406-10
576	Gregory Street	Lot	406-09
582	Gregory Street	Lot	406-6A

**Item #120-12**

- 2). Disposition and Redevelopment of City-Owned Property located at 18-20 Island Brook Avenue.

**Item #135-12**

- 3). Disposition of Properties located at "The Davidson's Block" in the Downtown North and Authorizing a Tax Incentive Agreement in support of the Block's Historic Renovation and Redevelopment as a Mixed-Use Residential, Retail and Commercial Complex.

**Item #168-12**

4.) Option Agreement for the Acquisition of 141 Stratford Avenue and 173 Stratford Avenue for the Development of a Commercial Office Complex.

**Item #169-12**

5.) Disposition of City-Owned Properties in the East End for the Development of an Urban Agriculture Center.

**Item #170-12**

6.) Disposition of City-Owned Properties in the Downtown North Redevelopment Area for the Construction of a Commercial Office Complex.

Attest:

Fleeta C. Hudson  
City Clerk

---

---

AD ENDS ABOVE LINE

**2 Editions, Connecticut Post:  
PLEASE PUBLISH on Thursday, October 10, 2013 and Friday, October 18, 2013**

**Requires Certification**

Emailed to: Legal Ad Dept. at [publicnotices@ctpost.com](mailto:publicnotices@ctpost.com)  
P.O.: 14000718  
Account #: 111171

Dated: October 9, 2013  
Sent By:  
Althea Williams  
City Clerk's Office  
45 Lyon Terrace  
Bridgeport, CT 06604  
(203) 576-7205  
(203) 332-5608 (Fax)

cc: City Council Members  
Mayor Bill Finch  
A. Nunn, CAO  
R. Liskov, Associate City Attorney  
D. Kooris, Director, OPED  
M. Perez, Sr. Economic Development Associate, OPED  
B. Coleman, Director, Neighborhood Development, OPED

CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

999 Broad Street  
Bridgeport, Connecticut 06604-4328

CITY ATTORNEY  
Mark T. Anastasi

DEPUTY CITY ATTORNEY  
Arthur C Laske, III

ASSOCIATE CITY ATTORNEYS

Gregory M. Conte  
Betsy A. Edwards  
Richard G. Kascak, Jr.  
Russell D. Liskov  
John R. Mitola  
Ronald J. Pacacha  
Lisa R. Trachtenburg



ASSISTANT CITY ATTORNEYS

Salvatore C. DePiano  
R. Christopher Meyer  
Edmund F. Schmidt  
Eroll V. Skyers

Telephone (203) 576-7647  
Facsimile (203) 576- 8252

**Comm. #180-12 Referred to Miscellaneous Matters Committee**

**On 10/21/2013**

October 8, 2013

The Honorable City Council  
City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

Re: Settlement of Lawsuit

Dear Honorable Members:

A lawsuit in the following name was filed against the City of Bridgeport and/or its employees and investigation discloses the likelihood on the part of the City for which in the event of trial, the City might be held liable.

Negotiations with the Plaintiffs' attorney have made it possible to settle this matter for the monetary sum set forth below and I therefore recommend settlement in that amount be approved and accepted.

<u>PLAINTIFF</u>	<u>ATTORNEY</u>	<u>CAUSE/INJURY</u>	<u>SETTLEMENT AMOUNT</u>
Dieujuste, Antonia	Kevin M. Greco Sandak, Hennessey & Greco, LLP 707 Summer Street Stamford, CT 06901	Drowning/Wrongful Death	\$200,000.00

Very truly yours,

Mark T. Anastasi  
City Attorney

MTA/kl

CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

999 Broad Street  
Bridgeport, Connecticut 06604-4328

CITY ATTORNEY  
Mark T. Anastasi

DEPUTY CITY ATTORNEY  
Arthur C Laske, III

ASSOCIATE CITY ATTORNEYS  
Gregory M. Conte  
Betsy A. Edwards  
Richard G. Kascak, Jr.  
Russell D. Liskov  
John R. Mitola  
Ronald J. Pacacha  
Lisa R. Trachtenburg



ASSISTANT CITY ATTORNEYS  
Salvatore C. DePiano  
R. Christopher Meyer  
Edmund F. Schmidt  
Eroll V. Skyers

Telephone (203) 576-7647  
Facsimile (203) 576- 8252

**Comm. #181-12 Referred to Miscellaneous Matters Committee  
On 10/21/2013**

October 3, 2013

The Honorable City Council  
City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

**Re: Settlement of Lawsuit**

Dear Honorable Members:

A Lawsuit in the following name was filed against the City of Bridgeport and/or its employees and investigation discloses the likelihood on the part of the City for which in the event of trial, the City might be held liable.

Negotiations with the Plaintiffs' attorney have made it possible to settle this matter for the monetary sum set forth below and I therefore recommend settlement in that amount be approved and accepted.

PLAINTIFF	ATTORNEY	CAUSE/INJURY	SETTLEMENT AMOUNT
Maria Diaz	Jeffrey D. Lynch, Esq. Perkins & Associates 30 Lucy Street Woodbridge, CT 06525	Slip and Fall	\$115,000

Very truly yours,

R. Christopher Meyer  
City Attorney

COMM.# 183-12 Ref'd to Miscellaneous Matters Committee on 10/21/2013.



*Miscellaneous*  
OFFICE OF THE MAYOR

**CITY OF BRIDGEPORT, CONNECTICUT**

999 BROAD STREET  
BRIDGEPORT, CONNECTICUT 06604  
TELEPHONE (203) 576-7201  
FAX (203) 576-3913

BILL FINCH  
Mayor

MEMORANDUM

TO: Fleeta Hudson – City Clerk  
FROM: Mayor Bill Finch *Bill Finch*  
DATE: October 15, 2013  
RE: Boards & Commissions

---

Please place the following name on the October 21, 2013 City Council agenda for referral to the Miscellaneous Matters Committee for the purpose of an appointment to the Fair Housing Commission:

Eric L. Johnson, Sr. (D)  
1225 Madison Avenue  
Bridgeport, CT 06606

This will fill a vacancy. This term will expire on June 30, 2016.

BF/lac

ATTEST  
CITY CLERK

RECEIVED  
CITY CLERK'S OFFICE  
2013 OCT 17 P 2:51

## RESOLUTION

By Councilmember(s): John Olson  
M. Evette Brantley

District: 132nd

Introduced at a meeting  
of the City Council, held:

10/21/2013

Referred to: Board of Park Commissioners

A Resolution by the Bridgeport City Council:

Whereas, there is now in the Goosetown City Park, located at 900-910 Wood Avenue, a memorial of Kim and Timothy Donnelly, both runners, who were victims of a violent crime; and

Whereas, there is a short distance of Wood Avenue between Goosetown Park and the properties at 900-910 Wood Avenue from 900 Wood to Wade Street; and

Be it Resolved, that there be placed by the Goosetown City Park a memorial sign with the name "DONNELLY RUN".

Referrals Made:

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_

October 14, 2013 – A Resolution by the Bridgeport City Council,

To be referred to the Board of Parks Commissioners, submitted by City Councilpersons M. Evette Brantley and John W. Olson (132d)

WHEREAS there is now in the Goosetown City Park, located at 900-910 Wood Avenue, a memorial in the memory of Kim and Timothy Donnelly, both runners, who were victims of a violent crime;

AND WHEREAS there is short distance of Wood Avenue between Goosetown Park and the properties at 900-910 Wood Avenue from 900 Wood to Wade Street;

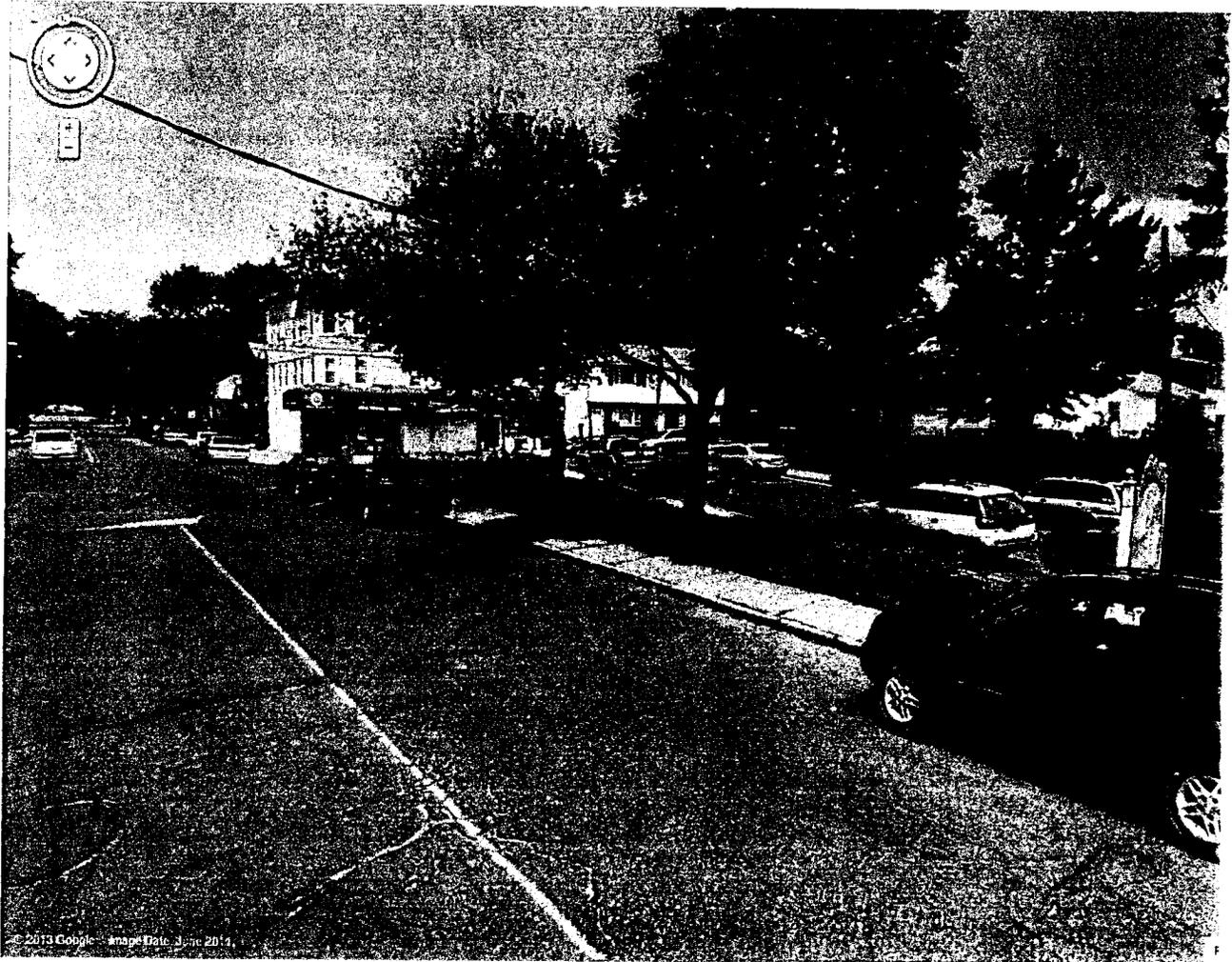
BE IT RESOLVED that there be placed by the Goosetown City Park a memorial sign with the name "DONNELLY RUN."

ATTEST  
CITY CLERK

RECEIVED  
CITY CLERK'S OFFICE  
2013 OCT 16 P 4: 21

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



**Ortiz, Frances**

---

**From:** john olson [johnwolson@att.net]  
**Sent:** Wednesday, October 16, 2013 3:14 PM  
**To:** Ortiz, Frances  
**Subject:** Re: Donnelly Run Resolution

Dear Francis: Please change in the Resolution the following: Wade St. NOT Hughes Ave. Thanks. John W. Olson

---

**From:** john olson <johnwolson@att.net>  
**To:** "Frances.Wilson@bridgeportct.gov" <Frances.Wilson@bridgeportct.gov>  
**Sent:** Wednesday, October 16, 2013 2:57 PM  
**Subject:** Donnelly Run Resolution

Dear Francis: Attached is a proposed "Donnelly Run" Resolution. Thanks - John W. Olson (132)

**Ortiz, Frances**

---

**From:** john olson [johnwolson@att.net]  
**Sent:** Wednesday, October 16, 2013 3:24 PM  
**To:** Ortiz, Frances  
**Subject:** Re: Donnelly Run Resolution

Final Revision, last graph:

BE IT RESOLVED that there be placed by the Goosetown City Park a memorial ~~sign~~ sign with the name "DONNELLY RUN."

---

**From:** john olson <johnwolson@att.net>  
**To:** "Frances.Wilson@bridgeportct.gov" <Frances.Wilson@bridgeportct.gov>  
**Sent:** Wednesday, October 16, 2013 2:57 PM  
**Subject:** Donnelly Run Resolution

Dear Francis: Attached is a proposed "Donnelly Run" Resolution. Thanks -  
John W. Olson (132)

# RESOLUTION

By Councilmember(s): Thomas C. McCarthy

District: 133<sup>rd</sup>

Introduced at a meeting  
of the City Council, held:

October 21, 2013 (OFF THE FLOOR)

Referred to: Board of Police Commissioners

WHEREAS, several years ago the City placed a handicapped parking sign in front of 62 Tremont Avenue to accommodate the needs of an individual living at that location; and

WHEREAS, that individual has since moved from the area and there is no longer a need for the handicapped parking sign at that location; and

WHEREAS, the residents of that area have requested that the handicapped parking sign be removed; Now, Therefore be it

RESOLVED, the City removes the handicapped parking sign from in front of 62 Tremont Avenue.

(SEE ATTCHED)

Attest:

\_\_\_\_\_  
City Clerk

Referrals Made:

ATTEST  
CITY CLERK  
RECEIVED  
CITY CLERK'S OFFICE  
2013 OCT 21 P 3:26

**\*164-12 Consent Calendar**

Resolution Concerning Power Purchase Agreement for Solar Photo-Voltaic Electric Generation at the WPCA (East Side), Public Facilities Complex, Barnum and Waltersville Schools, Jettie Tisdale School, High Horizons Magnet School (JFK Campus) and Read School.

---

---

**Report  
of  
Committee  
on  
Contracts**

Submitted: October 21, 2013

Adopted: \_\_\_\_\_

Attest: *Fleeta C Hudson*  
City Clerk

---

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

**\*164-12 Consent Calendar**

**A Resolution by the Bridgeport City Council  
Regarding the Power Purchase Agreement for Solar Photo-Voltaic Electric  
Generation  
in the City of Bridgeport, CT at the Water Pollution Control Authority (East Side),  
Public Facilities Complex, Barnum and Waltersville Schools, Jettie Tisdale School,  
High Horizons Magnet School (JFK Campus), and Read School**

**WHEREAS**, the Mayor through his BGreen 2020 Sustainability Program, Mayors Executive Order of 2008, Green House Gas Reduction Goals of 2009, and Energy Strategy of 2010, the City of Bridgeport ("City") seeks to become the national leader in renewable energy development in order to inspire future economic development within the City, through energy security by locking-in future energy savings to reduce energy cost fluctuation over the long term in a sustainable way; and

**WHEREAS**, SolarCity Corporation will provide funding arrangements and design considerations to develop solar generated energy and to serve as a model and encouragement for other future installations in the public and private sectors ("Project") at the Port Authority building on Seaview Avenue to service the Water Pollution Control Authority (East Side); Public Facilities Complex; Barnum and Waltersville Schools; Jettie Tisdale School; the John F. Kennedy Campus; and Read School ("Sites"); and

**WHEREAS**, SolarCity Corporation will finance, design and build this project at no cost to the City of Bridgeport. The payment arrangement will be that of a power purchase agreement(s) for the sites substantially in the form attached hereto and made a part hereof; and

**WHEREAS**, a power purchase agreement(s) ("PPA") are simple long-term agreements (20 years) permitting SolarCity Corporation to design, install, own, and operate a solar system on the roof or land of a host client, which in this case is the City and the Port Authority. In turn, the end user agrees to purchase all of the energy produced from that system over the life of the contract. Additional benefits of a PPA include:



Report of Committee on Contracts Committee  
\*164-12 Consent Calendar

-2-

- NO upfront capital or bonding costs required;
- Electricity price certainty with stated and defined PPA rates;
- No annual operating and maintenance costs;
- Free real time monitoring of the system's production and 24 hour response time to any emergency;
- No predevelopment, construction or permitting risks;
- No escalator to the PPA price; and
- Solar curriculum and display kiosk donated to BOE for educational and informational purposes.

**NOW, THEREFORE BE IT RESOLVED**, the Mayor is authorized, upon approval by the Office of the City Attorney, to execute PPAs with SolarCity Corporation for the sites where the PPAs are substantially in the form attached hereto and made a part hereof, and such other necessary and appropriate actions to further the Project.

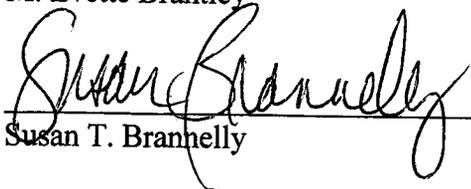
**RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON CONTRACTS**

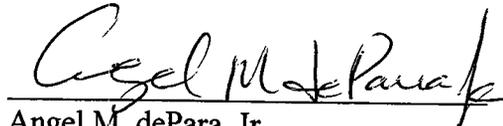
\_\_\_\_\_  
Carlos Silva, Co-chair

  
Michael J. Marella Jr., Co-chair

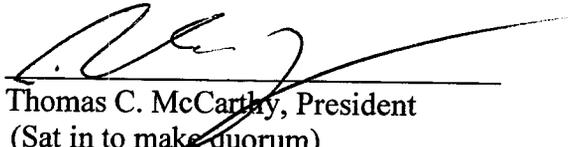
\_\_\_\_\_  
M. Evette Brantley

  
James Holloway

  
Susan T. Branhelly

  
Angel M. dePara, Jr.,

\_\_\_\_\_  
Richard Paoletto

  
Thomas C. McCarthy, President  
(Sat in to make quorum)



**Solar Power Purchase Agreement (Commercial)**

This Solar Power Purchase Agreement (this "Agreement") is entered into by the parties listed below (each a "Party" and collectively the "Parties") as of the date signed by Seller below (the "Effective Date").

Purchaser:		Seller:	
Name and Address	<b>Water Pollution Control Authority, City of Bridgeport</b> 695 Seaview Ave. Bridgeport, CT 06604 Attention: Bill Robinson	Name and Address	<b>SolarCity Corporation</b> 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone		Phone	(650) 638-1028
Fax	(203) 576-7005	Fax	(650) 638-1029
E-mail	Bill.robinson@bridgeportct.gov	E-mail	Contracts@solarcity.com
Facility Ownership	Purchaser owns the Facility		<b>Contractor's License Numbers</b> <b>CT: HIC 0632778</b>

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in Exhibit 2 (the "System") and installed at the Purchaser's facility described in Exhibit 2 (the "Facility").

The exhibits listed below are incorporated by reference and made part of this Agreement.

- Exhibit 1      Pricing Attachment
- Exhibit 2      System Description, Delivery Point and Premises
- Exhibit 3      Reserved.
- Exhibit 4      General Terms and Conditions *(Revised January 17, 2013)*

**Purchaser: Water Pollution Control Authority, City of Bridgeport, CT**

**Property Owner: Bridgeport Port Authority**

Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**SolarCity Corporation**

Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Exhibit 1**  
**Pricing Attachment**

1. **Term:** Twenty (20) years, beginning on the Commercial Operation Date.
2. **Additional Terms:** Up to two (2) Additional Terms of five (5) years each.
3. **Environmental Incentives and Environment Attributes Accrue to Seller.**
4. **Contract Price:**

Contract Year	\$/kWh
1	\$0.0550
2	\$0.0550
3	\$0.0550
4	\$0.0550
5	\$0.0550
6	\$0.0550
7	\$0.0550
8	\$0.0550
9	\$0.0550
10	\$0.0550
11	\$0.0550
12	\$0.0550
13	\$0.0550
14	\$0.0550
15	\$0.0550
16	\$0.0550
17	\$0.0550
18	\$0.0550
19	\$0.0550
20	\$0.0550

Includes ACH invoicing. If manual invoicing is required, a \$25 handling charge will be added to each invoice.

5. **Condition Satisfaction Date:** November 15, 2013
6. **Anticipated Commercial Operation Date:** August 15, 2014
7. **Outside Commercial Operation Date:** October 1, 2014
8. **Rebate Variance.** All prices in this Agreement are calculated based on a successful 2013 Medium ZREC Bid. If Bid is unsuccessful, prices will be adjusted pro-rata to reflect the actual rebate received.

**Exhibit 2**

**System Description, Delivery Point and Premises**

1. **System Location:** 837 Seaview Avenue, Bridgeport, CT 06610
2. **System Size (DC kW):** 319.00
3. **Expected First Year Energy Production (kWh):** 356,323
4. **Expected Structure:** Rooftop
5. **Expected Module(s):**

<u>Manufacturer/Model</u>	<u>Quantity</u>
Trina 290	1,100

6. **Expected Inverter(s):**

<u>Manufacturer/Model</u>	<u>Quantity</u>
Solecristia SGI 300kW	1

7. **Includes:**

SolarCity Limited Warranty, installation of a solar energy system (includes: design, engineering, permitting, installation, monitoring, rebate application and paperwork processing for solar energy system).

8. **Excludes:**

Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to customer or utility electrical infrastructure, payment bonds, performance bonds, tree removal, tree trimming, the payment of prevailing wages (i.e. prevailing wages not required).

9. **Delivery Point and Premises:** SolarCity shall attach a schematic that contains the:

- (i) Facility;
- (ii) array;
- (iii) Delivery Point; and
- (iv) access points needed to install and service System (bldg access, electrical room, stairs etc.)



Exhibit 3

Reserved

DRAFT

## Exhibit 4

### Solar Power Purchase Agreement General Terms and Conditions

*Revised January 17, 2013*

1. **Definitions and Interpretation:** Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
  
2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in Exhibit 1, and collectively the "Term"). Electric energy generated by the System will be delivered to Purchaser at the delivery point identified on Exhibit 2 (the "Delivery Point"). Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser's electric requirements at the Facility exceed the output of the System.
  
3. **Term and Termination.**
  - a. **Initial Term.** The initial term ("Initial Term") of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in Exhibit 1, unless earlier terminated as provided for in this Agreement. The "Commercial Operation Date" is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point for the Term taking into consideration existing building conditions and expected reasonable wear and tear. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the Utility. This Agreement is effective as of the Effective Date and Purchaser's failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.
  
  - b. **Additional Terms.** If Purchaser has not exercised its option to purchase the System by the end of the Initial Term, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in Exhibit 1 (each an "Additional Term"). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall respond positively or negatively to that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If both Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term on the same terms and conditions as set forth in this Agreement. If the Party receiving the request for an Additional Term rejects or is deemed to reject the first Party's offer, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.
  
4. **Billing and Payment.**
  - a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electric energy generated by the System and delivered to the Delivery Point at the \$/kWh rate shown in Exhibit 1 (the "Contract Price"). The monthly payment for such energy will be equal to the applicable \$/kWh rate multiplied by the number of kWh of energy generated during the applicable month, as measured by the System meter.
  
  - b. **Monthly Invoices.** Seller shall invoice Purchaser monthly, either manually or through ACH. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.
  
  - c. **Taxes.** Currently, the Purchaser is tax exempt. Should Taxes be assessed from which Purchaser is not exempt, Purchaser shall either pay or reimburse Seller for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the Utility's electric

distribution system, including property taxes on the System; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Purchaser due to the action or omission of Seller. For purposes of this Section 4(d), "Taxes" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility.

- d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall accrue interest at the annual rate of two and one-half percent (2.5%) over the Prime Rate (but not to exceed the maximum rate permitted by law).

5. **Environmental Attributes and Environmental Incentives.**

Unless otherwise specified on Exhibit 1, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser, if engaged in commerce and/or trade, shall submit to Seller for approval any press releases regarding Purchaser's use of solar or renewable energy and shall not submit for publication any such releases without the written approval of Seller. Approval shall not be unreasonably withheld, and Seller's review and approval shall be made in a timely manner to permit Purchaser's timely publication.

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradeable renewable credits and Green-e® products.

"Environmental Incentives" means any and credits, rebates, subsidies, payments or other incentives that relate to self-generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority.

"Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the California Public Utilities Commission), or any arbitrator with authority to bind a party at law.

"Tax Credits" means any and all (i) investment tax credits, (ii) production tax credits and (iii) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

6. **Conditions to Obligations.**

a. **Conditions to Seller's Obligations.**

Seller's obligations under this Agreement are conditioned on the completion of the following conditions to Seller's reasonable satisfaction on or before the Condition Satisfaction Date:

- i. Completion by the Seller of a physical inspection of the Facility and the property upon which the Facility is located (the "**Premises**") including, if applicable, geotechnical work, structural integrity analysis, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System for the Term;
- ii. Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller's Financing Parties. "**Construction Agreement**" as used in this subsection means an agreement between SolarCity and a subcontractor to install the System;
- iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;
- iv. Receipt by Seller of all necessary zoning, land use and building permits;
- v. Execution by Seller of all necessary agreements with the Utility for interconnection of the System to the Utility's electric distribution system; and
- vi. Prior to Seller commencing construction and installation of the System, Purchaser shall give Seller proof of insurance for all insurance required to be maintained by Purchaser under this Agreement.

b. **Conditions to Purchaser's Obligations.**

- i. Purchaser's obligations under this Agreement are conditioned on the occurrence of the Commercial Operation Date for the System on or before the Outside Commercial Operation Date (See **Exhibit 1**).

c. **Failure of Conditions.**

If any of the conditions listed in subsections a or b above are not satisfied by the applicable dates specified in those subsections, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the parties are unable to negotiate new dates then the Party that has not failed to meet an obligation may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement.

7. **Seller's Rights and Obligations.**

a. **Permits and Approvals.** Seller, with Purchaser's reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

- i. any zoning, land use and building permits required to construct, install and operate the System; and
- ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Utility's electric distribution system.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals.

b. **Standard System Repair and Maintenance.** Seller shall construct and install the System at the Facility. During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement or the Site Lease (if applicable). Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller's contractors. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs.

- c. **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to conditions at the Facility or due to the inaccuracy of any information provided by Purchaser and relied upon by Seller, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Seller. In such event, the Parties will negotiate such equitable adjustment in good faith.
- d. **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.
- e. **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.
- f. **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement. However, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors. If a list of pre-approved contractors and subcontractors is desired, such list shall be scheduled on an appendix to this Exhibit. All contractors and subcontractors, other than those that may be scheduled on an appendix to this Exhibit, shall be subject to Purchaser's prior written consent, not to be unreasonably withheld.
- g. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.
- h. **Separate Warranty.**
- i. The Limited Warranty that SolarCity will provide to Purchaser is a separate contract from this Agreement. No rights provided to Purchaser by the Limited Warranty may be asserted under this Agreement. No warranty is made in this Agreement. Therefore, any warranty claim must be made independently of this Agreement under the Limited Warranty and will not affect Purchaser's obligations under this Agreement.
- ii. NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. The remedies set forth in this Agreement shall be Purchaser's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise.

8. **Purchaser's Rights and Obligations.**

- a. **Facility Access Rights.** Purchaser grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "License") for access to, on, over, under and across the Premises for the purposes of (a) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (b) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (c) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to Purchaser's electric system at the Facility and/or to the Utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of damage to persons or property. The term of

the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the "License Term"). During the License Term, Purchaser shall ensure that Seller's rights under the License and Seller's access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this agreement by either Party. Purchaser agrees that Seller, upon request to Purchaser, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the Parties. Notwithstanding the foregoing, Seller will use all commercially reasonable efforts to not interfere through access or excessive noise during construction with the operation purpose and function of the Facility or the Premises.

- b. **OSHA Compliance.** Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.
- c. **Maintenance of Facility.** Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the local utility grid at all times and will not permit cessation of electric service to the Facility from the local utility. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.
- d. **No Alteration of Facility.** Purchaser shall not make any alterations or repairs to the Facility which may adversely affect the operation and maintenance of the System without Seller's prior written consent, which shall not be unreasonably delayed, withheld or conditioned, but in any event, Seller shall respond within thirty (30) days of the request from Purchaser. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs, shall be done by Seller or its contractors at Purchaser's cost. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.
- e. **Outages.** Purchaser shall be permitted to be off line for a total of forty-eight (48) day light hours (each, a "Scheduled Outage") per calendar year during the Term, during which days Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of forty-eight (48) day light hours per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. For avoidance of doubt, the forty-eight (48) hour period shall include all Scheduled Outage hours allowed under any of the terms of this Agreement, including those undertaken pursuant to Section 8(d).
- f. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim.
- g. **Security.** Purchaser shall be responsible for using commercially reasonable efforts to maintain the physical security of the Facility and the System against known risks and risks that should have been known by Purchaser. Purchaser will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.

- h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 7.h.i(h) against Purchaser.
- i. **Data Line.** Purchaser shall provide Seller a high speed internet data line during the Term to enable Seller to record the electric energy generated by the System. If Purchaser fails to provide such high speed internet data line, or if such line ceases to function and is not repaired, Seller may reasonably estimate the amount of electric energy that was generated and invoice Purchaser for such amount in accordance with Section 4.
- j. **Breakdown Notice.** Purchaser shall notify Seller within twenty-four (24) hours following the discovery by it of (A) any material malfunction in the operation of the System; or (B) any occurrences that could reasonably be expected to adversely affect the System. Purchaser shall notify Seller immediately upon (A) an interruption in the supply of electrical energy from the System; or (B) the discovery of an emergency condition respecting the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

9. **Change in Law.**

"Change in Law" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller's obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

10. **Relocation of System.**

If Purchaser ceases to conduct business operations at and/or vacates the Facility or is prevented from operating the System at the Facility prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same Utility district as the terminated System or in a location with similar Utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System relocated to; and (iii) Term, which will be the remainder of the Term of this Agreement and such amended agreement shall be deemed to be a continuation of this Agreement without termination. Purchaser shall also provide any new Purchaser, owner, lessor or mortgagee consents or releases required by Seller or Seller's Financing Parties in connection with the substitute facility. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Facility and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller's Financing Parties in the System. Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during the period of time the System is not in operation due to the relocation and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. Seller shall remove the System from the vacated Facility prior to the

termination of Purchaser's ownership, lease or other rights to use such Facility. Seller will not be required to restore the Facility to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Facility, Seller shall have the right to make an adjustment to Exhibit 1 such that Purchaser's payments to Seller are the same as if the System were located at the original Facility. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

11. **Removal of System at Expiration.**

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition including the removal of System mounting pads or other support structures. In no case shall Seller's removal of the System affect the integrity of Purchaser's roof, which shall be as leak proof as it was prior to removal of the System and shall be flashed and/or patched to existing roof specifications. Seller shall leave the Facility in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

12. **Measurement.**

Electricity delivered to the Facility shall be measured by the SolarGuard monitoring system installed and maintained by Seller as part of the System.

13. **Default, Remedies and Damages.**

a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed a "Defaulting Party" and each event of default shall be a "Default Event":

- (1) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within fifteen (15) days following receipt of written notice from the other Party (the "Non-Defaulting Party") of such failure to pay ("Payment Default");
- (2) failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure with the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse affect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
- (3) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- (4) Purchaser loses its rights to occupy and enjoy the Premises;
- (5) a Party, or its guarantor, becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days); or
- (6) Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. Remedies.

- (1) Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the Payment Default.
- (2) Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement or suspension of performance of its obligations under this Agreement, upon five (5) days prior written notice to the Defaulting Party following the occurrence of the Default Event. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. If Purchaser terminates this contract without cause prior to System Installation a \$5,000 design cancellation fee shall also apply in addition to any other remedy available to Seller.
- (3) Damages Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "Termination Payment"):
  - A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (i) reasonable compensation, on a net after tax basis assuming a tax rate of 35%, for the loss or recapture of (A) the investment tax credit equal to thirty percent (30%) of the System value; and (B) MACRS accelerated depreciation equal to eighty five percent (85%) of the System value, (C) loss of any Environmental Attributes or Environmental Incentives that accrue or are otherwise assigned to Seller pursuant to the terms of this Agreement (Seller shall furnish Purchaser with a detailed calculation of such compensation if such a claim is made), (D) other financing and associated costs not included in (A), (B) and (C), (ii) the net present value of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (iii) removal costs as provided in Section 13(b)(3)(C) and (iv) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.
  - B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (i) the present value (using a discount rate of 9.5%) of the excess, if any, of the reasonably expected cost of electric energy from the Utility over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility; (iii) any removal costs incurred by Purchaser, and (iv) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.
  - C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 13(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment (except for mounting pads and support structures) constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

14. **Representations and Warranties.**

a. **General Representations and Warranties.** Each Party represents and warrants to the other the following:

- (1) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
- (2) Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

b. **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller the following:

- (1) **License.** Purchaser has title to or a leasehold or other property interest in the Premises. Purchaser has the full right, power and authority to grant the License contained in Section 8(a). Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility. If Purchaser does not own the Premises or Facility, Purchaser has obtained all required consents from the owner of the Premises and/or Facility to grant the License and enter into and perform its obligations under this Agreement.
- (2) **Other Agreements.** Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.
- (3) **Accuracy of Information.** All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Facility, and Purchaser's estimated electricity requirements, is accurate in all material respects.
- (4) **Purchaser Status.** Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.
- (5) **No Pool Use.** No electricity generated by the System will be used to heat a swimming pool.
- (6) **Oregon Only:** The electricity generated by the System will be used solely for commercial and business purposes. No portion of the electricity generated will be used for personal, family, household or agricultural purposes.

15. **System and Facility Damage and Insurance.**

a. **System and Facility Damage.**

- (1) **Seller's Obligations.** If the System is damaged or destroyed other than by Purchaser's gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees (i) to pay for the cost of such restoration of the System or (ii) to purchase the System "AS-IS" at the greater of (A) then current fair market value of the System and (B) the sum of the amounts described in Section 13.b(3)A(i) (using the date of purchase to determine the appropriate Contract Year) and Section 13.b(3)A(iii).

(2) Purchaser's Obligations. If the Facility is damaged or destroyed by casualty of any kind or any other occurrence other than Seller's gross negligence or willful misconduct, such that the operation of the System and/or Purchaser's ability to accept the electric energy produced by the System are materially impaired or prevented, Purchaser shall promptly repair and restore the Facility to its pre-existing condition; provided, however, that if more than 50% of the Facility is destroyed during the last five years of the Initial Term or during any Additional Term, Purchaser may elect either (i) to restore the Facility or (ii) to pay the Termination Payment and all other costs previously accrued but unpaid under this Agreement and thereupon terminate this Agreement.

b. Insurance Coverage. At all times during the Term, Seller and Purchaser shall maintain the following insurance:

i. Seller's Insurance. Seller shall maintain (i) property insurance on the System for the replacement cost thereof, (ii) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate, (iii) business automobile liability insurance with coverage of at least \$1,000,000 combined single limit, (iv) employer's liability insurance with coverage of at least \$1,000,000 and (v) workers' compensation insurance as required by law.

ii. Purchaser's Insurance. Purchaser is self-insured, and shall, upon execution of this Agreement and upon the Provider's request thereafter, deliver to Provider a letter of self-insurance or similar evidence of current Provider insurance.

c. Policy Provisions. All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance thirty (30) days (ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled, or terminated, (ii) be written on an occurrence basis, (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other party.

d. Certificates. Upon the other Party's request each Party shall deliver the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. Deductibles. Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

## 16. Ownership; Option to Purchase.

a. Ownership of System. Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of the Seller and Purchaser agree that the Seller is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. For the avoidance of doubt, in either circumstance Seller shall file such disclaimer. Upon request, Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises. To the extent that Purchaser does not own the Premises or Facility, Purchaser shall provide to Seller immediate written notice of receipt of notice of eviction from the Premises or Facility or termination of Purchaser's lease of the Premises and/or Facility.

b. Option to Purchase. At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to the Fair Market Value of the System. The "Fair Market Value" of the System shall be determined by mutual agreement of Purchaser and Seller; provided, however, if Purchaser and Seller cannot agree to a Fair Market Value within thirty (30) days after Purchaser has exercised its

option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination in a written opinion delivered to the Parties; provided that in no event shall the Fair Market Value be less than the aggregate of the amounts calculated under Sections 13(b)(3)(A)(ii) and (iv) as of the date of System title transfer. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

17. **Indemnification and Limitations of Liability.**

- a. **General.** Each Party (the “**Indemnifying Party**”) shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the “**Indemnified Parties**”), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys’ fees (collectively, “**Liabilities**”) resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 14 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17(c).
- b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a “**Claim**”), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys’ fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 17(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.
- c. **Environmental Indemnification.** Seller shall indemnify, defend and hold harmless all of Purchaser’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 17(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Purchaser shall indemnify, defend and hold harmless all of Seller’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.
- i. “**Hazardous Substance**” means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is

restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability.**

- i. **No Consequential Damages.** Neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such.
- ii. **Actual Damages.** Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments made (or, as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section (17)(d)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against Seller must be brought within one (1) year after the cause of action accrues.

18. **Force Majeure.**

- a. "Force Majeure" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.
- b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.
- c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that impacts Purchaser's ability to make payment.
- d. If a Force Majeure event continues for a period of one hundred (100) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).

19. **Assignment and Financing.**

- a. **Assignment.** This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, but prior to Commercial Operation Date, assign this Agreement to a Special Purpose Entity established for the purposes of securing financing for the construction of the System, of which Seller shall at all times be an owner or a member. Following Commercial Operation, Seller may, without the prior written consent of Purchaser (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement to any Financing Party, (ii) directly or indirectly assign this Agreement to an affiliate of Seller, (iii) assign this Agreement to any entity through which Seller is obtaining financing or capital for the System and (iv) assign this Agreement to any person succeeding to all or substantially all

of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee). Purchaser's consent to any other assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

- b. **Financing.** The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from lenders or third parties (including tax equity or similar investors) ("**Financing Parties**") in connection with the installation, construction, ownership, operation and maintenance of the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. The Parties also agree that Seller may assign this Agreement to the Financing Parties as collateral, and in connection with any such assignment, Purchaser agrees to execute a consent to assignment in customary form and reasonably acceptable to the Financing Parties.

20. **Confidentiality and Publicity.**

- a. **Confidentiality.** If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Purchaser's business ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, "**Representatives**"), and affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the negotiation and performance of this Agreement. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 20(a), except as set forth in Section 20(b). All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 20(a) by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 20(a). To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 20(a), but shall be in addition to all other remedies available at law or in equity.

- b. **Permitted Disclosures.** Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed under applicable law, pursuant to applicable public disclosure statutes, or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

21. **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and

each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

**22. General Provisions**

- a. **Choice of Law.** The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.
- b. **Arbitration and Attorneys' Fees.** Any dispute arising from or relating to this Agreement shall be arbitrated in San Francisco, California. The arbitration shall be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures, and judgment on any award may be entered in any court of competent jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.
- c. **Notices.** All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the Parties as follows:

<p><b>If to Purchaser:</b></p> <p>City Attorney Office of the City Attorney 999 Broad St. Second Floor Bridgeport, CT 06604 Fax: (203)576-8282 Email: <a href="mailto:lisa.trachtenburg@bridgeportct.gov">lisa.trachtenburg@bridgeportct.gov</a></p>	<p>Utilities Manager City of Bridgeport 999 Broad St. Second Floor Bridgeport, CT 06604 Fax: (203)576-3957 Email: <a href="mailto:john.cottell@bridgeportct.gov">john.cottell@bridgeportct.gov</a></p>
<p><b>Property Owner Contact Information:</b></p> <p>Bridgeport Port Authority 330 Water St. Bridgeport, CT 06604 Fax: (203) 576-7817 E-mail: <a href="mailto:Martha.klimas@bridgeportct.gov">Martha.klimas@bridgeportct.gov</a></p>	<p><b>Department/Division Customer:</b></p> <p>Water Pollution Control Authority 695 Seaview Ave. Bridgeport, CT 06604 Fax: (203) 576-7005 E-mail: <a href="mailto:bill.robinson@bridgeportct.gov">bill.robinson@bridgeportct.gov</a></p>
<p>Bridgeport Port Authority 330 Water St. Bridgeport, CT 06604 Fax: (203) 576-7817 Email: <a href="mailto:Andrew.Nunn@bridgeportct.gov">Andrew.Nunn@bridgeportct.gov</a></p>	<p>City of Bridgeport 999 Broad Street Bridgeport, CT 06604 Attention: Mayor William Finch</p>
<p><b>If to Seller:</b></p> <p>SolarCity Corp. 3055 Clearview Way San Mateo, CA 94402 Attn: Legal Department <a href="mailto:contracts@solarcity.com">contracts@solarcity.com</a> Fax: (650) 638-1029</p>	

Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.

- d. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 4 (Representations and Warranties), Section 7(**Error! Reference source not found.**) (No Warranty), Section 15(b) (Insurance Coverage), Section 17 (Indemnification and Limits of Liability), Section 20 (Confidentiality and Publicity), Section 22(a) (Choice of Law), Section 22 (b) (Arbitration and Attorneys' Fees), Section 22(c) (Notices), Section 22 (g) (Comparative Negligence), Section 22(h) (Non-Dedication of Facilities), Section 22(j) (Service Contract), Section 22(k) (No Partnership) Section 22(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 22(n) (No Third Party Beneficiaries).
- e. **Further Assurances.** Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- f. **Right of Waiver.** Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.
- g. **Comparative Negligence.** It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
- h. **Non-Dedication of Facilities.** Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 11 of this Agreement.
- i. **Estoppel.** Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
- j. **Service Contract.** The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.

- k. **No Partnership.** No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.
- l. **Full Agreement, Modification, Invalidity, Counterparts, Captions.** This Agreement, together with any Exhibits, completely and exclusively states the agreement of the parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
- m. **Forward Contract.** The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.
- n. **No Third Party Beneficiaries.** Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.
- o. **Bonds.** Notwithstanding any language to the contrary in this Agreement and solely to the extent a performance and/or payment bond is being issued to Purchaser:
- p. **Bonding.**
- i. **Performance bond liability.** Any performance bond issued for a site or system will cease one (1) year from the completion of construction. If a warranty or guarantee is provided under the terms of this Agreement, the balance of any warranty or guarantee beyond one year term of the applicable performance bond shall continue to be guaranteed solely by Seller under the terms of this Agreement. The performance bond does not guarantee any property restorative requirements.
  - ii. **Payment bond liability.** Any payment bond issued will cease at the termination of any time required by law.
  - iii. **Performance Guarantee.** Neither payment bonds, whether for labor or materials, nor performance bonds are applicable to any specified performance guarantee.

*End of Exhibit 4*

**\*130-12 Consent Calendar**

Grant Submission: re Connecticut State Library for an Every Child Ready to Read (ECRR) Library Services and Technology Act (LSTA) Grant.

---

---

**Report  
of  
Committee  
on  
ECB & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_  
*Fleeta S. Hudson*

Attest: \_\_\_\_\_  
City Clerk

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on ECD and Environment begs leave to report; and recommends for adoption the following resolution:

**\*130-12 Consent Calendar**

**A Resolution by the Bridgeport City Council  
Regarding the Connecticut State Library's  
Every Child Ready to Read Library Services and Technology Act  
Grant**

**WHEREAS**, the Connecticut State Library is authorized to extend financial assistance to organizations in the form of grants; and

**WHEREAS**, this funding has been made possible through the Every Child Ready to Read Library Services and Technology Act Grant; and

**WHEREAS**, funds under this grant will be used to establish the Every Child Read to Read Program at Barnum, Luis Munoz Marin and Waltersville Schools; and

**WHEREAS**, it is desirable and in the public interest that the Bridgeport Public Library, submit an application to the Connecticut State Library in the amount of \$3,000 for the purpose of implementing the Every Child Ready to Read program for Bridgeport youth; Now, therefore be it

**RESOLVED BY THE CITY COUNCIL:**

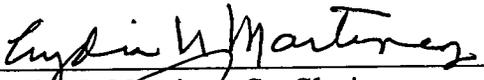
1. That it is cognizant of the City's grant application to and contract with the Connecticut State Library for the purpose of implementing the Every Child Read to Read program; and
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the Connecticut State Library's Every Child Ready to Read Library Services and Technology Act Grant Program and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.

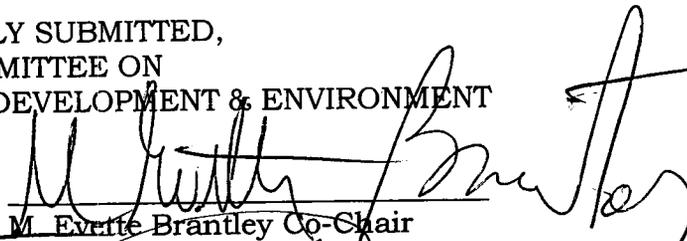


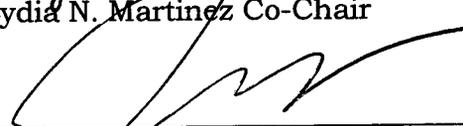
Report of Committee on ECD and Environment  
\*130-12 Consent Calendar

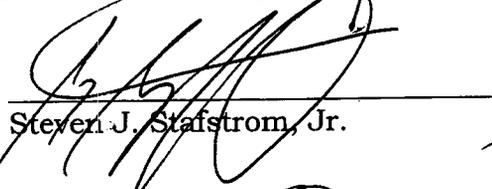
-2-

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*148-12 Consent Calendar**

Grant Submission: re State Department of Economic  
And Community Development for an Urban Act Grant  
Program.

---

---

**Report  
of  
Committee  
on  
ECB & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

*Fleeta C Hudson*

Attest: \_\_\_\_\_

City Clerk

---

---

Approved \_\_\_\_\_

Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on ECD and Environment begs leave to report; and recommends for adoption the following resolution:

## **\*148-12 Consent Calendar**

### **A Resolution by the Bridgeport City Council Regarding the State of Connecticut Department of Economic and Community Development Urban Act Grant Program**

**WHEREAS**, the State of Connecticut Department of Economic and Community Development is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through a grant for the Bridgeport Neighborhood Revitalization Zone Streetscape Improvements; and

**WHEREAS**, funds under this grant will be used for a variety of local streetscape improvements, including increased street trees, sidewalk improvements, directional signage, traffic calming, and crosswalk upgrades to increase the safety of pedestrians living and working within six (6) neighborhood revitalization zones in Bridgeport, Connecticut; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, Office of Planning and Economic Development, submit an application to the State of Connecticut Department of Economic and Community Development in the amount of \$1,000,000 for the purpose of local streetscape improvements; Now, therefore be it hereby

#### **RESOLVED BY THE CITY COUNCIL:**

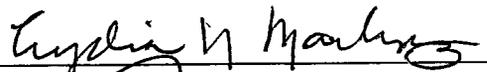
1. That it is cognizant of the City's grant application to and contract with the State of Connecticut Department of Economic and Community Development to implement a variety of local streetscape improvements, including increased street trees, sidewalk improvements, directional signage, traffic calming, and crosswalk upgrades; and,
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the State Department of Economic and Community Development for the Urban Act Grant Program and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.

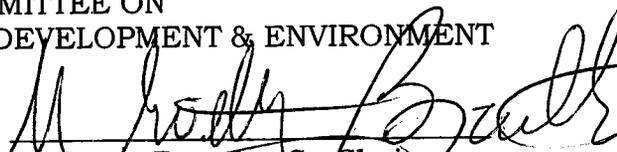


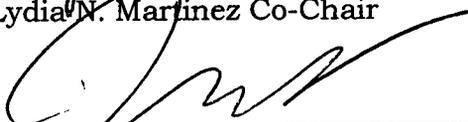
Report of Committee on ECD and Environment  
\*148-12 Consent Calendar

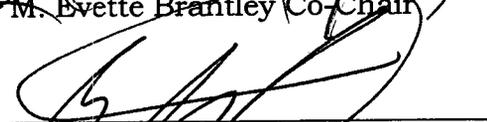
-2-

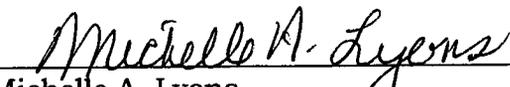
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Statstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*149-12 Consent Calendar**

Tax Incentive Development Agreement for 1803 Stratford Avenue, Affordable Housing Development – Bridgeport Neighborhood Trust.

---

---

**Report  
of  
Committee  
on  
ECB & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_

*Fleeta C. Hudson*  
City Clerk

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on ECD and Environment begs leave to report;  
and recommends for adoption the following resolution:

**\*149-12 Consent Calendar**

## **Tax Incentive Agreement for 1803 Stratford Avenue Affordable Housing Development – Bridgeport Neighborhood Trust**

**Whereas** Sections 8-215 and Section 8-216 of the Connecticut General Statutes (the “Statute”) provide that municipalities may by ordinance provide for real estate tax abatements for housing developed solely for low or moderate-income persons, and may enter into Agreements with the State of Connecticut, acting through its Department of Economic and Community Development, (the “State”) to provide for the State’s reimbursement, at the State’s discretion, to the municipality of such taxes abated for this purpose;

**Whereas** the Statute provides that such tax abatement shall be used for one or more of the following purposes: (1) To reduce rents below the levels which would be achieved in the absence of such abatement and to improve the quality and design of such housing; (2) to effect occupancy of such housing by persons and families of varying income levels within limits determined by the Commissioner of Economic and Community Development by regulation, or (3) to provide necessary related facilities or services in such housing.

**Whereas** the Bridgeport Neighborhood Trust, or its affiliate entity, (the “Developer”) is the owner of the real property known as 1803 Stratford Avenue, a consolidated address referring to what are currently four individual parcels currently known as 1793, 1803, 1815, 1823 Stratford Avenue (the “Property”);

**Whereas** the Developer proposes to invest approximately \$7 million dollars in the construction of approximately 30 units of housing (the “Project”), of which approximately 15 units shall be supportive housing and shall be restricted to occupants earning less than 25% of the Area’s Median Income (“AMI”), which is an income-group defined as “very very low-income” by the US Department of Housing and Urban Development (“HUD”), with another approximately 5 units being restricted to occupants earning less than 50% of AMI, which is defined as “very low-income” by HUD, with another approximately 10 units being restricted to occupants earning less than 80% of AMI, which is defined as “low-income” by HUD, such that all of the units proposed in the Project shall meet the definition of the Statute as being restricted to low or moderate income persons; the Project shall meet the definition of the Statute as being restricted to low or moderate income persons;



Report of Committee on ECD and Environment  
\*149-12 Consent Calendar

-2-

**Whereas** the Developer also proposes to construct what the Statute terms "necessary related facilities," anticipated to include such uses as a neighborhood grocery, supportive office space, conference space, lobby space, community meeting rooms, a laundry area, outdoor balcony patio, and required off-street parking, all designed to support on-site resident needs as well as to provide broader community amenities;

**Whereas** the City of Bridgeport's Office of Planning and Economic Development ("OPED") finds that the public purposes of the Statute are met, that the Development is consistent with the City's Master Plan and that it is in the City's interest to encourage the redevelopment of Stratford Avenue;

**Whereas** the Developer seeks to finance the Project through a combination of sources, including financing from the State of Connecticut's Permanent Supportive Housing Initiative, as administered by the Connecticut Housing Finance Authority;

**Whereas** the Developer's ability to attract the capital needed to construct the Project is contingent in part upon its ability to present a stable operating pro-forma with a stable, predictable, real estate tax payment schedule as proposed within this resolution ("Tax Incentive Agreement");

**Whereas** OPED judges the Developer to be capable of carrying out the Project, judges the Project design to be of high quality, and judges the cost structure and operating structure of the Project to be reasonable and within industry standards;

**Whereas** OPED judges the Tax Incentive Agreement to be warranted and necessary for the success of the Project, and has conducted a financial feasibility analysis that concludes that without the Tax Incentive Agreement, the Project would not proceed; Now, therefore be it

**RESOLVED** that that the Mayor or the Director of the Office of Planning and Economic Development or their designee is authorized to negotiate and execute a Tax Incentive Development Agreement that will fix the real estate taxes at the Property for thirty years after the completion of the Project as evidenced by the appropriate documentation from the City's Building Department, and as to be administered by the normal practices of the Tax Collector's Office, as per the following payment schedule:



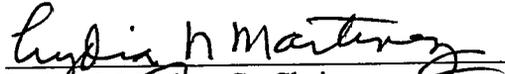
Report of Committee on ECD and Environment  
\*149-12 Consent Calendar

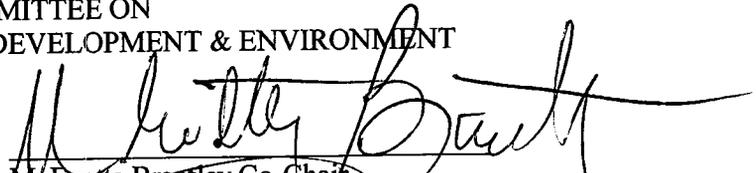
-3-

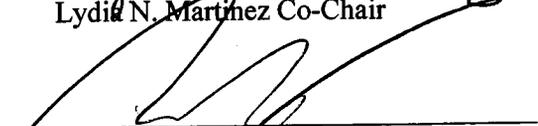
Years 1-10:	\$45,000 per year
Years 11-20:	\$60,000 per year
Years 21-30:	\$61,000 (year 21)
	\$62,000 (year 22)
	\$63,000 (year 23)
	\$65,000 (year 24)
	\$66,000 (year 25)
	\$67,000 (year 26)
	\$69,000 (year 27)
	\$70,000 (year 28)
	\$72,000 (year 29)
	<u>\$75,000 (year 30)</u>
<b>Total:</b>	<b>\$1,720,000</b>

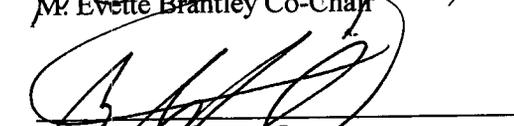
**BE IT FURTHER RESOLVED** that the Mayor, the Chief Administrative Officer, the Director of the Office of Planning and Economic Development, the Tax Assessor, and the Tax Collector, are each authorized to negotiate and execute such agreements, including Agreements with the Developer and Agreements with the State, and take such other necessary or desirable actions in furtherance of the Project and consistent with this resolution as they may deem to be in the best interests of the City.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

Council Date: October, 21, 2013

**\*155-12 Consent Calendar**

Grant Submission: re State Department of Economic and Community Development's (DECD) Office of Brownfield Remediation & Development Grant for the East End Urban Agriculture Center.

---

---

**Report  
of  
Committee  
on  
ECB & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

Attest: *Fleeta C. Jackson*  
City Clerk

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on ECD and Environment begs leave to report; and recommends for adoption the following resolution:

## **\*155-12 Consent Calendar**

### **A Resolution by the Bridgeport City Council Regarding the State of Connecticut Department of Economic and Community Development Office of Brownfield Remediation & Redevelopment Grant for the East End Urban Agriculture Center**

**WHEREAS**, the State of Connecticut Department of Economic and Community Development is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this financial assistance has been made possible through the State of Connecticut Department of Economic and Community Development's Office of Brownfields Remediation and Redevelopment; and,

**WHEREAS**, the financial assistance under this grant will be used to remediate and redevelop a contaminated 3.4 acre site(s) in the East End of Bridgeport; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, Connecticut, Office of Planning and Economic Development, submit an application to the State of Connecticut Department of Economic and Community Development in an amount not to exceed \$1,000,000 for the purpose of environmental remediation and redevelopment for the East End Urban Agriculture Center; Now, therefore be it

#### **RESOLVED BY THE City Council:**

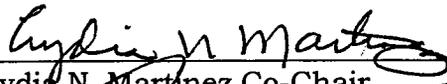
1. That it is cognizant of the City's grant application and contract to the State of Connecticut Department of Economic and Community Development to provide financial assistance and assist the City of Bridgeport with remediation and redevelopment of the East End Urban Agriculture Center.
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the State of Connecticut Department of Economic and Community Development Office of Brownfields Remediation and Redevelopment for the East End Urban Agriculture Center, to provide such additional information and to execute such other contracts and documents as necessary under this program.

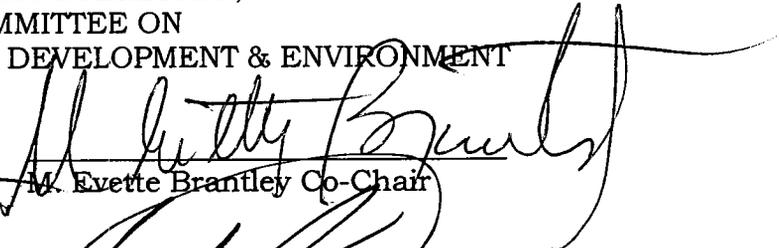


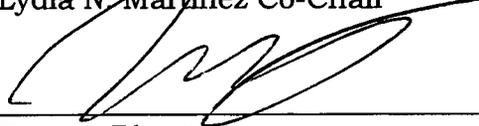
Report of Committee on ECD and Environment  
\*155-12 Consent Calendar

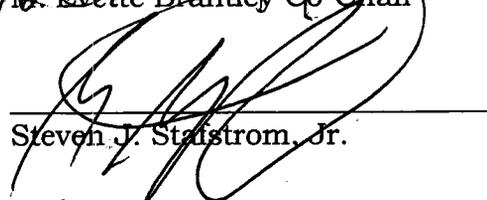
-2-

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

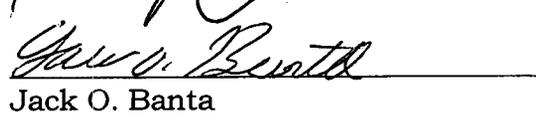
  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Staiström, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*156-12 Consent Calendar**

Grant Submission: re State Department of Economic and Community Development's (DECD) Office of Brownfield Remediation & Development Grant for the Security Building Remediation Project.

---

---

**Report  
of  
Committee  
on  
ECB & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

*Fleeta C Hudson*

Attest: \_\_\_\_\_

City Clerk

---

Approved \_\_\_\_\_

Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

## **\*156-12 Consent Calendar**

### **A Resolution by the Bridgeport City Council Regarding the State of Connecticut Department of Economic and Community Development Office of Brownfield Remediation & Redevelopment Grant for the Security Building Remediation Project**

**WHEREAS**, the State of Connecticut Department of Economic and Community Development is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this financial assistance has been made possible through the State of Connecticut Department of Economic and Community Development's Office of Brownfields Remediation and Redevelopment; and

**WHEREAS**, the financial assistance under this grant will be used to assess, remediate and redevelop the historic Security, EE Wheeler and EW Harral buildings in Downtown Bridgeport; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, Connecticut, Office of Planning and Economic Development, submit an application to the State of Connecticut Department of Economic and Community Development in an amount not to exceed \$1,014,821 for the purpose of site assessment, environmental remediation and redevelopment for the Security, EE Wheeler and EW Harral buildings; Now, therefore be it

#### **RESOLVED BY THE City Council:**

1. That it is cognizant of the City's grant application and contract to the State of Connecticut Department of Economic and Community Development to provide financial assistance and assist the City of Bridgeport with assessment, remediation and redevelopment of the Security, EE Wheeler and EW Harral buildings.
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the State of Connecticut Department of Economic and Community Development Office of Brownfields Remediation and Redevelopment for the Security Building Remediation Project, to provide such additional information and to execute such other contracts and documents as maybe necessary under this program.

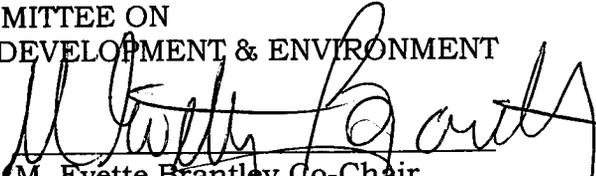


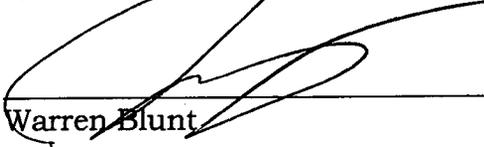
Report of Committee on ECD and Environment  
\*156-12 Consent Calendar

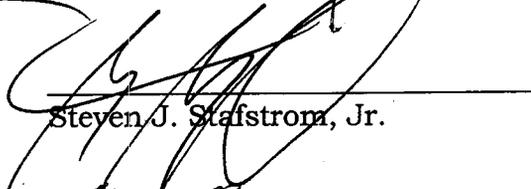
-2-

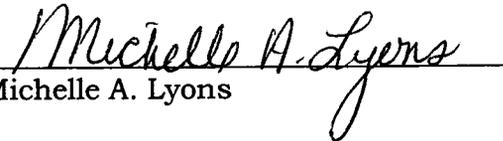
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

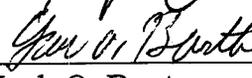
  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*157-12 Consent Calendar**

Grant Submission: re US Environmental Protection Agency (EPA) for FY2013 Supplemental Funding for Brownfields Revolving Loan Fund Grantees.

---

---

**Report  
of  
Committee  
on  
CEA & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_

*Fleeta G Hudson*

City Clerk

---

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

## **\*157-12 Consent Calendar**

### **A Resolution by the Bridgeport City Council Regarding the Environmental Protection Agency's FY 2013 Supplemental Funding for Brownfields Revolving Loan (RLF) Grantees**

**WHEREAS**, the United States Environmental Protection Agency is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this financial assistance has been made possible through the United States Environmental Protection Agency's FY 2013 Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees; and

**WHEREAS**, the financial assistance under this grant will be used to remediate contaminated properties throughout Bridgeport; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, Connecticut, Central Grants Office, submit an application to the Environmental Protection Agency in an amount not to exceed \$350,000 for the purpose of environmental remediation; Now, therefore be it

#### **RESOLVED BY THE City Council:**

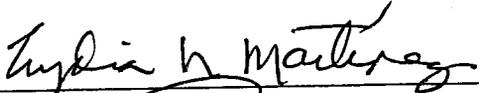
1. That it is cognizant of the City's grant application and contract to the Environmental Protection Agency to provide financial assistance and assist the City of Bridgeport with remediation of contaminated land parcels and/or properties to position them for redevelopment.
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the Environmental Protection Agency for the FY 2013 Supplemental Funding for Brownfields Revolving Loan Funds, to provide such additional information and to execute such other contracts and documents as maybe necessary under this program.

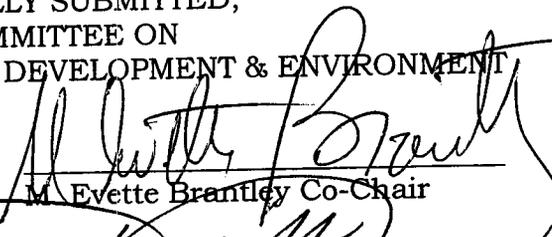


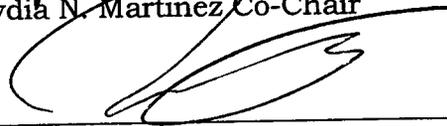
Report of Committee on ECD and Environment  
\*157-12 Consent Calendar

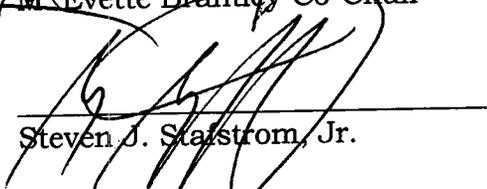
-2-

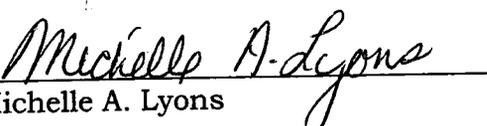
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stalstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*160-12 Consent Calendar**

**Bridgeport Harbor Management Plan Revision.**

---

---

**Report  
of  
Committee  
on  
CEA & Environment**

---

**Submitted: October 21, 2013**

Adopted:

*Fleeta C Hudson*

Attest:

City Clerk

---

---

Approved

Mayor

---

---



# City of Bridgeport, Connecticut

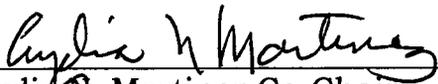
*To the City Council of the City of Bridgeport:*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

## **\*160-12 Consent Calendar**

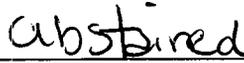
**RESOLVED**, That the attached amendment to the Bridgeport Harbor Management Plan be and it hereby is, in all respects, approved, ratified and confirmed.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
~~Robert Curwen, Sr.~~  
Steven J. Stafstrom

  
Michelle A. Lyons

  
Martin McCarthy

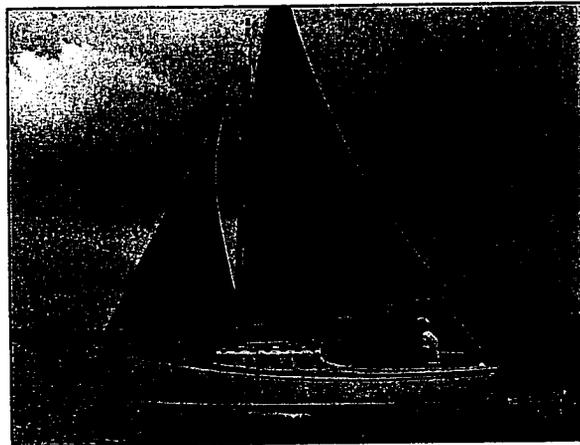
  
Jack O. Banta

## 1.0 Introduction

The City of Bridgeport (the City), located along the northern shore of the Long Island Sound (see Figure 1), contains one of the largest, most sophisticated harbor areas in the State of Connecticut. Harbor areas in the City include miles of coastal lands, which provide access to residential, commercial, recreational, and industrial water-dependent uses.

The harbor of the City of Bridgeport has specific strengths that benefit the citizens of the City as well as the citizens of the State of Connecticut:

- **Deep Water Port Mid to Deep-Water Uses** – Property that is deep-water accessible is of limited supply in the State of Connecticut; Bridgeport is one of three deep-water ports in the state. Thus, it is in the best interests of the citizens of the City of Bridgeport and of the citizens of the State of Connecticut to continue to utilize harbor property that accommodates deep-water uses for deep-water uses.
- **Transportation Center** – Bridgeport lies at the intersection of frequent bus, train and ferry routes. Additionally, Interstate 95 runs through the center of the city. This confluence of transportation lines is a great asset to the city;
- **Shipping** – Already a center for shipping, which provides goods for both the city and the region, Bridgeport has an existing transportation infrastructure to support a robust increase in the industry;
- **Water-Dependent Industry** – Historically an industrial center, Bridgeport still contains several thriving water-dependent industries that are a strength to the city and the region;



- **Water-Dependent and Shoreline Recreation** – Bridgeport contains a large number of marinas and yacht clubs, which house hundreds of boats for citizens of the City and of the State. Bridgeport also contains some of the best harbor-side parkland in the State of Connecticut. Both water-dependent and shoreline recreation provide a benefit to both the citizens of the City of Bridgeport and the State of Connecticut;

### 3.1 Assessment of Available Resources for Waterfront Property and Guidelines for Future Waterfront Property Re-Use

As stated earlier, the Commission is concerned that Waterfront Property currently used for deep-water uses, may be utilized for non-deep-water uses in the future. The Commission is aware that in some instances Waterfront Property that has been used for deep-water uses or maybe suitable for deep-water uses, may have to be shared with other water dependent uses that may not require deep-water access, but that may require mid-water access. This sharing would help to avoid development of Waterfront Property with non-water dependent uses. This proposed modification also helps to ensure that such deep-water access is not "permanently used for non-deep water (or mid water) use." It should be noted that the Plan does categorize ferry-boats as vessels that require deep-water access (Section 3.1.2). In addition, the Commission is concerned that Waterfront Property is used in non-water-dependent ways. The Commission refers to these two conditions as "inappropriate Waterfront Property re-use." The Commission has identified the following unfavorable conditions that could result from inappropriate Waterfront Property re-use:

- **Loss of Industry** - Industries that require deep-water access or access to the Harbor, and are important to the economy of the City of Bridgeport, the greater Bridgeport region, and the State of Connecticut could be inadvertently lost;
- **Loss of Deep-Water Access** - Waterfront Property that accommodates deep-water access could be permanently used for a non-deep-water use, resulting in a net loss of access to deep-water in the State of Connecticut;
- **Loss of Harbor Access** - Waterfront Property that accommodates access to the Harbor could be permanently used for a non-water dependent use, resulting in a net loss of access to the Harbor for the City of Bridgeport; or
- **Loss or Damage to Natural Resources** - The net loss of deep-water access or Harbor access, may result in pressure to develop new sites that can accommodate deep-water access; new sites could result in damage or elimination of a natural resource to the citizens of the City of Bridgeport and the State of Connecticut.

In order to avoid these unfavorable conditions, the Commission proposes to guide future reform and redevelopment of Waterfront Properties to activities that will make full use of the available water depth and existing marine structures ("resources") available at that property. The following two sections provide an assessment of available resources for waterfront property in the Harbor and guidelines for future waterfront property re-use, based on the presence of available resources.

property. The depth of water accessible from the property can best be expressed by the maximum draft vessel that can be accommodated by the property, which is shown by the color coding of each property.

### 3.1.2 Guidelines for Future Waterfront Property Re-Use

Based on the resources (maximum draft vessel accommodated at the property as well as existing marine structures) available for each property, the Commission has placed properties into the following categories, summarized in Table 2 and shown on Figure 11:

- **Deep-Water Accessible** – These properties have adjacent water depths of between 16 and 35 feet. These properties can accommodate vessels that require deep-water access (such as vessels that service the shipping, manufacturing, cruise ship, ferry-boat, power generation, shipbuilding and repairing industries).
- **Mid- to Deep-Water Accessible** - These properties have adjacent water depths of between 7 and 15 feet. These properties can accommodate vessels that require mid- to deep-water access (such as shallower-draft vessels that service the shipping and manufacturing industries, as well as marinas or yacht clubs that service deep-draft vessels).
- **Mid- to Shallow-Water Accessible** - These properties have adjacent water depths that are between 2 and 6 feet. These properties can accommodate vessels that require mid- to shallow- water access (such as recreational boats or very shallow-draft barges).
- **Natural Resource** – These properties have adjacent water depths that are between 0 and 1 foot. These properties contain or are adjacent to either a natural resource or a public recreational resource that is considered valuable to the City of Bridgeport and the State of Connecticut. Future commercial or industrial development of these properties will be discouraged by the Commission. Nevertheless, the Commission continues to support the riparian rights of residential land owners to make minor improvements to their properties for water-dependent recreational uses. Additionally, City of Bridgeport improvements (such as walkways or educational kiosks) made in order to enhance the recreational value of these areas are also supported.

The Commission proposes to use the categories listed above to guide future investment in and redevelopment of waterfront properties in the Harbor. The Commission will attempt to ensure that each new proposal makes appropriate and practical use of the available resources at the property, as listed above. Consistent with state policies, this guidance reflects a preference for improvement and continued maritime use of areas previously dredged and altered for water-dependent activities and discourages significant alteration of areas whose natural resources have not been previously disturbed. Additionally, this guidance is not intended to restrict additional improvements for properties that have been previously dredged and altered for water-dependent activities; such improvements will be reviewed by the Commission on a case-by-case basis.

### **3.1.3 Proposed "Deep Water Access Zone"**

Based on the categories outlined above, the Commission has recognized that some waterfront properties located in the Harbor accommodate deep-water access (or mid- to deep-water access) that is of limited supply in the Harbor and in the State of Connecticut. Due to its limited supply, the Commission recommends that these areas be deemed a "Deep Water Access Zone." The recommended Deep Water Access Zone will be primarily reserved for future water-dependent uses that make full use of the available water depth and existing marine structures available at that property. The Commission has shown the Deep Water Access Zone properties in Table 2 and shown these properties on Figure 12.

'The Commission recognizes that economic conditions, market demands and other factors will impact the use of deep-water sites within the harbor. Use of the harbor for commercial shipping has diminished significantly over the course of the last decade. The Commission would encourage mid-water dependent uses within the Deep Water Access Zone provided that such mid-water uses do not eliminate the possibility of deep-water use, either on a shared basis with the mid-water use or exclusively. The Commission finds that the benefits of keeping Waterfront Property available for non-deep-water uses outweigh the non-use of deep water, particularly where deep water access is not entirely eliminated and where such non-use could result in non-water dependent usage." This change is necessary because economic conditions should not be ignored. The actual use of property should primarily be determined by the market. If commercial shipping (or another deep water use) cannot sustain a water front property, then the next best alternative is a water dependent use that keeps open the possibility of deep water access while utilizing the property for water dependent purposes. Failing that, it is possible that non-water uses, such as housing, could dominate the waterfront.

The attached proposed revisions to the Bridgeport Harbor Management Plan approved by the State of Connecticut Department of Energy and Environmental Protection dated 17 September 2013 have been reviewed and approved by the undersigned

Bridgeport City Council  
Mr. Thomas McCarthy - President

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

William Finch  
Mayor – City of Bridgeport, Ct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Attest:  
Fleeta Hudson  
City Clerk – City of Bridgeport, Ct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Cc : P. Holecz – Harbor Comm.  
H/M Palumbo  
Mayor Finch  
Bpt. City Council  
Mr. D. Kooris – OPED  
Mr. J. Gaucher – DEEP  
F. Hudson – City Clerk  
Harbor Commission  
M. Klimas - BPA  
W. Coleman - OPED

The red type is the addition.

## 1.0 Introduction

The City of Bridgeport (the City), located along the northern shore of the Long Island Sound (see Figure 1), contains one of the largest, most sophisticated harbor areas in the State of Connecticut. Harbor areas in the City include miles of coastal lands, which provide access to residential, commercial, recreational, and industrial water-dependent uses.

The harbor of the City of Bridgeport has specific strengths that benefit the citizens of the City as well as the citizens of the State of Connecticut:

- **Deep Water Port** - Property that is deep-water accessible is of limited supply in the State of Connecticut; Bridgeport is one of three deep-water ports in the state. Thus, it is in the best interests of the citizens of the City of Bridgeport and of the citizens of the State of Connecticut to continue to utilize harbor property that accommodates mid to deep-water uses for deep-water facilities.
- **Transportation Center** – Bridgeport lies at the intersection of frequent bus, train and ferry routes. Additionally, Interstate 95 runs through the center of the city. This confluence of transportation lines is a great asset to the city;
- **Shipping** – Already a center for shipping, which provides goods for both the city and the region, Bridgeport has an existing transportation infrastructure to support a robust increase in the industry;
- **Water-Dependent Industry** – Historically an industrial center, Bridgeport still contains several thriving water-dependent industries that are a strength to the city and the region;
- **Water-Dependent and Shoreline Recreation** – Bridgeport contains a large number of marinas and yacht clubs, which house hundreds of boats for citizens of the City and of the State. Bridgeport also contains some of the best harbor-side parkland in the State of Connecticut. Both water-dependent and shoreline recreation provide a benefit to both the citizens of the City of Bridgeport and the State of Connecticut;
- **Shellfishing** - The City of Bridgeport has always had a shellfishing industry that has benefited the City of Bridgeport and the State of Connecticut;
- **Marine Ecosystem** – The territorial waters of Bridgeport and adjacent lands contain a large, although impacted, marine ecosystem that is a part of the greater Long Island Sound ecology. It is in the best interests of the citizens of the City of Bridgeport, the State of Connecticut, and the greater region to protect and restore marine resources in the Harbor.

Incorporate these changes including the blue-font into the approved draft to be forwarded to the Mayor and City Council for approval.

Red font = OPED-Requested Changes

Blue font = DEEP recommended changes

### 3.1 Assessment of Available Resources for Waterfront Property and Guidelines for Future Waterfront Property Re-Use

As stated earlier, the Commission is concerned that Waterfront Property currently used for deep-water uses, may be utilized for non-deep-water uses in the future. The Commission is aware that in some instances Waterfront Property that has been used for deep-water uses or maybe suitable for deep-water uses, may have to be shared with other **water-dependent-uses** that may not require deep-water access, but that may require mid-water access. This sharing would help to avoid development of Waterfront Property **for with** non-water dependent uses. This proposed modification also helps to ensure that such deep-water access is not “permanently” used for non-deep-water (or mid-water) use.<sup>22</sup>

#### 3.1.3 Proposed “Deep Water Access Zone”

Based on the categories outlined above, the Commission has recognized that some waterfront properties located in the Harbor accommodate deep-water access (or mid- to deep-water access) that is of limited supply in the Harbor and in the State of Connecticut. Due to its limited supply, the Commission recommends that these areas be deemed a “Deep Water Access Zone.” The recommended Deep Water Access Zone will be primarily reserved for future water-dependent uses that make full use of the available water depth and existing marine structures available at that property. The Commission has shown the Deep Water Access Zone properties in Table 2 and shown these properties on Figure 12.

<sup>22</sup>The Commission recognizes that economic conditions, market demands and other factors will impact the use of deep-water sites within the harbor. Use of the harbor for commercial shipping has diminished significantly over the course of the last decade. The Commission would encourage mid-water-dependent uses within the Deep Water Access Zone provided that such mid-water uses do not eliminate the possibility of deep-water use, either on a shared basis with the mid-water use or exclusively. The Commission finds that the benefits of keeping Waterfront Property available for non-deep-water uses outweigh the non-use of deep water, particularly where deep water access is not entirely eliminated and where such non-use could result in non-water-dependent usage.<sup>22</sup> This change is necessary because economic conditions should not be ignored. The actual use of property ~~will~~ **should primarily** be determined by the market. If commercial shipping (or another deep-water use) cannot sustain a water front property, then the next best alternative is a water-dependent use that keeps open the possibility of deep-water access while utilizing the property for water-dependent purposes. Failing that, it is possible that non-water uses, such as housing, could dominate the waterfront.

The underlined sentence is to be omitted. The red type is the new sentence.

### 3.1.2 Guidelines for Future Waterfront Property Re-Use

Based on the resources (maximum draft vessel accommodated at the property as well as existing marine structures) available for each property, the Commission has placed properties into the following categories, summarized in Table 2 and shown on Figure 11:

- **Deep-Water Accessible** – These properties have adjacent water depths of between 16 and 35 feet. These properties can accommodate vessels that require deep-water access (such as vessels that service the shipping, manufacturing, cruise ship, ferry-boat, power generation, shipbuilding and repairing industries).
- **Mid- to Deep-Water Accessible** - These properties have adjacent water depths of between 7 and 15 feet. These properties can accommodate vessels that require mid- to deep-water access (such as shallower-draft vessels that service the shipping and manufacturing industries, as well as marinas or yacht clubs that service deep-draft vessels).
- **Mid- to Shallow-Water Accessible** - These properties have adjacent water depths that are between 2 and 6 feet. These properties can accommodate vessels that require mid- to shallow- water access (such as recreational boats or very shallow-draft barges).
- **Natural Resource** – These properties have adjacent water depths that are between 0 and 1 foot. These properties contain or are adjacent to either a natural resource or a public recreational resource that is considered valuable to the City of Bridgeport and the State of Connecticut. Future commercial or industrial development of these properties will be discouraged by the Commission. Nevertheless, the Commission continues to support the riparian rights of residential land owners to make minor improvements to their properties for water-dependent recreational uses. Additionally, City of Bridgeport improvements (such as walkways or educational kiosks) made in order to enhance the recreational value of these areas are also supported.

The Commission proposes to use the categories listed above to guide future investment in and redevelopment of waterfront properties in the Harbor. The Commission will attempt to ensure that each new proposal makes full and appropriate use of the available resources at the property, as listed above. The Commission will attempt to ensure that each new proposal makes appropriate and practical use of the available resources at the property, as listed above. Consistent with state policies, this guidance reflects a preference for improvement and continued maritime use of areas previously dredged and altered for water-dependent activities and discourages significant alteration of areas whose natural resources have not been previously disturbed. Additionally, this guidance is not intended to restrict additional improvements for properties that have been previously dredged and altered for water-dependent activities; such improvements will be reviewed by the Commission on a case-by-case basis.

Proposed HMP Amendments

From : Gaucher, John

To : [pholecz@sbcglobal.net](mailto:pholecz@sbcglobal.net)

Monday, September 16 at 3:29 PM

1 Attachment

12.5KB

Save to doc : minor text changes to proposed amendment.docx

12KB

Save

Pete,

Please see the attached suggested minor text revisions for the Commission to consider. These suggested changes are to provide additional clarification to the original language or to correct several typos. Their adoption is optional and would not require any additional approval or administrative process.

Let me know when you plan to hold a public meeting regarding the proposed changes or if you have any questions. Thanks.

John Gaucher  
Environmental Analyst 3  
Office of Long Island Sound Programs  
79 Elm Street  
Hartford, CT 06106

Phone 860.424.3660  
fax 860.424.4054



79 Elm Street • Hartford, CT 06106-5127

[www.ct.gov/deep](http://www.ct.gov/deep)

Affirmative Action/Equal Opportunity Employer

September 17, 2013

Bridgeport Harbor Management Commission  
c/o Mr. Peter Holecz, Chairman  
474 Courtland Ave.  
Bridgeport, Ct. 06605

**RE: Bridgeport Harbor Management Plan Amendments to Sections 1.0, 3.1, 3.1.2, & 3.1.3**

Dear Commissioners:

This letter is to notify you that the Department of Energy and Environmental Protection has approved the above-referenced amendments to Bridgeport's Harbor Management Plan. This approval is based on our determination that the plan revisions are consistent with the policies and standards of the Connecticut Harbor Management Act [CGS §§22a-113k through 22a-113t], and the Connecticut Coastal Management Act [CGS §§22a-90 through 22a-112]. However, formal approval does not constitute approval or endorsement of any specific activity or proposal contained in the plan that requires authorization from the DEEP.

Upon the City's adoption of the plan revisions, we will consider the changes to the plan to be in effect in accordance with CGS §22a-113n(b) and will evaluate all regulated activities and development proposals for consistency with the plan as approved. However, any substantive changes to the plan made in response to comments raised during the City's review and adoption process must also be submitted for our approval prior to final adoption by the City. After formal adoption by the City, please forward three copies of the final plan to this Office for our files.

Thank you for coordinating with this Office to amend Bridgeport's Harbor Management Plan. If you have any questions concerning this letter or if we can be of additional assistance, please contact John Gaucher of this office at 860.424.3660.

Sincerely,

A handwritten signature in blue ink, appearing to read "Betsey Wingfield".

Betsey Wingfield  
Bureau Chief  
Bureau of Water Protection and Land Reuse

BW/JG/j

cc: Michael Walsh, U.S. ACOE  
Charles Beck, DOT/Aviation and Ports  
Mark Johnson, DEEP, Bureau of Natural Resources, Division of Inland Fisheries  
Bob Hust, DEEP, Planning & Standards Division  
Tim Delgado, DEEP Boating Division  
David Carey, Bureau of Aquaculture  
John Gaucher, DEEP, OLISP, Coastal Planning  
Susan Jacobson, DEEP, OLISP, Permitting and Enforcement

**\*166-12 Consent Calendar**

Grant Submission: re State of Connecticut Historic Preservation Office Sandy Disaster Relief Grant for Historic Properties – Fayerweather Lighthouse Repair.

---

---

**Report  
of  
Committee  
on  
CEA & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

*Fleeta S. Hudson*

Attest: \_\_\_\_\_

City Clerk

---

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on ECD and Environment begs leave to report; and recommends for adoption the following resolution:

## **\*166-12 Consent Calendar**

**WHEREAS**, the State of Connecticut Historic Preservation Office is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through State of Connecticut Historic Preservation Office Hurricane Sandy Disaster Relief Grant for Historic Properties; and

**WHEREAS**, funds under this grant will be used to assess and repair the damage caused by hurricane Sandy at the Fayerweather Lighthouse; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, Central Grants Department, submit an application to the State of Connecticut Historic Preservation Office for funds to assess and repair the damage caused by hurricane Sandy at the Fayerweather Lighthouse; Now, therefore be it

## **RESOLVED BY THE City Council:**

1. That it is cognizant of the City's grant application and contract to the State of Connecticut Historic Preservation Office for funds to assess and repair the damage caused by hurricane Sandy at the Fayerweather Lighthouse.
2. That it hereby authorizes, directs and empowers the mayor or his designee to execute and file such application with State of Connecticut Historic Preservation Office Hurricane Sandy Disaster Relief Grant for Historic Properties and to provide such additional information and to execute such other contracts and documents as maybe necessary under this program.



Report of Committee on ECD and Environment  
**\*166-12 Consent Calendar**

-2-

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

*Lydia N. Martinez*

Lydia N. Martinez Co-Chair

*M. Evette Brantley*

M. Evette Brantley Co-Chair

*Warren Blunt*

Warren Blunt

*Steven J. Stafstrom, Jr.*

Steven J. Stafstrom, Jr.

*Michelle A. Lyons*

Michelle A. Lyons

*Jack O. Banta*

Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*167-12 Consent Calendar**

Grant Submission: re USCM FY2014 Childhood Obesity Prevention Program - Healthy Corner Store Initiative Grant.

---

---

**Report  
of  
Committee  
on  
ECB & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_

*Fleeta C Hudson*

City Clerk

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

**\*167-12 Consent Calendar**

**WHEREAS**, the **US Conference of Mayors 2014 Childhood Obesity Prevention Program** is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through **US Conference of Mayors 2014 Childhood Obesity Prevention Program**; and

**WHEREAS**, funds under this grant will be used improve fresh food access by installing refrigeration units at 5 corner stores and increasing nutrition knowledge of families; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, Central Grants Department, submit an application to the **US Conference of Mayors 2014 Childhood Obesity Prevention Program** for funds to improve fresh food access by installing refrigeration units at 5 corner stores and increasing nutrition knowledge of families; Now, therefore be it

**RESOLVED BY THE City Council:**

1. That it is cognizant of the City's grant application and contract to the **US Conference of Mayors 2014 Childhood Obesity Prevention Program** for funds to improve fresh food access by installing refrigeration units at 5 corner stores and increasing nutrition knowledge of families.
2. That it hereby authorizes, directs and empowers the mayor or his designee to execute and file such application the **US Conference of Mayors 2014 Childhood Obesity Prevention Programs** and to provide such additional information and to execute such other contracts and documents as maybe necessary under this program.

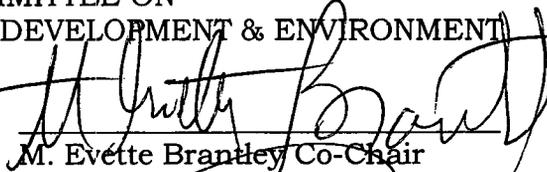


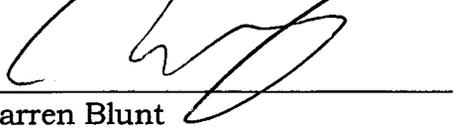
Report of Committee on ECD and Environment  
**\*167-12 Consent Calendar**

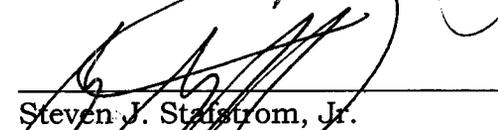
-2-

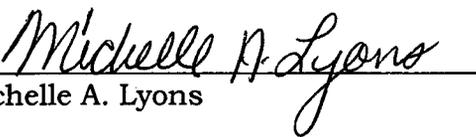
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Statstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*171-12 Consent Calendar**

Resolution regarding the creation of a "Trees for Bridgeport" task force related to the improvement of the Urban forest of the Park City.

---

---

**Report  
of  
Committee  
on  
ECB & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

*Fleeta S. Hudson*

Attest: \_\_\_\_\_

City Clerk

---

---

Approved \_\_\_\_\_

Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

**\*171-12 Consent Calendar**

**A Resolution by the Bridgeport City Council  
Regarding the creation of a "Trees for Bridgeport" Task Force related to the improvement  
of the urban forest of the Park City**

**WHEREAS**, the City of Bridgeport Public Facilities and Parks and Recreation Department provides well maintained, enjoyable park grounds and facilities to enhance the quality of life for City residents and visitors; preserves and protects open spaces, provides opportunities for active and passive recreation, and maintains the landscapes, environment, structures and woodlands that exist within these areas; and is charged with the maintenance of the streetside vegetation along its roadway; and

**WHEREAS**, the City has recently completed a Urban Forest Canopy Study conducted by the University of Vermont as part of the America the Beautiful Grant Program with funding provided by the Connecticut Department of Energy and Environmental Protection Division of Forestry and Northeastern Area State and Private Forestry, United States Forest Service for the City which provides an assessment and preliminary guide to improving and expanding the urban forest as well as highlighting other benefits of tree planting including reducing the heat-island effect, the mitigation of stormwater runoff, the increase in property values, and the beautification of neighborhoods; and

**WHEREAS**, the City Council has approved funding for the implementation of various tree planting programs in recent years; and

**WHEREAS**, the City of Bridgeport has received a Tree City USA Designation from the National Arbor Day Foundation for five consecutive years; and

**WHEREAS**, the City of Bridgeport Public Facilities and Parks and Recreation Department is well-positioned to start a process for the development of an Urban Forest Management Plan, and is seeking additional support and assistance to develop said plan; and

**WHEREAS**, Mayor of Bridgeport has met and exceeded the goal of planting 2,012 trees by 2012, strives to reach the Master Plan of Conservation Goal of 3,000 trees by 2020 in within the current year, and has committed establishing a beautification and tree planting goal consistent with the criteria of "Right Tree for the Right Place"; and



Report of Committee on ECD and Environment  
\*171-12 Consent Calendar

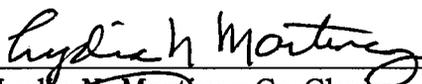
-2-

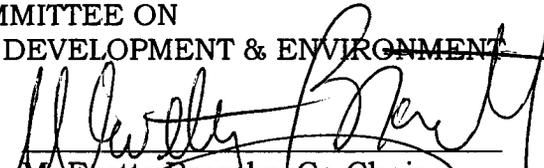
**WHEREAS**, Trees for Bridgeport will perform the following task force items services in order to complete the project including review of the Urban Tree Canopy Assessment, Current Tree Maintenance and Planting Operations, Non-Profit support services, Public Engagement, Permitting; and report on their recommendations on or before one year from the date of their appointment; and

**WHEREAS**, the City will facilitate the "Trees for Bridgeport" task force and take such other actions as they deem necessary or desirable to implement the "Trees for Bridgeport" Task Force Project as well as assist in reporting on the progress made the development of a comprehensive Urban Forest Management Plan for the City of Bridgeport on behalf of the City of Bridgeport Public Facilities Parks and Recreation Department and the "Trees for Bridgeport" Task force to the City Council; Now, therefore be it

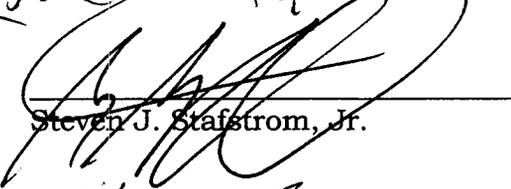
**RESOLVED** that the Mayor with approval of the City Council will appoint a five to seven member task force charged with preparing recommendations to preserve, maintain, protect and expand the urban forest in the Park City as part of the Urban Forest Management Plan for the City of Bridgeport and that the Mayor or the Director of Public Facilities or Director of Parks and Recreation is authorized, upon the approval as to form by the Office of the City Attorney, to facilitate and support the City's Urban Forestry Programs as may be required consistent with this resolution, and take such other necessary or desirable actions in furtherance of the "Trees for Bridgeport" Project.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

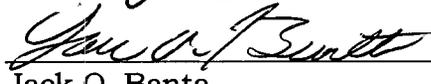
  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

Michael J. Marella, Jr.

# A Report on the City of Bridgeport's Existing and Possible Tree Canopy

## Why is Tree Canopy Important?

Tree canopy (TC) is the layer of leaves, branches, and stems of trees that cover the ground when viewed from above. Tree canopy provides many benefits to communities, improving water quality, saving energy, lowering summer temperatures, reducing air pollution, enhancing property values, providing wildlife habitat, facilitating social and educational opportunities, and providing aesthetic benefits. Establishing a tree canopy goal is crucial for communities seeking to improve their green infrastructure. A tree canopy assessment is the first step in urban forest planning, providing estimates for the amount of tree canopy currently present in a city as well as the amount of tree canopy that could theoretically be established.

## How Much Tree Canopy Does Bridgeport Have?

An analysis of Bridgeport's tree canopy based on land cover data derived from high-resolution aerial imagery and LIDAR (Figure 1) found that 685 acres of the city were covered by tree canopy (termed Existing TC), representing 27% of all land in the city. An additional 45% (1,447 acres) of the city's land area could theoretically be modified (termed Possible TC) to accommodate tree canopy (Figure 2). In the Possible TC category, 25% (631 acres) of the city was classified as Impervious Possible TC and another 20% was Vegetated Possible TC (514 acres). Vegetated Possible TC, or grass and shrubs, is more conducive to establishing new tree canopy, but establishing tree canopy on areas classified as Impervious Possible TC will have a greater impact on water quality and summer temperatures.

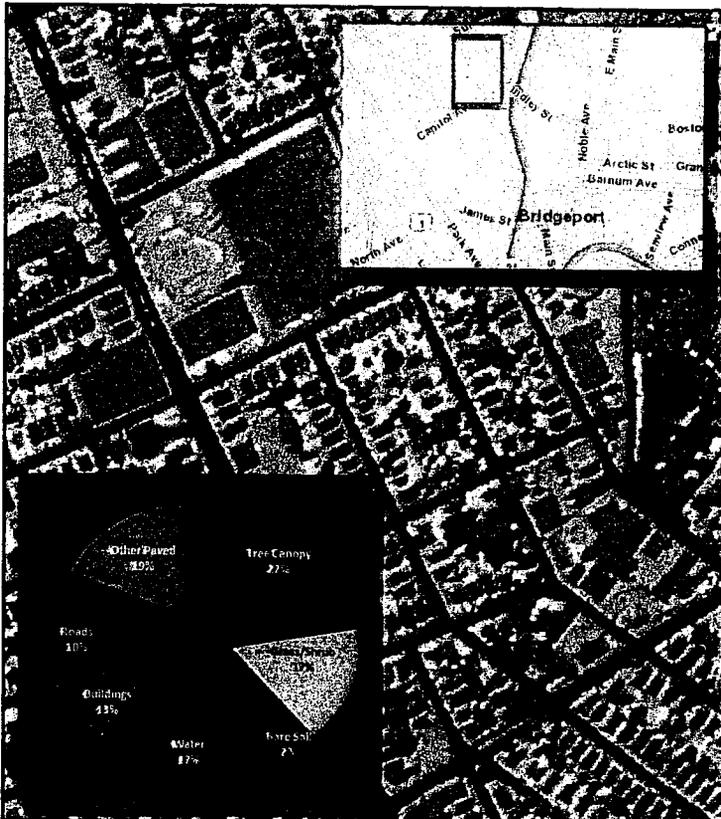


Figure 1: Land cover derived from high-resolution imagery and LIDAR for the City of Bridgeport.

## Project Background

The goal of the project was to apply the USDA Forest Service's TC assessment protocols to the City of Bridgeport. The analysis was conducted based on year 2010 data. This project was made possible through funding from the City of Bridgeport. The Spatial Analysis Laboratory (SAL) at the University of Vermont's Rubenstein School of the Environment and Natural Resources carried out the assessment in collaboration with the City of Bridgeport, The Connecticut Department of Energy and Environmental Protection, and the USDA Forest Service's Northern Research Station.

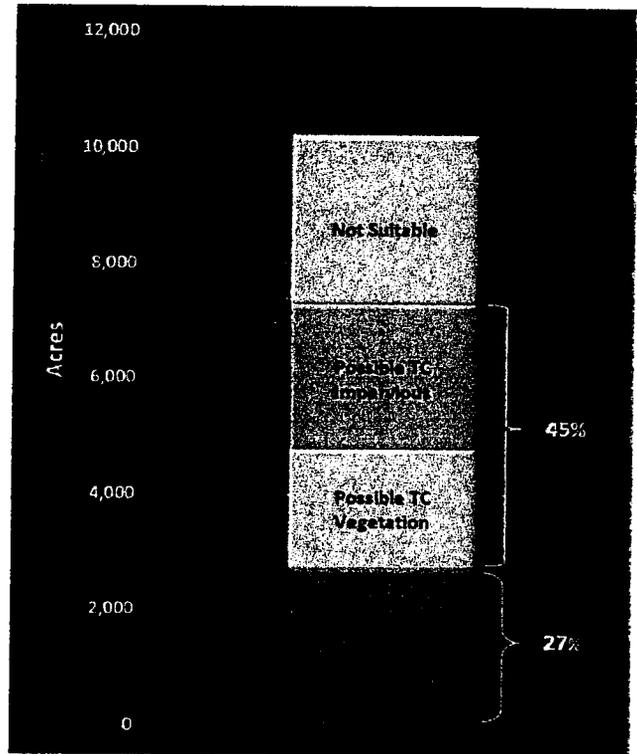


Figure 2: TC metrics for Bridgeport based on % of land area covered by each TC type.

## Key Terms

- TC:** Tree canopy (TC) is the layer of leaves, branches, and stems of trees that cover the ground when viewed from above.
- Land Cover:** Physical features on the earth mapped from aerial or satellite imagery, such as trees, grass, water, and impervious surfaces.
- Existing TC:** The amount of urban tree canopy present when viewed from above using aerial or satellite imagery.
- Impervious Possible TC:** Asphalt or concrete surfaces, excluding roads and buildings, that are theoretically available for the establishment of tree canopy.
- Vegetated Possible TC:** Grass or shrub area that is theoretically available for the establishment of tree canopy.
- Not Suitable:** Areas where it is highly unlikely that new tree canopy could be established (primarily buildings and roads).

## Mapping Bridgeport's Trees

A prior estimate of tree canopy for the entirety of the City of Bridgeport (including water) from the 2001 National Land Cover Database (NLCD 2001) was 10%, far lower than the 22% obtained in this study (the 27% estimate is a percentage of land area). The large difference is due to the fact that NLCD 2001 (Figure 3a) and the city's vegetation layer only accounted for relatively large patches of tree canopy. Using high-resolution aerial imagery (Figure 3b) and LiDAR, in combination with advanced automated processing techniques, land cover for the city was mapped with such detail that trees as short as 8ft tall were detected (Figure 3c).

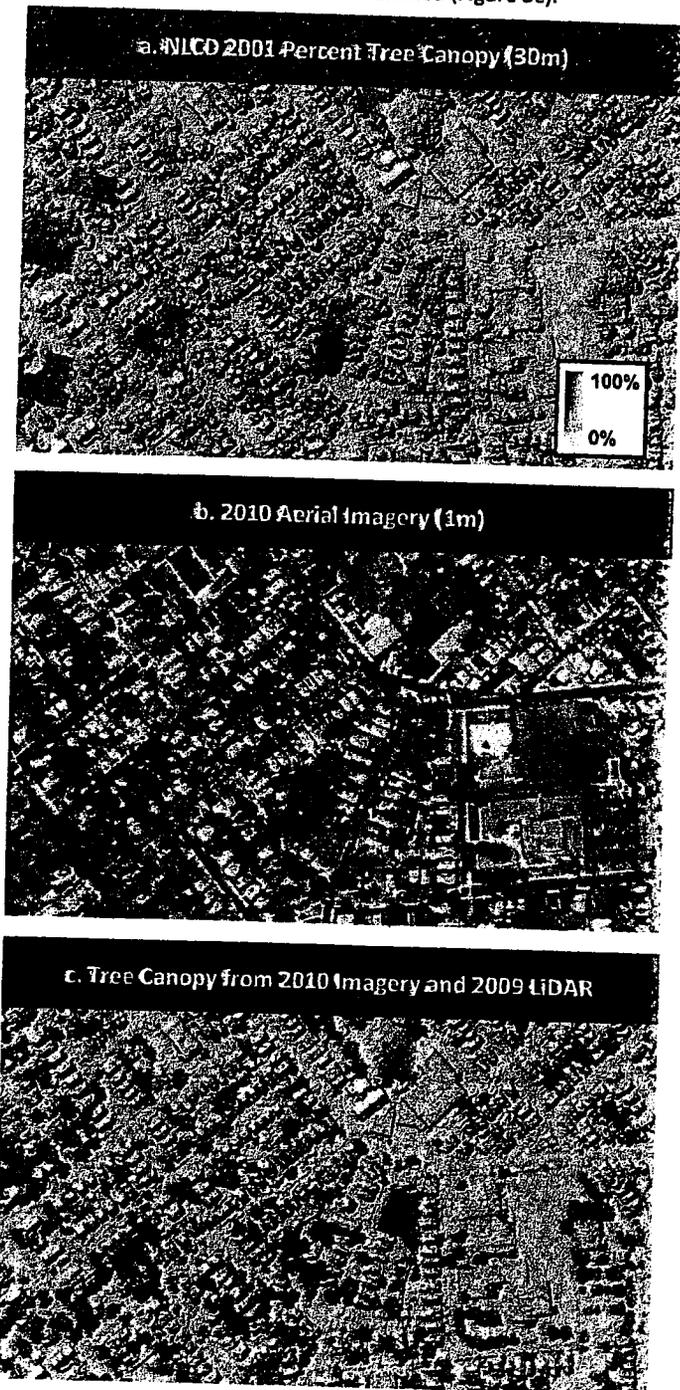


Figure 3: Comparison of NLCD 2001 (a) to high-resolution imagery (b) and tree canopy (c) derived for this study.

## Parcel Summary

After land cover was mapped city-wide, Tree Canopy (TC) metrics were summarized for each property in the city's parcel database (Figure 4). Existing TC and Possible TC metrics were calculated for each parcel, both in terms of total area (square footage) and as a percentage of the land area within each parcel (TC area ÷ land area of the parcel).

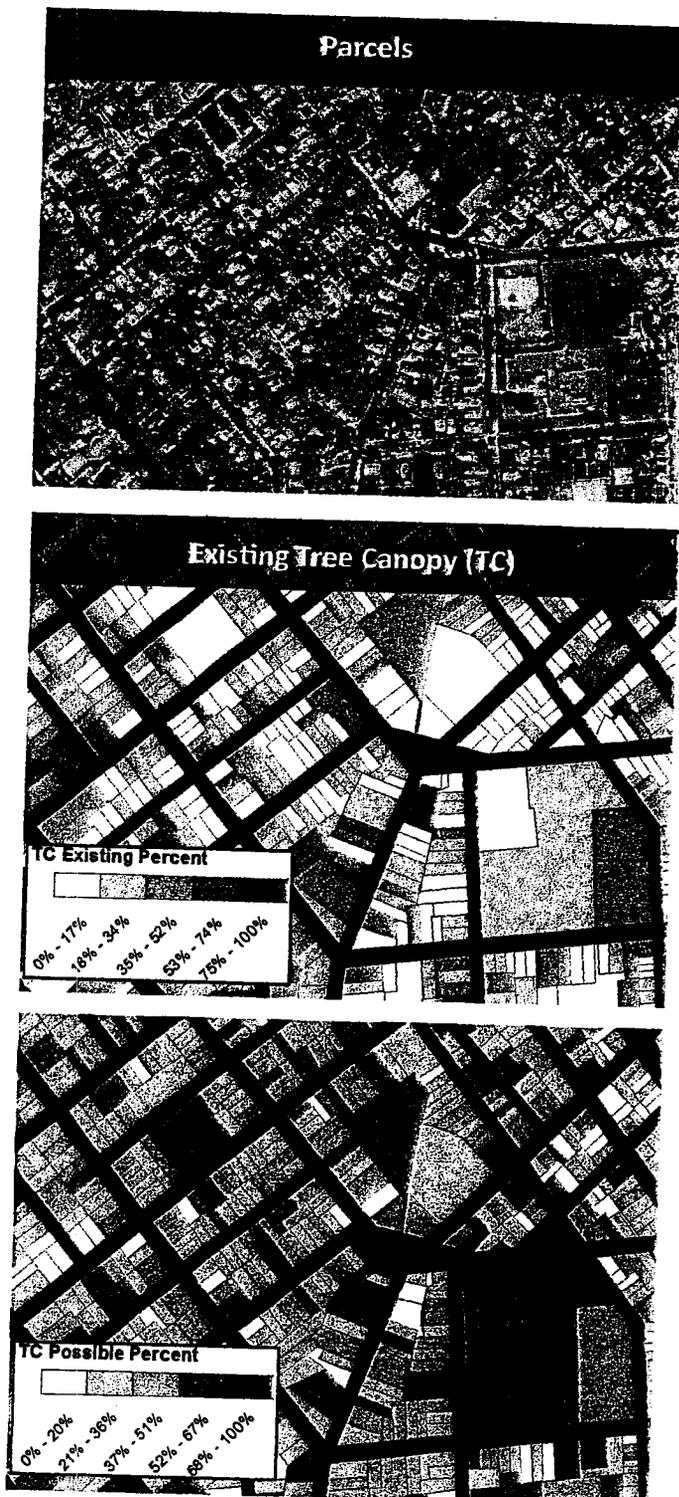


Figure 4a, 4b, 4c: Parcel-based TC metrics. TC metrics are generated at the parcel level, allowing each property to be evaluated according to its Existing TC and Possible TC.

## Rights-Of-Way

Land within Bridgeport can be broadly split into two categories (Figure 5), parcel land and rights-of-way. Parcel land refers to all land contained within the city's parcel database. Rights-of-Way (ROW) refers to "non-parcel" land, essentially street rights-of-way and water. The vast majority of the city's land base (79%) exists within parcels, with 21% of the city's land base within the ROW (Figure 6). Within the parcels, 29% of the land is covered by tree canopy. Within the ROW the percent of land covered by tree canopy is somewhat lower (19%). Additional tree canopy (Possible TC) could theoretically be established on 50% of all the parcel land area, but only 26% of the ROW, largely due to the presence of roads. Establishing new tree canopy within the parcel land will likely be easier as much of the Possible TC falls into the Vegetation category whereas in the ROW most of the Possible TC is in the Impervious category.

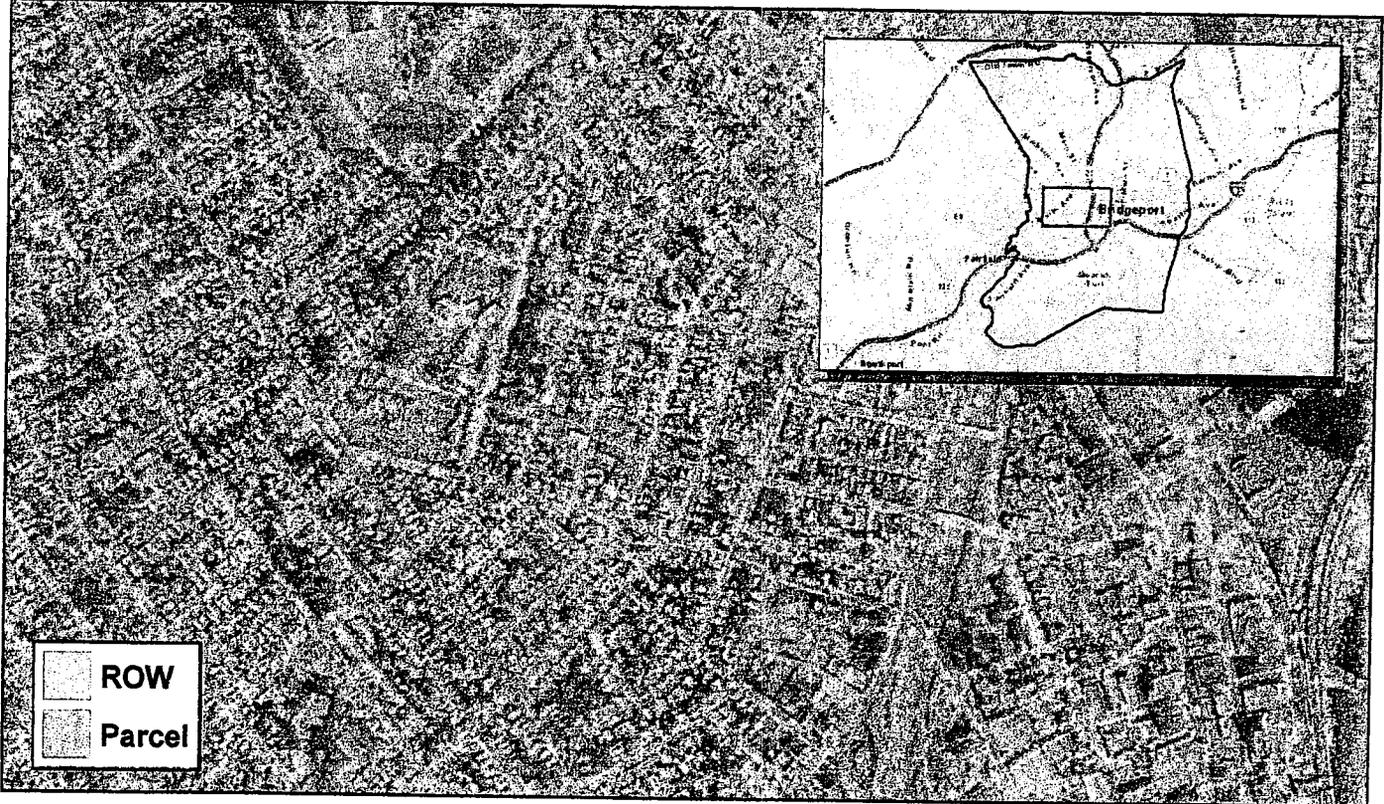


Figure 5: Parcels and ROW land division in Bridgeport.

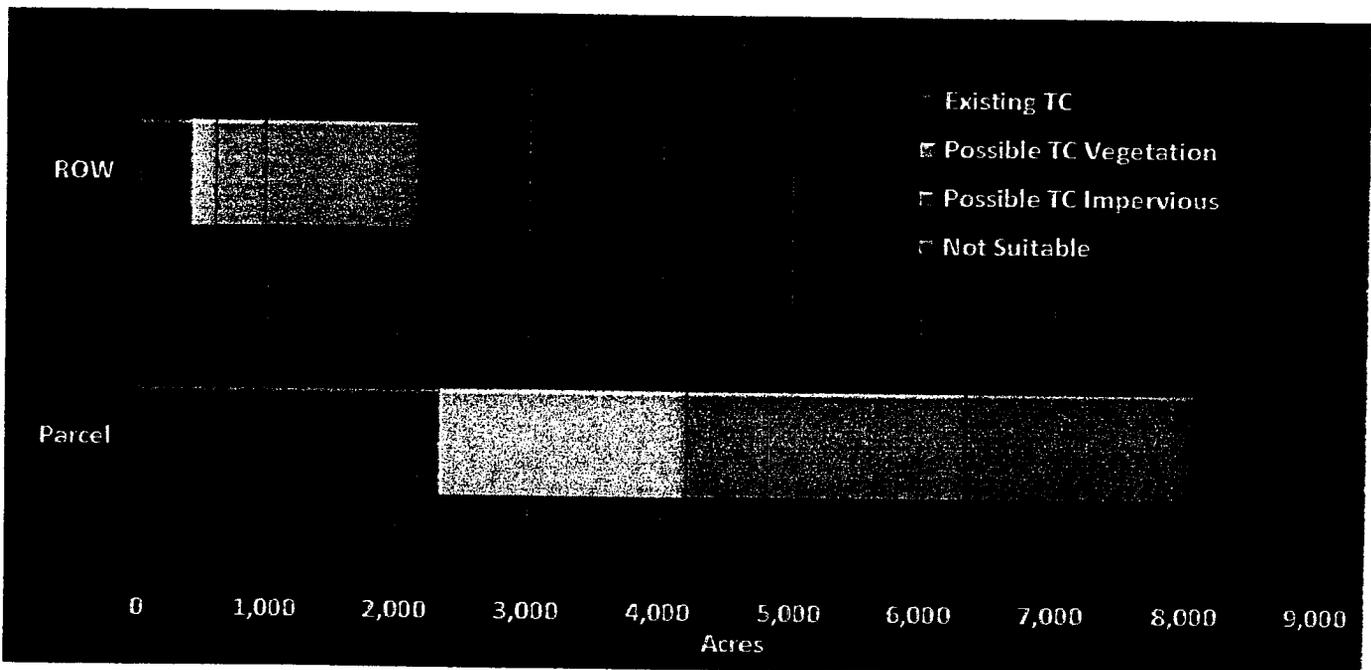


Figure 6: Tree Canopy (TC) metrics were summarized by parcels and ROW.

# Zoning

An analysis of Existing and Possible TC by zoning category was conducted using the most recent zoning layer for the city (Figure 7, Table 1). For each zoning district, TC metrics were calculated as a percentage of all land in the city (% Land), as a percentage of land area in the specified zoning district (% Category), and as a percentage of the area for TC type (% TC Type). The majority of Bridgeport is zoned for residential land use, and thus it comes as no surprise that the residential zoned areas have not only the majority of the city's tree canopy, but also the most room to plant new trees. Bridgeport is also characterized by its active industrial base. Industrial areas are not typically associated with tree canopy, but in Bridgeport 12% of the city's tree canopy lies within industrially zoned areas. There remains considerable room for establishing new tree canopy in industrial areas, but this will be challenging due to the amount of impervious surfaces.

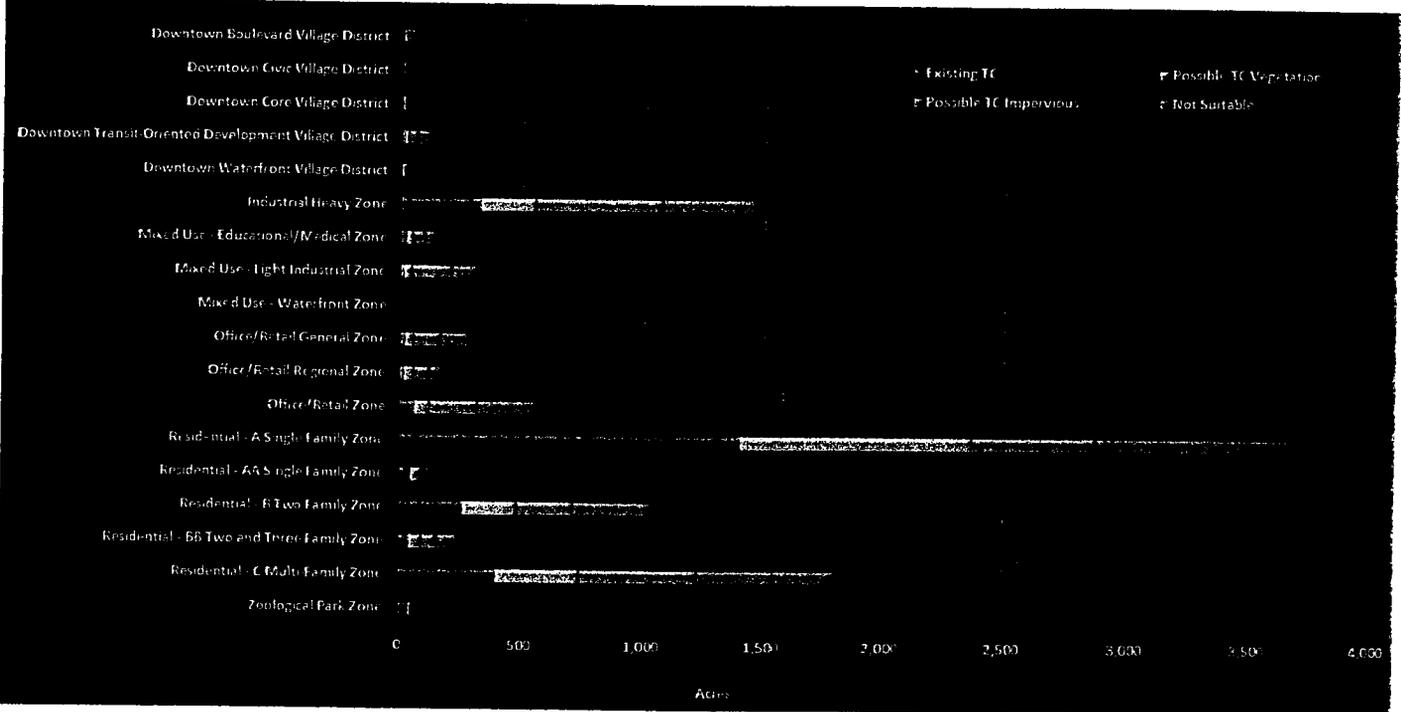


Figure 7: Tree Canopy (TC) metrics summarized for each zoning district.

Zone	Existing UTC			Possible UTC Vegetation			Possible UTC Impervious		
	% Land	% Category	% TC Type	% Land	% Category	% TC Type	% Land	% Category	% TC Type
Downtown Boulevard Village District	0%	16%	0%	0%	14%	0%	0%	27%	1%
Downtown Civic Village District	0%	17%	0%	0%	10%	0%	0%	39%	0%
Downtown Core Village District	0%	8%	0%	0%	1%	0%	0%	27%	0%
Downtown Transit-Oriented Development Village District	0%	9%	0%	0%	14%	1%	0%	32%	2%
Downtown Waterfront Village District	0%	6%	0%	0%	10%	0%	0%	51%	1%
Industrial Heavy Zone	3%	23%	12%	2%	15%	11%	5%	35%	21%
Mixed Use - Educational/Medical Zone	0%	17%	1%	0%	17%	1%	0%	33%	2%
Mixed Use - Light Industrial Zone	0%	4%	1%	0%	10%	2%	2%	52%	7%
Mixed Use - Waterfront Zone	0%	2%	0%	0%	9%	0%	0%	52%	0%
Office/Retail General Zone	0%	8%	1%	0%	11%	2%	1%	40%	5%
Office/Retail Regional Zone	0%	11%	1%	0%	22%	2%	1%	38%	3%
Office/Retail Zone	1%	12%	2%	1%	10%	3%	2%	36%	8%
Residential - A Single Family Zone	14%	38%	52%	9%	26%	47%	5%	14%	20%
Residential - AA Single Family Zone	1%	41%	2%	0%	32%	2%	0%	11%	1%
Residential - B Two Family Zone	3%	26%	10%	2%	21%	11%	2%	22%	9%
Residential - BB Two and Three Family Zone	0%	18%	2%	0%	20%	2%	1%	25%	3%
Residential - C Multi-Family Zone	4%	22%	15%	3%	19%	16%	5%	27%	19%
Zoological Park Zone	0%	67%	2%	0%	19%	1%	0%	7%	0%

$\% \text{ Land} = \frac{\text{Area of TC type for zoning district}}{\text{Area of all land}}$

The % Land Area value of 1% indicates that 1% of Bridgeport's land area is covered by tree canopy in the Residential AA Single Family Zone.

$\% \text{ Category} = \frac{\text{Area of TC type for zoning district}}{\text{Area of all land for specified land use}}$

The % Land value of 41% indicates that 41% of land in the Residential AA Single Family Zone is covered by tree canopy.

$\% \text{ TC Type} = \frac{\text{Area of TC type for zoning district}}{\text{Area of all TC type}}$

The % TC Type value of 2% indicates that 2% of all tree canopy is in land classified as Residential AA Single Family.

Table 1: Tree Canopy (TC) metrics were summarized by zoning district. For each zoning category, TC metrics were computed as a percentage of all land in the city (% Land), as a percentage of land in the specified zone (% Category), and as a percentage of the area for TC type (% TC Type).

## Socio-Demographic Analysis

US Census Block Groups contain a wealth of socio-demographic information that, when combined with TC metrics, provide new insights into the relationship between the citizens of Bridgeport and their tree canopy. Higher amounts of tree canopy are present in the most northern and western parts of the city (Figure 8a); areas that also tend to have higher median incomes. An inverse relationship between existing tree canopy and renter occupancy rates (Figure 8b). Evidence from other cities shows that tree survival tends to be lower in areas with higher renter occupancies. Tree canopy per capita is lowest in those sections of the city where the population density highest (Figure 8c). The Priority Planting Index (PPI) incorporates census data and TC metrics to score block groups based on the need for tree plantings. The Priority Planting Index, which factors in population density, tree stocking levels, and per capita tree cover helps to identify areas where tree planting efforts can be targeted to address issues of environmental justice (Figure 8d). Interestingly, the areas with high PPI values also have relatively high amounts of Possible TC.

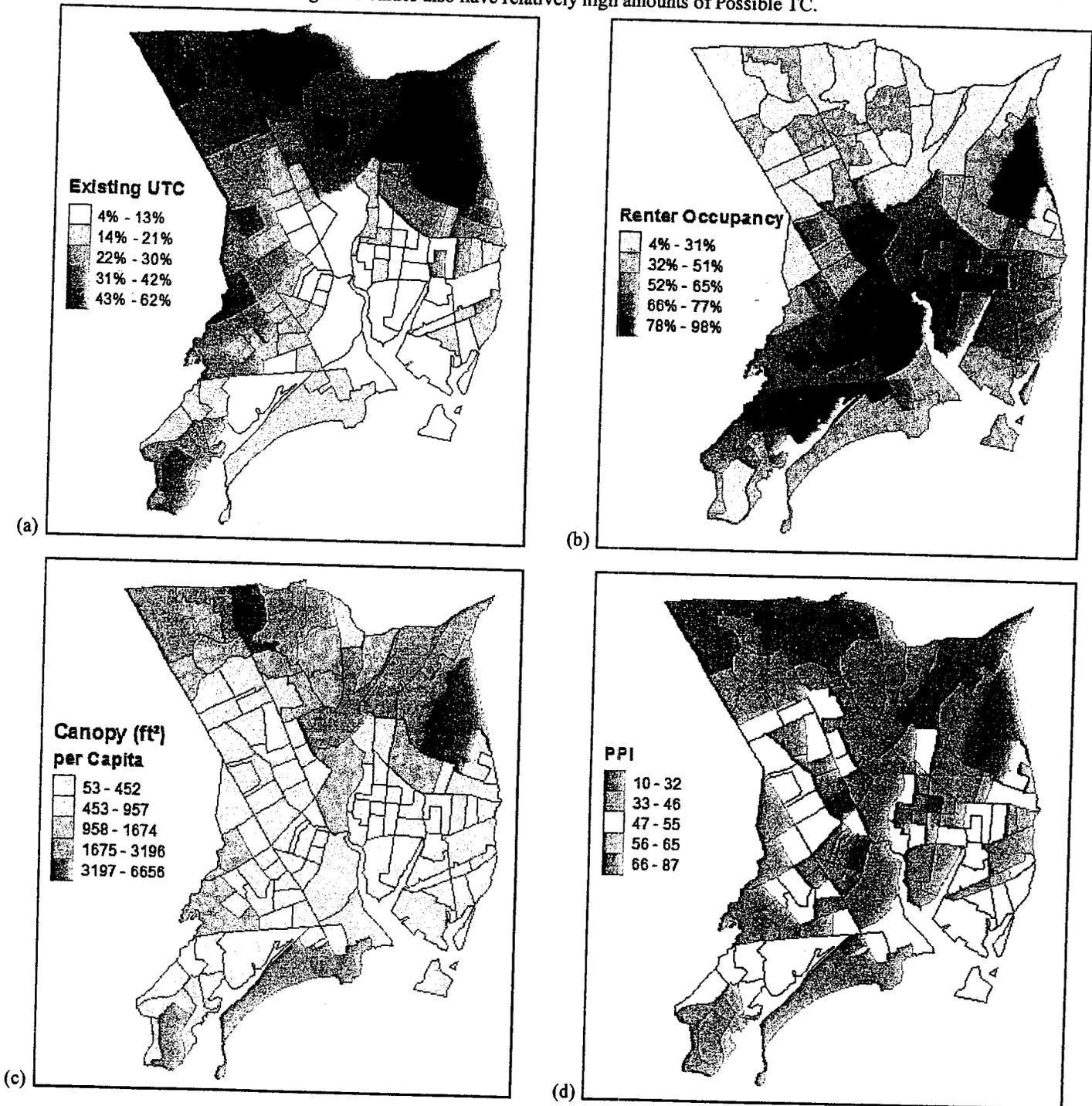


Figure 8: (a) Percent Existing TC; (b) proportion of housing units occupied by renters; (c) tree canopy per capita; and (d) Priority Planting Index.

Land Use

Tree canopy metrics were summarized for each land use category (Figure 9). The TC metrics for the largest twelve land use categories are displayed in Figure 10. Residential-1 Family is the single largest land use category in Bridgeport, with 37% of existing tree canopy. Nearly 60% of the city's total tree canopy is in residential land use categories. The Industrial-Manufacturing category is also important, with 11% of the city's overall tree canopy. In terms of establishing new tree canopy (Possible TC), the Tax Exempt and Condominium categories each have the greatest proportion of their land area available, each having 60%. Substantial proportions of these areas (31% and 40%, respectively) are currently vegetated land, where tree canopy opportunities are generally better than on impervious land. As a percentage of all land in the city it is the residential areas that provide the greatest opportunity for increasing tree canopy (collectively accounting for >40% of Possible TC).

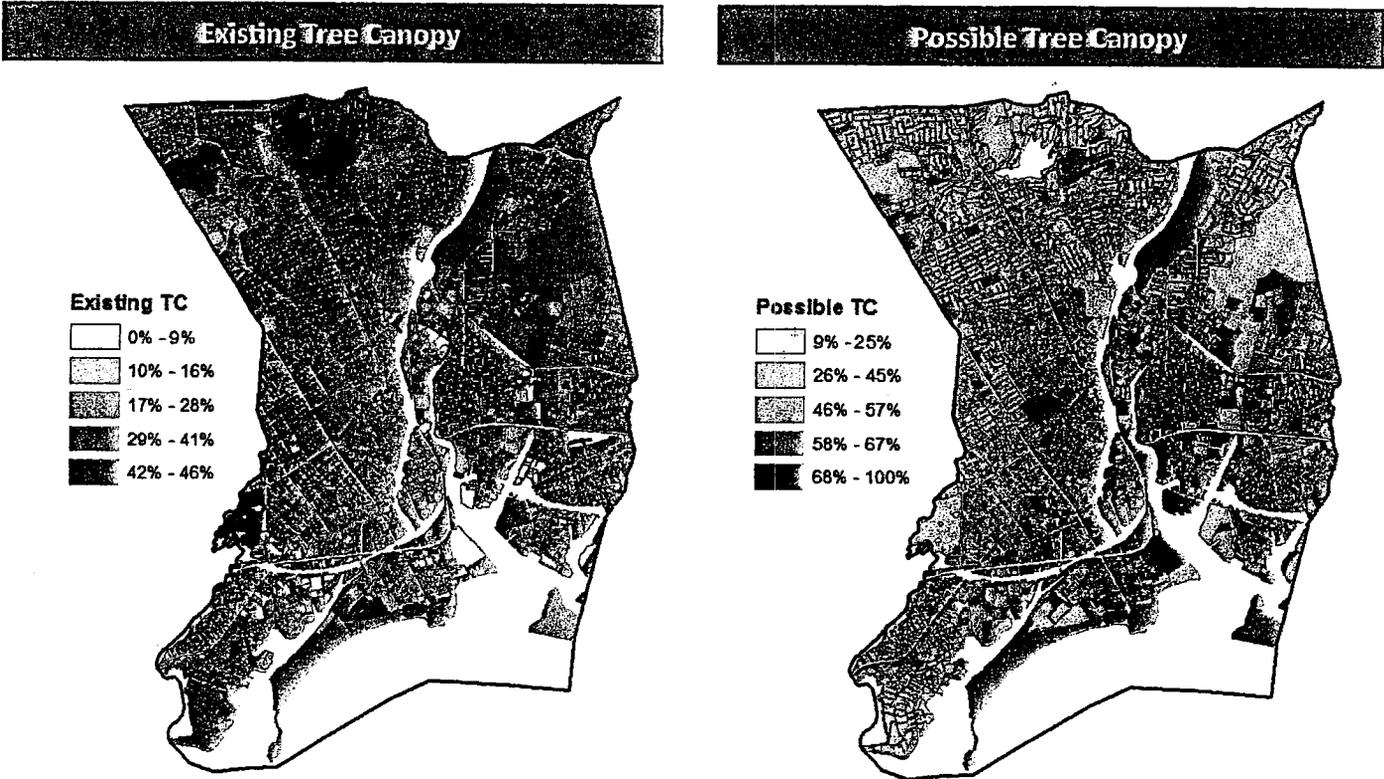


Figure 9. Existing TC (left) and Possible TC (right) as a percentage of land area.

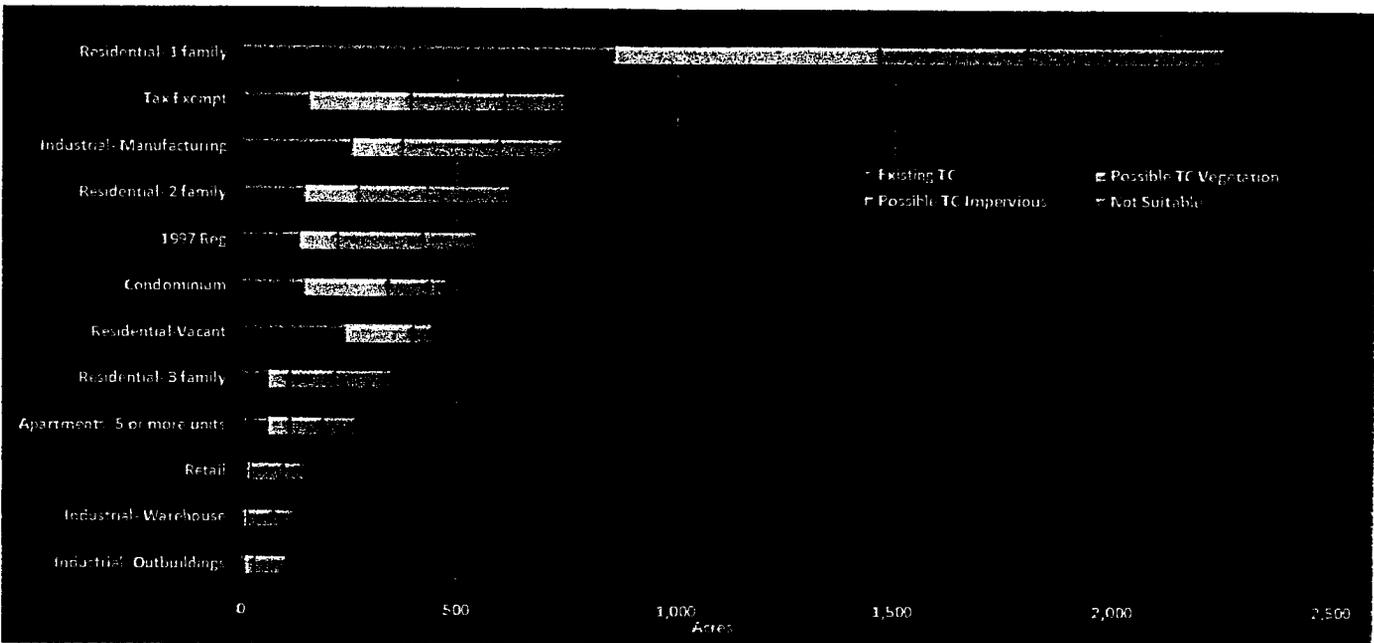


Figure 10: TC metrics summarized by Land Use (largest 12 categories are shown).

### Council Districts

Council District 137 has the lowest Existing TC (Figures 9, 10). All of the other districts in the southern and central areas of the city have similarly low Existing TC, although three districts in the southeast (131, 137, 139) all have relatively high Possible TC — greater than 48% (although Council District 131 includes a substantial, undeveloped coastal area). Council District 138 has the highest Existing TC (46%). Much of this tree canopy, however, appears to be within a heavy industrial zone that remains largely undeveloped. All Council Districts present opportunities as each has over one-third of its area identified as Possible TC.

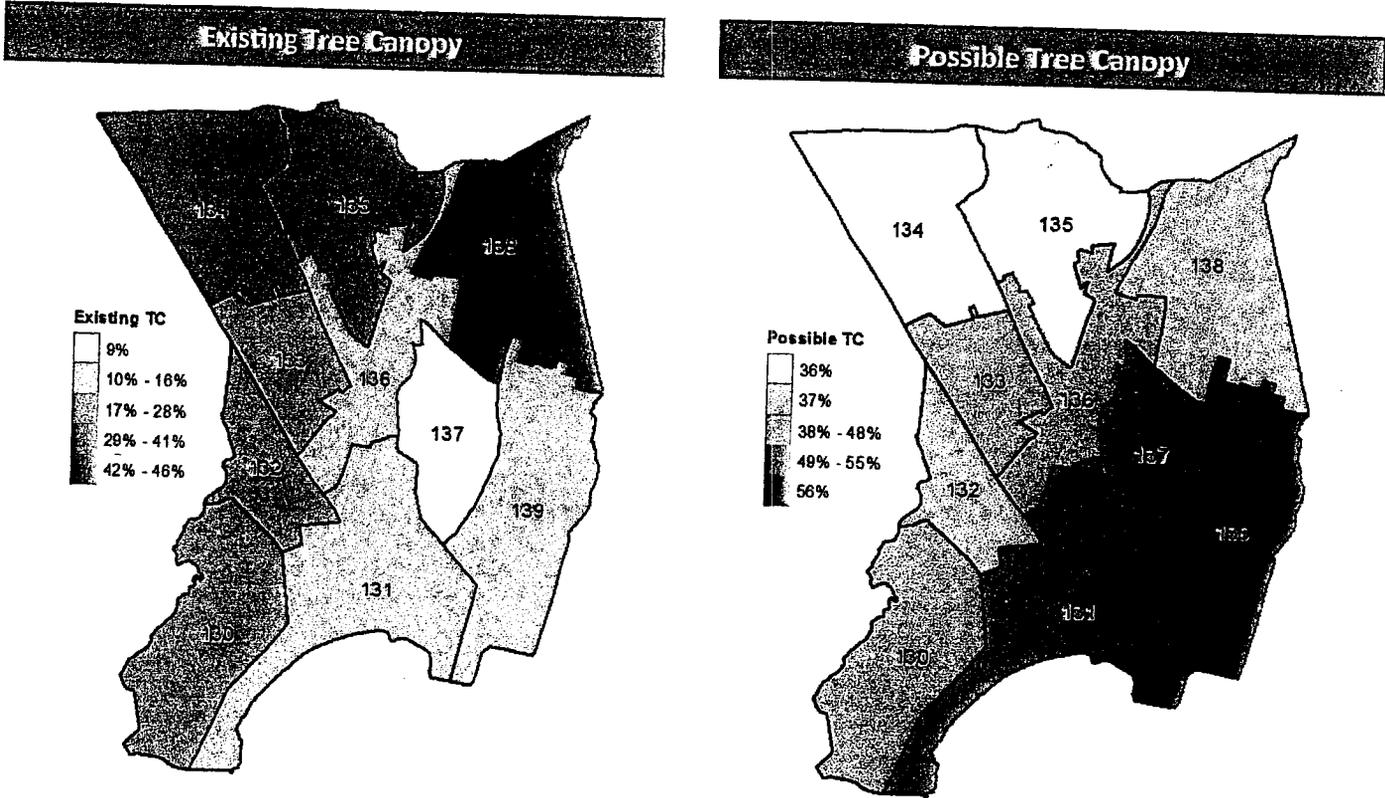


Figure 11. Existing TC (left) and Possible TC (right) as a percentage of Council District land area.

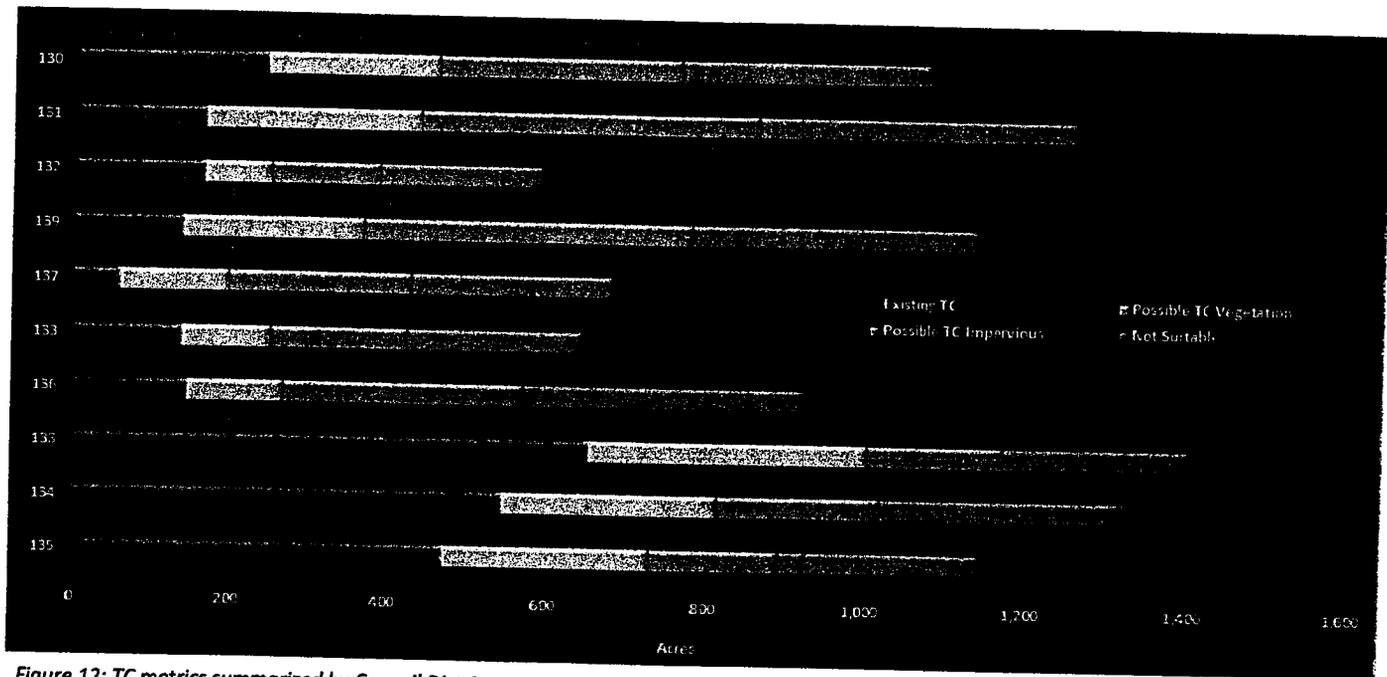


Figure 12: TC metrics summarized by Council District.

## Watersheds

Existing and Possible Tree Canopy (TC) was analyzed for the portions of the 3 subwatersheds of the Pequonnock River with the city limits (Figure 13). Tree canopy in these watersheds varies widely, with the Middle Pequonnock subwatershed having 40% of its land area covered by tree canopy and the Lower Pequonnock River having 14%. Tree canopy distribution in the subwatersheds is largely a factor of land use. Middle Pequonnock and Island Brook are mostly residential and open spaces, whereas Lower Pequonnock has a high proportion of commercial and industrial uses. Possible TC is highest in this heavily-developed subwatershed. Nearly half of its land area is in non-building, non-road impervious surfaces and vegetation that, if modified, could potentially support tree canopy. However, establishing tree canopy on many of these areas will be challenging due to their current use (e.g. parking lots and recreational fields). Overall, Existing TC is higher and Possible TC lower, in residential neighborhoods.

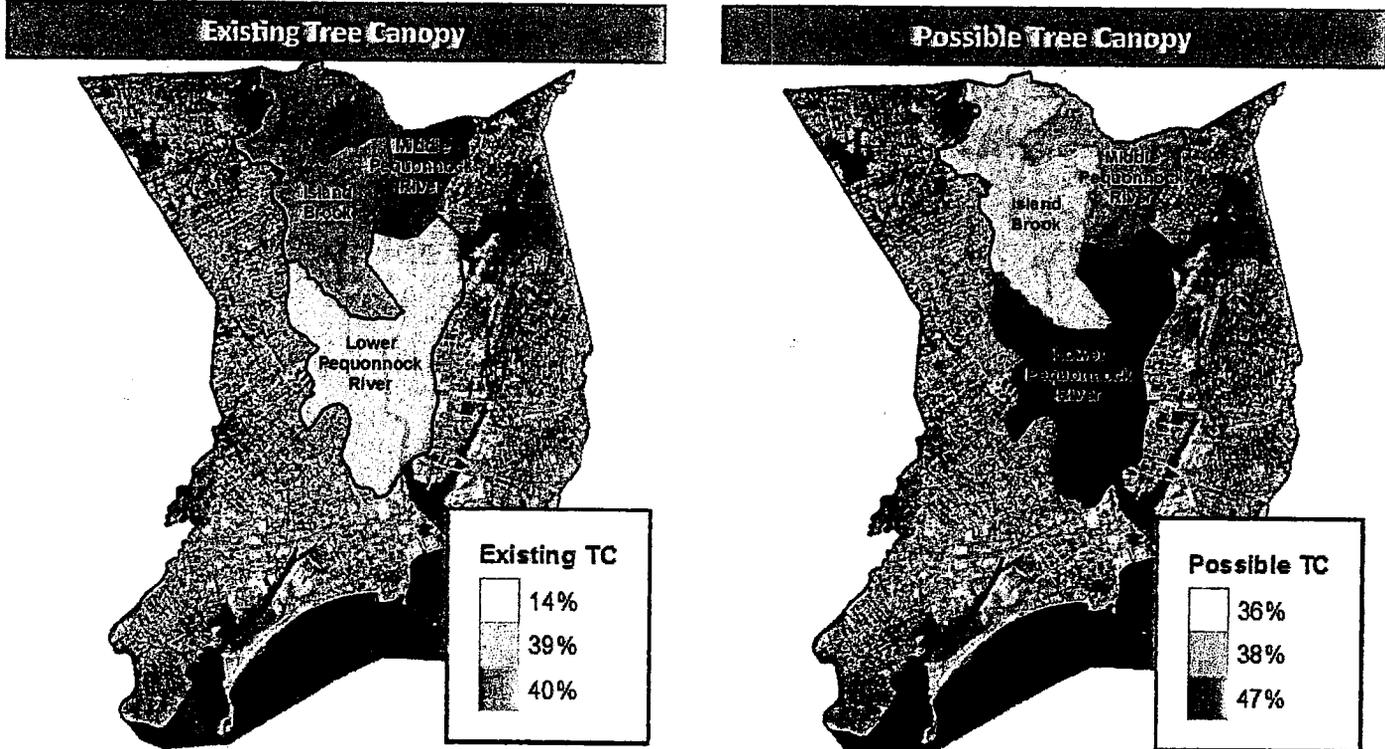


Figure 13. Existing TC (left) and Possible TC (right) as a percentage of neighborhood land area.

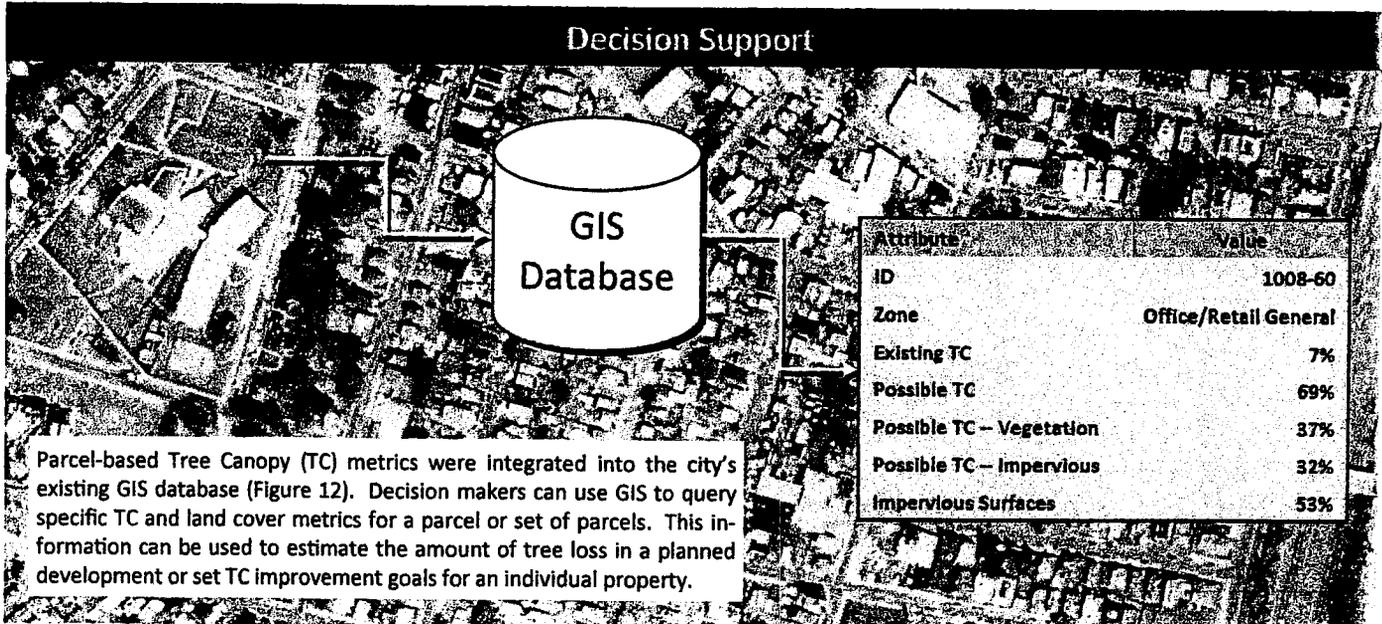
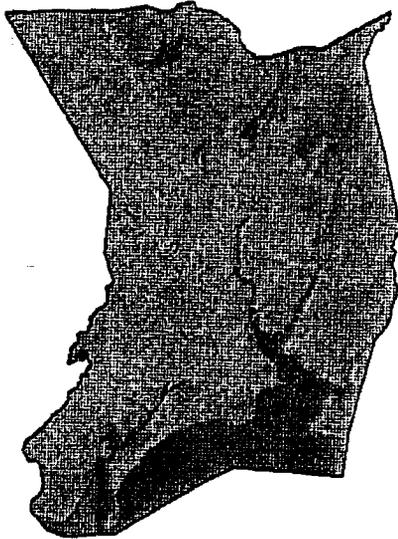


Figure 14: GIS-based analysis of parcel-based TC metrics for decision support. In this example, GIS is used to select an individual parcel. The attributes for that parcel, including the parcel-based TC and land cover metrics, are displayed in tabular form providing instant access to relevant information.

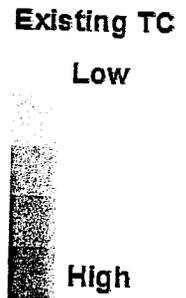
## Tree Canopy Opportunity Index

In addition to simple descriptive statistics, more sophisticated techniques can help identify areas of the city where tree-planting and stewardship programs would be most effective. One approach is to focus on spatial clusters of Existing and Possible TC. When a 200-foot grid network is superimposed on the land-cover map (Figure 15a), it is possible to map regions of the study area where high values of Existing TC are tightly clustered (Figure 15b). A similar map was constructed for Possible TC (Figure 15c). A single index was created by subtracting the percentage of Existing TC per grid cell from Possible TC, which produced a range of values from -1 to 1. When clustered, this tree canopy opportunity (TCO) index highlights areas with high Possible TC and low Existing TC (Figure 15d); these areas theoretically offer the best places to strategically expand Bridgeport's tree canopy and to increase its many attendant benefits. Unlike PPI (Figure 8d), TCO does not take into account population information. As such, the areas with the highest TCO are the largely industrial and commercial sections of the city that have low Existing and high Possible TC. As with all such analyses, however, landscape context must be evaluated before setting priorities.

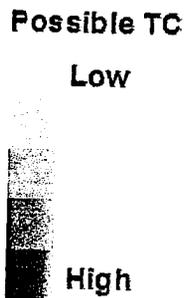
a. 200ft Grid



b. Existing TC Hotspots



c. Possible TC Hotspots



d. Tree Canopy Opportunity Index

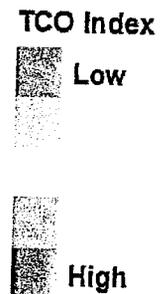
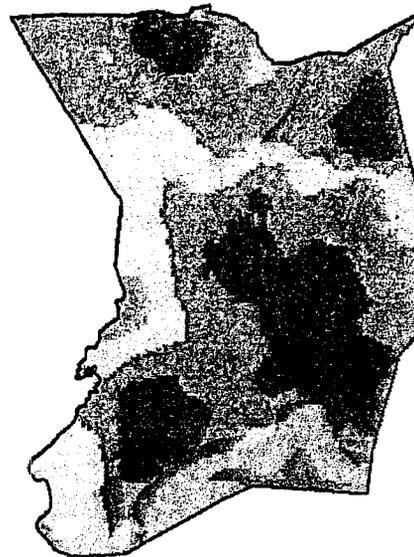


Figure 15: (a) Grid network (250-foot cells) superimposed on land-cover map for Bridgeport and then used in spatial cluster analyses; (b) Spatial clustering of Existing TC in Bridgeport; dark green areas are highly clustered and have high Existing TC values; (c) Spatial clustering of Possible TC in Bridgeport; dark red areas are highly clustered and have high Possible TC values; and (d) Spatial clustering of a combined index of Existing and Possible TC; red areas theoretically provide the best opportunities for expanding tree canopy.

## Conclusions

- Bridgeport's urban tree canopy is a vital city asset that reduces stormwater runoff, improves air quality, reduces the city's carbon footprint, enhances quality of life, contributes to savings on energy bills, and serves as habitat for wildlife.
- Although this assessment indicates that 45% of the land in Bridgeport could theoretically support tree canopy, planting new trees on much of this land may not be socially desirable (e.g. recreation fields) or financially feasible (e.g. parking lots). Setting a realistic goal requires a detailed feasibility assessment using the geospatial datasets generated as part of this assessment.
- With Existing and Possible TC summarized at the parcel level and integrated into the city's GIS database, individual parcels can be examined and targeted for TC improvement. Of particular focus for TC improvement should be parcels in the city that have large, contiguous impervious surfaces. These parcels contribute high amounts of runoff, which degrades water quality.
- The establishment of tree canopy on these parcels will help reduce runoff during periods of peak overland flow.
- Bridgeport's residents are the largest "owner" of tree canopy by land use type. Programs that educate residents on tree stewardship and provide incentives for tree planting are crucial if Bridgeport is going to sustain its tree canopy in the long term.
- Geographically the greatest opportunities for increasing tree canopy lie in the central, southeast, and southwest sections of the city. The TCO Index, which highlights those portions of the city where the "biggest bang for the buck" can be achieved will help with strategic planning.
- Census Block Group summaries can be used to target the expansion of new tree canopy in areas of the city to meet the needs of underserved populations. The Priority Planting Index (PPI) can help to guide these efforts.
- Efforts to improve the quality of the Pequonnock River should focus on subwatersheds with low amounts of Existing TC.

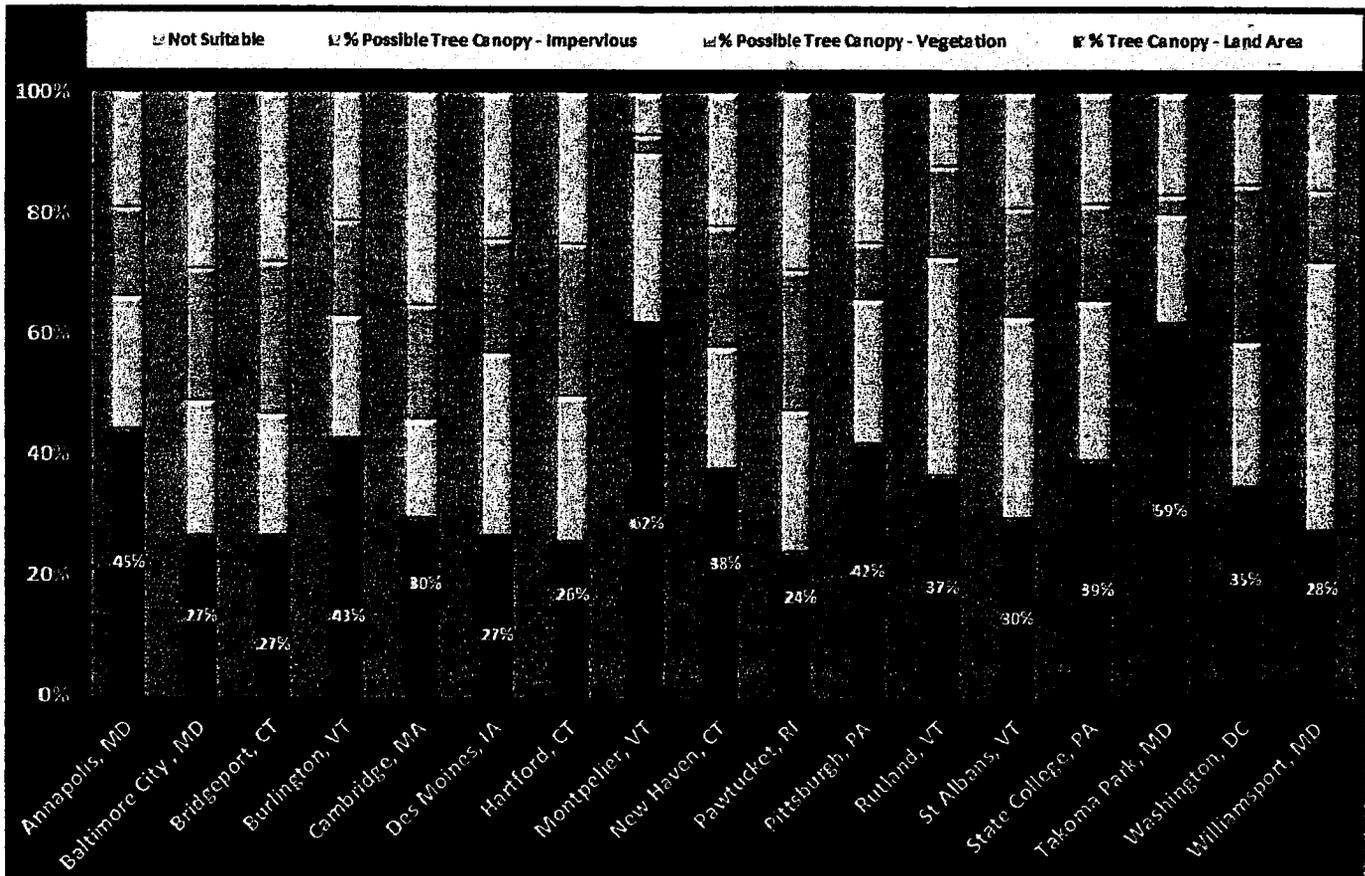


Figure 16: Comparison of Existing and Possible Tree Canopy with other similar cities that have completed Tree Canopy Assessments.

Prepared by:

Jarlath O'Neil-Dunne  
 University of Vermont  
 Spatial Analysis Laboratory  
 joneildu@uvm.edu  
 802.656.3324

Additional Information

This project was made possible by a grant provided by the Connecticut Department of Energy and Environmental Protection Division of Forestry and funding provided by Northeastern Area State and Private Forestry, U. S. Forest Service. For more info <http://nrs.fs.fed.us/urban/UTC/>



University of Vermont  
 Spatial Analysis Lab

**\*172-12 Consent Calendar**

Grant Submission: re State Department of Economic & Community Development Urban Action Grant for the Andean Bear Exhibit at the Beardsley Zoo.

---

---

**Report  
of  
Committee  
on  
CEA & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_  
*Fleeta C Hudson*

Attest: \_\_\_\_\_  
City Clerk

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

## **\*172-12 Consent Calendar**

### **A Resolution by the Bridgeport City Council Regarding the State of Connecticut Department of Economic and Community Development Urban Act Grant Program for the Andean Bear Exhibit at Beardsley Zoo**

**WHEREAS**, the State of Connecticut Department of Economic and Community Development is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through a grant under the Urban Act Grant Program for the Andean Bear Exhibits at the Beardsley Zoo; and

**WHEREAS**, funds under this grant will be used for Site Improvements, a Structure and Specialties for the Spirit of the Cloud Forest Exhibit, also known as the Andean Bear Exhibit, a section of the larger South American Adventure project that has been undertaken by the Beardsley Zoo; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, Central Grants Office, submit an application to the State of Connecticut Department of Economic and Community Development in the amount of \$2,500,000 for the purpose of the Andean Bear Exhibit; Now, therefore be it hereby

### **RESOLVED BY THE CITY COUNCIL:**

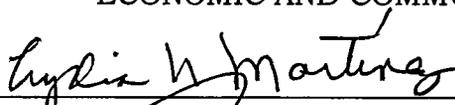
1. That it is cognizant of the City's grant application to and contract with the State of Connecticut Department of Economic and Community Development to implement an Andean Bear Exhibit that includes Site Improvements, a Structure and Specialties; and,
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the State Department of Economic and Community Development for the Urban Act Grant Program and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.

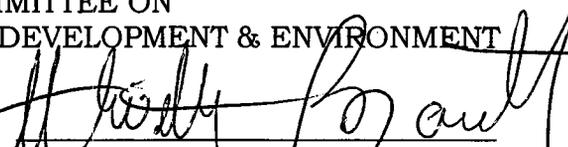


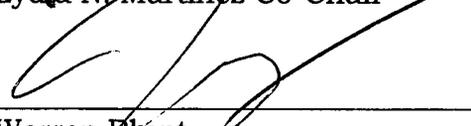
Report of Committee on ECD and Environment  
\*172-12 Consent Calendar

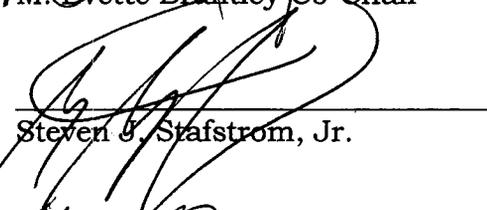
-2-

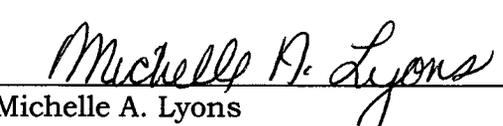
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

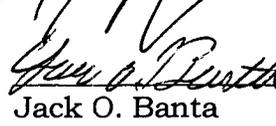
  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven S. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*173-12 Consent Calendar**

Grant Submission: re State of Connecticut's Office of Policy & Management for Youth Services Prevention Grant Program.

---

---

**Report  
of  
Committee  
on  
CEA & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

*Fleeta C. Hudson*

Attest: \_\_\_\_\_

City Clerk

---

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

## **\*173-12 Consent Calendar**

### **A Resolution by the Bridgeport City Council Regarding the State of Connecticut's Office of Policy & Management Youth Services Prevention Grant for Office of Neighborhood Revitalization**

**WHEREAS**, the State of Connecticut's Office of Policy & Management is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through a grant Youth Services Prevention; and

**WHEREAS**, funds under this grant will be used for the Office of Neighborhood Revitalization to implement a Mentoring Program; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport, submit an application to the State of Connecticut Office of Policy & Management in the amount of \$67,113.99 for the purpose of implementing a Youth Services Prevention Grant focused on a Mentorship Program for Bridgeport youth; Now, therefore be it hereby

#### **RESOLVED BY THE CITY COUNCIL:**

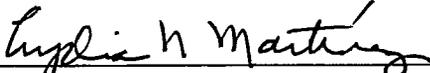
1. That it is cognizant of the City's grant application to and contract with the State of Connecticut Office of Policy & Management for the purpose of implementing a Youth Services Prevention Grant focused on a Mentoring Program for Bridgeport youth.
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the State of Connecticut Office of Policy & Management's Youth Services Prevention Grant Program and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.

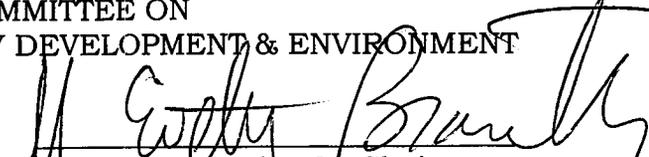


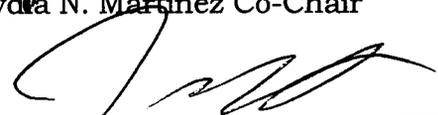
Report of Committee on ECD and Environment  
\*173-12 Consent Calendar

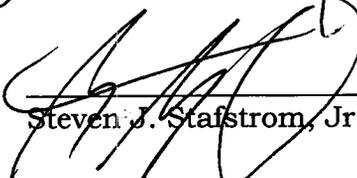
-2-

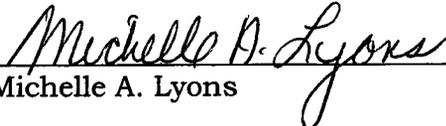
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

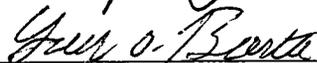
  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

**\*179-12 Consent Calendar**

Grant Submission: re Historic Restoration Fund (HRF) grant through the State Historic Preservation Office to continue the restoration of the Barnum Museum site, 820 Main Street.

---

---

**Report  
of  
Committee  
on  
CEA & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_

*Fleeta C. Hudson*

City Clerk

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on **ECD and Environment** begs leave to report; and recommends for adoption the following resolution:

**\*179-12 Consent Calendar**

**A Resolution by the Bridgeport City Council  
Regarding the Historic Preservation and Restoration of  
The Barnum Museum  
820 Main Street  
Bridgeport, CT**

**WHEREAS**, The Barnum Museum, founded by P.T. Barnum and completed in 1893 ("Barnum Museum"), is owned by the City of Bridgeport ("City") and is listed on the National Register of Historic Places as a Nationally Significant Historic Site; and

**WHEREAS**, The Barnum Museum Foundation, Inc. is the non-profit (501c3) foundation ("Foundation") authorized by the City of Bridgeport pursuant to that certain Lease and Management Agreement dated December 28, 1988, as amended to date ("Lease") to be the tenant of the Barnum Museum and pursuant to an agreement dated December 28, 1988 ("Loan Agreement") to be the steward of the Barnum Museum artifacts collection ("Collection") and to govern and operate the Barnum Museum as a 'first class museum'; and

**WHEREAS**, an EF1 tornado struck The Barnum Museum in 2010 causing massive structural and environmental damage to the historic building and many artifacts in the Collection; and

**WHEREAS**, the Foundation is seeking a \$200,000 Historic Restoration Fund (HRF) grant through the Department of Economic and Community Development, State Historic Preservation Office (SHPO/DECD) to continue the restoration of the Barnum Museum, and that the Foundation is requesting authorization from Bridgeport City Council to pursue this critical funding exclusive to National Register sites for historic preservation/repair under the guidelines and standards of the United States Department of the Interior; and

**WHEREAS**, a requirement of the grant is the recording of an easement, declaration of covenants and declaration of preservation restrictions that will be in effect for 20 years ("Easement") to protect the Barnum Museum for future generations, which is in addition to an existing historic preservation restriction approved by City Council in 2010 (expiring 2026) related to a previous Endangered Property grant; and



Report of Committee on ECD and Environment  
\*179-12 Consent Calendar

-2-

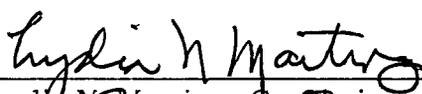
**WHEREAS**, the Foundation has completed an extensive Condition Assessment Report with restoration architect Swanke Hayden Connell Architects that accurately details damage to and critical repair/restoration needs at the Barnum Museum;

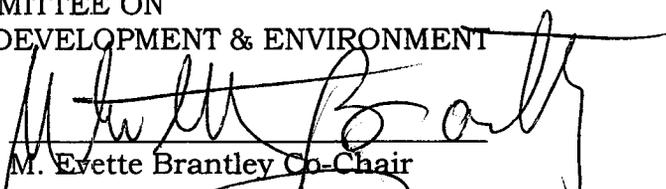
**WHEREAS**, the Foundation requests that the City Council authorize entry into the Easement and recording it against the land records against the City's title to the Barnum Museum; Now, therefore be it

**RESOLVED**, that the City agrees to enter into the Easement in consultation with the Office of the City Attorney that will be recorded on the land records against title to the Barnum Museum for a period of 20 years; and

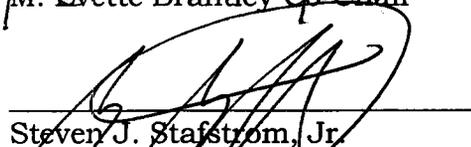
**FURTHER RESOLVED THAT** the Mayor or the Director of Public Facilities or their designee are authorized to execute all documents, take all other actions, and do all other things necessary in furtherance of and consistent with this resolution in the best interests of the people of the City of Bridgeport.

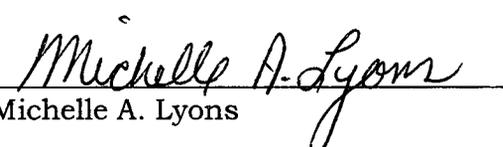
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

Resolution Authorizing the Acquisition of  
Redevelopment Properties in the East End.

---

---

**Report  
of  
Committee  
on  
CEA & Environment**

---

**Submitted: October 21, 2013**

Adopted: \_\_\_\_\_

*Fleeta C Hudson*

Attest: \_\_\_\_\_

City Clerk

---

---

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on ECD and Environment begs leave to report; and recommends for adoption the following resolution:

165-12

## **A Resolution Authorizing the Acquisition of Certain Properties for Neighborhood Redevelopment within the East End**

**Whereas**, per the request of the City's Office of Planning and Economic Development ("OPED"), the Lower East End Municipal Development Plan (LEEMDP) was approved by the Bridgeport Redevelopment Agency ("BRA") on September 12, 2000;

**Whereas**, on October 2, 2000, per OPED's request, the City Council adopted the LEEMDP for the renewal of the area;

**Whereas**, on November 7, 2005, the City Council adopted a resolution regarding the LEEMP, amending certain development rights granted under the LEEMP;

**Whereas**, in August 6 of 2012, per the request of the City's Office of Planning and Economic Development (OPED), the City Council referred Item #115-11 to its Economic and Community Development and Environmental Committee, said item referencing the Plan's call for the acquisition of various parcels within the area known as the "Civic Block" (bounded by Stratford Avenue, Central Avenue, Revere Street, and Newfield Avenue) so as to assemble the properties on this largely blighted block so as to reposition it for clean mixed-use development;

**Whereas** in July of 2013, the City Council authorized OPED to acquire 1216 Stratford Avenue from the Metropolitan Business Association;

**Whereas** in July of 2013, the City Council authorized OPED to accept by donation from the Bank of America the vacant property at 1196 Stratford Avenue;

**Whereas**, in September of 2013, the Bank of America withdrew its offer to donate the property at 1196 Stratford Avenue;

**Whereas** in August of 2013, the City Council authorized action leading to the donation to the City of 25 Revere Street;



Report of Committee on ECD and Environment  
165-12

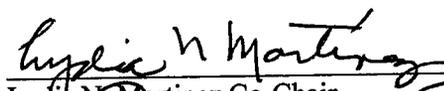
-2-

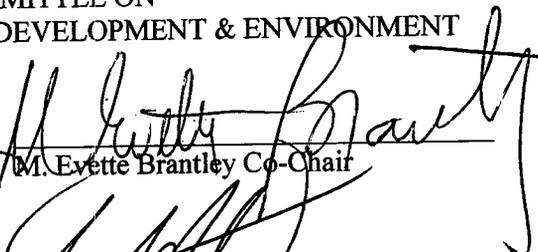
**Whereas** OPED has acquired and is acquiring properties to further the ongoing redevelopment objectives of the Plan as it relates to the Civic Block, and wishes to take advantage of the availability of funding from the Neighborhood Stabilization Program ("NSP") to acquire other vacant NSP-eligible properties on the block so as to assemble a site of sufficient size for redevelopment; Now, therefore be it

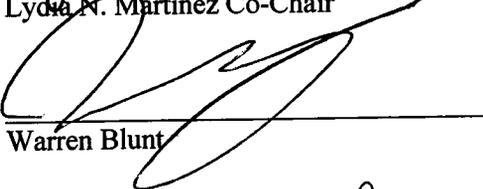
**Resolved** that as per the objectives of the Lower East End Municipal Development Plan, as hereby renewed, the City's Office of Planning and Economic Development, or its development agency designee, the Bridgeport Redevelopment Agency, (hereby designated), is authorized to acquire by foreclosure, donation, deed in lieu of foreclosure, friendly acquisition, or by eminent domain, the following vacant properties using NSP funds: 1196 Stratford Avenue; 37 Revere Street; 45 Revere Street; 55 Revere Street; 67 Revere Street (collectively, the "Property," individually, the "Parcels"); be it further

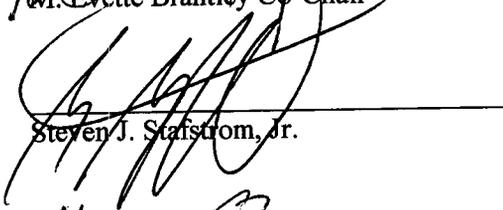
**Resolved** that the Mayor or the Director of OPED or their designee is authorized to execute all documents and do any and all things necessary to negotiate and conclude the acquisition of the Property or of Parcels within the Property in a manner consistent with this resolution.

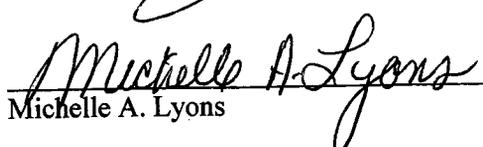
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ECONOMIC AND COMMUNITY DEVELOPMENT & ENVIRONMENT

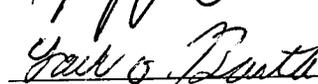
  
Lydia N. Martinez Co-Chair

  
M. Evette Brantley Co-Chair

  
Warren Blunt

  
Steven J. Stafstrom, Jr.

  
Michelle A. Lyons

  
Jack O. Banta

\_\_\_\_\_  
Michael J. Marella, Jr.

Council Date: October, 21, 2013

Service Agreement with ProAct Inc., to provide a free Discount Prescription Drug Card to residents of Bridgeport.

---

---

**Report  
of  
Committee  
on  
Contracts**

**Submitted: October 21, 2013 (OFF THE FLOOR)**

Adopted: \_\_\_\_\_

*Fleeta C Hudson*

Attest: \_\_\_\_\_

City Clerk

---

---

Approved \_\_\_\_\_

---

---

Mayor

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport.*

The Committee on Contracts begs leave to report; and recommends for adoption the following resolution:

132-12

**RESOLVED**, That the attached Service Agreement with Pro-Act, Inc to provide a free discount prescription card to residents of Bridgeport be and it hereby is, in all respects, approved, ratified and confirmed.

**RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON CONTRACTS**

\_\_\_\_\_  
Carlos Silva, Co-chair

\_\_\_\_\_  
Michael J. Marella Jr., Co-chair

\_\_\_\_\_  
M. Evette Brantley

\_\_\_\_\_  
James Holloway

\_\_\_\_\_  
Susan T. Brannelly

\_\_\_\_\_  
Angel M. dePara, Jr.,

\_\_\_\_\_  
Richard Paoletto

City of Bridgeport  
Office of Labor Relations and Benefits Administration

INTEROFFICE MEMORANDUM

---

TO: Contracts Committee Members

FROM: Richard Weiner

DATE: 8/20/13

**SUBJECT: Overview of Contract with ProAct, Inc**

---

The Connecticut Conference of Municipalities (CCM) in conjunction with Pro-Act, Inc., a pharmacy benefit management company, is offering a prescription drug discount card to residents of municipalities affiliated with CCM. At their expense, Pro-Act mails the card to the homes of residents of participating communities who in turn can use the card at area pharmacies to receive discounts on prescription medicines.

The average discount amounts to about 24% of the retail price, though in some cases it can rise to as much as 45%. In the event a pharmacy sells the medicine at a price lower than the discounted price available with the card, purchasers will always pay the lowest costs charged by the pharmacy. The card can also be used to obtain discounts for vision benefits, hearing aids and Lasik surgery and some pet medicines are discounted with card. The card principally benefits residents who do not have prescription benefit insurance or who may need a prescription not covered by their plan. The card cannot be used in conjunction with private insurance plans or competing plans.

All administrative expenses associated with the program are absorbed by Pro-Act. Participating pharmacies absorb the cost of the discount. The pharmacy's incentive to participate is increased store traffic. By endorsing the program, the program's literature credits the City government with making the program available.

15 pharmacies in Bridgeport participate in the program including Walgreens, CVS, Rite Aid, Stop & Shop as well as independents such as Arrow, Lupes, Hancock and Main Street pharmacies.

The program is already in place or being rolled out in 98 towns and cities across the state. New Haven will be rolling out the program this fall. I had occasion to speak to the mayor's office in Danbury which reports that the card has been well-received by local residents.

## PROACT, INC. SERVICE AGREEMENT

THIS SERVICE AGREEMENT, hereinafter referred to as the "Agreement," is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, and shall be effective on \_\_\_\_\_ (the "Effective Date"), between ProAct Inc., (ProAct, Inc dba ProAct Pharmacy Services, Inc. in the State of CT) with offices located at 6333 Route 298 – Suite 210, East Syracuse, NY 13057, hereinafter referred to as "ProAct," and City of Bridgeport, Connecticut, hereinafter referred to as "Client," with offices located at 45 Lyon Terrace, Bridgeport, CT 06604.

WHEREAS, ProAct is a business corporation organized under the laws of the State of New York and authorized to do business in the State of Connecticut; and

WHEREAS, ProAct now possesses and will possess during the term of this agreement all necessary licenses, permits or other legal authorizations of any governmental agency or authority having jurisdiction to provide the services described herein; and

WHEREAS, ProAct has established a network of pharmacies across the United States ("Network") that will provide pharmaceutical drugs at a discount from such pharmacy's cash price ("Discount") to Covered Persons who present a drug prescription and the Program's Discount Card; and

WHEREAS, Client is a municipality organized under the laws of the State of Connecticut and desires to offer a pharmacy prescription drug discount card program (the "Program") providing for the dispensing of prescription drugs to Covered Persons at discount prices, and Client desires to engage ProAct to perform services relating to such Program at no cost to the Client; and

WHEREAS, Client is a current member in good standing of the Connecticut Conference of Municipalities (CCM), the Marketing Agent in the State of Connecticut for the Program; and

WHEREAS, Covered Persons may participate in the Program through the Network at the Discount; and

WHEREAS, ProAct will also provide additional discount price programs including, but not limited to, Vision, LASIK, and Hearing.

NOW THEREFORE, in consideration of the mutual promises and agreement herein contained, Client and ProAct hereby agree as follows:

### ARTICLE I DEFINITIONS

#### 1.1 Covered Person.

"Covered Person" shall refer to those individuals and their dependents who are residents of the City of Bridgeport and who participate in the Program.

1.2 Discount Card Program.  
The term "Discount Card Program" or "Program" shall mean a discount program administered by ProAct where a Covered Person is entitled to purchase prescription drugs from pharmacies in the Network.

1.3 Additional Services Offered Under the Discount Card Program  
Vision Discount Program - The Vision Discount Program shall mean a discount program administered by Eyebenefits.com through their affiliation with ProAct, where a Covered Person is entitled to pay for eye exams, frames, and contact lenses at a discounted rate at participating providers in the Eyebenefits.com Network.

Hearing Services Discount Program - The Hearing Services Discount Program shall mean a discount program administered by ProAct, where a Covered Person is entitled to pay for hearing services and products at a discounted rate at participating providers.

Lasik Discount Program - The Lasik Discount Program shall mean a discount program administered by ProAct, where a Covered Person is entitled to pay for Lasik services at a discounted rate at participating providers.

1.4 Implementation Date.  
The Implementation Date shall be the date on which the Discount Card Program becomes effective by mutual agreement.

1.5 ProAct Pharmacy Network.  
The "ProAct Pharmacy Network" or "Network" consists of a pharmacy network established by ProAct consisting of retail brick and mortar pharmacies located in the United States to provide prescription drugs under the Discount Card Program.

## ARTICLE II DUTIES TO BE PERFORMED BY CLIENT

2.1 Covered Persons. ProAct will provide Discount Cards to all persons within the City of Bridgeport, Connecticut that are eligible to participate in the Discount Card Program. Client understands that the Discount Card Program will be exclusively offered through the ProAct Pharmacy Network. Covered Persons include residents of Bridgeport, Connecticut and their minor dependents who reside in Bridgeport, Connecticut.

2.2 Transaction Charges. The ProAct Pharmacy Network is responsible for any applicable transaction charges associated with the submission of claims. Such charges are to be deducted from the claim reimbursements to the ProAct Pharmacy Network. Neither the Client nor any Covered Person will be responsible for any such amounts.

2.3 Pharmacy Network Administration. The ProAct Pharmacy Network and contracting pharmacies are responsible for all Pharmacy Network Administration fees. Such charges are to be deducted by ProAct from the claim reimbursements due to the ProAct Pharmacy Network as determined by ProAct. Neither the Client nor any Covered Person will be responsible for any such amounts.

ARTICLE III  
DUTIES TO BE PERFORMED BY PROACT

- 3.1 Hours of Service. ProAct shall provide an 800 Help Line which shall be available to Client, Covered Persons and the ProAct Pharmacy Network during ProAct's regular hours of business. These hours shall be Monday through Friday, 7:00 am to 7:00 pm and Saturday, 8am to 4:30pm Eastern Standard Time (EST) and Eastern Daylight Time (EDT). These hours do not include national holidays, and may be altered at any time. It is agreed, however, that Client and the ProAct Pharmacy Network shall be notified of any changes to schedule of business hours.
- 3.2 Confidential Covered Persons Information. All Covered Persons information relating to personal protected information, covered drugs prescribed by a physician, and other records identifying Covered Persons, shall be treated as confidential except to the extent that disclosure may be required pursuant to state or federal laws or regulations and may not be disclosed to any third party for any reason except for the administration of the Program.
- 3.3 HIPAA Compliance. For the purposes of this Agreement, ProAct agrees that ProAct is deemed to be Client's "Business Associate/Clearinghouse" as the terms are defined in the Privacy Standard of the Federal Register, published on December 28, 2000. ProAct agrees to comply with all applicable regulations published pursuant to the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, (referred to in this Agreement as "HIPAA"), prior to the effective enforcement date of each standard. In addition, without limiting any other provision of this Agreement:
- a. all services provided by ProAct under this Agreement will be provided in such a manner as to enable Client to remain at all times in compliance with all HIPAA regulations applicable to Client, to the extent that Client's compliance depends upon the manner in which such services are performed by ProAct; and
  - b. In the event any amendment to this Agreement is necessary for Client to comply with the HIPAA regulations as they relate to this Agreement or its subject matter, including, but not limited to, requirements pertaining to Business Associate agreements, Client and ProAct will negotiate in good faith to amend, and will amend, this Agreement accordingly, such amendment to be effective prior to the date compliance is required under each standard of the HIPAA regulations.

## ARTICLE IV RECORDS

- 4.1 Maintenance of Claim Records. ProAct shall maintain, in the original form or other media, information received from the ProAct Pharmacy Network for a period of three (3) years.
- 4.2 Ownership of Claim Records. All records created by ProAct shall be the property of ProAct but all confidential information described herein shall remain the property of the Covered Persons.

## ARTICLE V ASSIGNMENT

- 5.1 Assignment by Client. Client may not assign this Agreement or any portion thereof to any service or organization without first having obtained prior written consent of ProAct, which consent shall not be unreasonably withheld.
- 5.2 Assignment by ProAct. ProAct may not assign this Agreement or any portion thereof to any service or organization without first having obtained prior written consent of Client, which consent may be withheld in the Client's exercise of its prudent business judgment.

## ARTICLE VI HOLD HARMLESS

- 6.1 Indemnity by ProAct. ProAct shall indemnify and hold harmless Client, and its employees and other agents, and Covered Persons from and against any claims, liabilities, damages, judgments or other losses (including attorneys' fees) imposed upon or incurred by them arising out of or as a result of any acts or omissions of ProAct, or its officers, directors, employees or other agents, in connection with the performance of any of their respective obligations under this Agreement. This indemnification shall survive the expiration or early termination of this agreement.

## ARTICLE VII REBATE ADMINISTRATION

- 7.1 Rebate Disclosure. As constituted, the Discount Card Program will not qualify for rebates from drug manufacturers.

## ARTICLE VIII GENERAL PROVISIONS

- 8.1 Waiver. The waiver by either party of any breach of this Agreement shall not constitute a waiver of any subsequent breach of any term or condition hereof.

- 8.2 Severability. If any provision of this Agreement shall be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall not in any way be affected or impaired thereby.
- 8.3 Choice of Law. This Agreement shall be construed, interpreted, and governed according to the laws of the State of Connecticut. Any suit arising hereunder shall be brought in a court of competent jurisdiction within the State of Connecticut.
- 8.4 Force Majeure. Neither party shall be liable for a failure or delay in performance hereunder arising from acts of God, acts of a public enemy, acts of a sovereign nation or any state or political subdivision or any department or regulatory agency thereof or entity created thereby, acts of any person engaged in a subversive activity or sabotage, fires, floods, earthquakes, explosions, strikes, slow-downs, lockouts or labor stoppage, or freight embargoes, unless caused by such party.
- 8.5 Entire Agreement. This Agreement and the exhibits identified below contain the entire agreement of the parties hereto and supersede all prior agreements, representations and understandings, whether written or oral, between the parties relating to the subject matter hereof. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement.
- 8.6 Notice. Any notice required or permitted by this Agreement, unless otherwise specifically provided for in this Agreement, shall be in writing and shall be deemed given three (3) days after the date it is deposited in the United States mail, postage prepaid, registered or certified mail, or hand delivered addressed as follows:

To ProAct: David B. Warner, President  
6333 Route 298 – Suite 210  
East Syracuse, NY 13057

To Client: Director, Benefits Department  
City of Bridgeport  
45 Lyon Terrace  
Bridgeport, CT 06604

With a copy to:

City Attorney  
Office of the City Attorney  
Margaret E. Morton Government Center  
999 Broad Street, 2<sup>nd</sup> Floor  
Bridgeport, CT 06604

To CCM: Gina Calabro, Director of Member Services and Marketing  
900 Chapel Street, 9<sup>th</sup> Floor  
New Haven, CT 06510

- 8.7 Use of Name. Neither party shall use the other party's name, trade or service mark, logo, or the name of any affiliated company in any advertising or promotional material, presently existing or hereafter established by Client, except in the manner and to the extent permitted by prior written consent of the other party.
- 8.8 Independent Contractors. Client and ProAct are independent entities and nothing in this Agreement shall be construed or be deemed to create a relationship of employer and employee or principal and agent or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of this Agreement. Nothing in this Agreement is intended to be construed, or be deemed to create, any rights or remedies in any third party, including but not limited to Covered Person.
- 8.9 Consent to Amend. This Agreement or any part or section of it may be amended at any time during the term of the Agreement by mutual written consent of duly authorized representatives of ProAct and Client.
- 8.10 Headings. The headings of articles and sections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- 8.11 Compliance with Laws and Regulations. ProAct shall at all times render the services described herein in compliance with all applicable federal and state statutes and regulations. If this Agreement or any part hereof is found not to be in compliance with any pertinent federal or state statute or regulation, then the parties shall revise the Agreement for the sole purpose of bringing this agreement into compliance with such laws.
- 8.12 Use of Software. Client acknowledges that ProAct asserts ownership of the entire software system used by ProAct in processing Claims and preparing reports including computer programs, system and program documentation, and in other documentation relating thereto, and that such software system is the exclusive and sole property of ProAct. Unless otherwise provided by law, Client disclaims any rights to the system, reports, procedures or forms developed by ProAct.
- 8.13 Protection of Confidentiality and Programs. ProAct agrees to ensure the confidentiality of all information obtained from Client including, but not limited to: financial, utilization, or any other information related to the delivery of health care. This paragraph shall survive the expiration or early termination of this agreement.

#### ARTICLE IX EXCLUSIVITY

- 9.1 Client agrees that, during the term hereof, ProAct shall be the sole and exclusive agent for the purpose of administration of Client's discount pharmacy services program, as described herein.

**ARTICLE X  
TERM AND TERMINATION**

- 10.1 Term. This Agreement shall become effective on the Implementation Date for a term of one (1) year and thereafter shall continue in effect for additional one (1) year terms unless terminated on its anniversary date by either party by certified or registered mail at least sixty (60) days prior to such date. Termination shall have no effect upon the rights and obligations of the parties arising out of any transactions occurring prior to the effective date of such termination.
- 10.2 Termination. This Agreement may be terminated at any time by either party for failure to comply with any terms or conditions herein stated or for any other just and sufficient cause, provided, however, that sixty (60) days' written notice shall be given to the other party. A party receiving a notice that it is in default of this Agreement shall have the opportunity to cure such default during such sixty (60) day notice period. Notwithstanding anything herein contained to the contrary, following the initial one (1) year term, either party may terminate this Agreement for convenience upon sixty (60) day's written notice.
- 10.3 Immediate Termination. This Agreement may be terminated by either party upon written notice to the other party in the event: the other party makes an assignment for the benefit of creditors, files a petition of bankruptcy, is adjudicated insolvent or bankrupt, has a receiver or trustee appointed for a substantial part of its property, change of ownership, membership in CCM is terminated, or has a proceeding commenced against it which will substantially impair its ability to perform hereunder.

The provisions of this Agreement shall bind and inure to the benefit of the parties hereto and their heirs, legal representatives, successors and assignees. This Agreement constitutes the entire understanding between the parties hereto.

**PROACT, INC.**

**CITY OF BRIDGEPORT,  
CONNECTICUT**

\_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**DATE**

174-12

Approval of seventh amendment to lease with Captain's Cove Marina of Bridgeport, Inc. to provide location for proposed anaerobic digester site adjacent to the West Side Treatment Plant.

---

---

**Report  
of  
Committee  
on  
Contracts**

**Submitted: October 21, 2013 (OFF THE FLOOR)**

Adopted: \_\_\_\_\_

Attest: *Fleeta S Hudson*

City Clerk

---

---

Approved \_\_\_\_\_

---

---

*Mayor*

---

---



# City of Bridgeport, Connecticut

*To the City Council of the City of Bridgeport:*

The Committee on Contracts begs leave to report; and recommends for adoption the following resolution:

174-12

**Seventh Amendment to Captain's Cove Lease  
Providing For the Release of a 2.23 Acre Portion of its Leasehold to Facilitate the  
Location of an Anaerobic Digester Adjacent to the West Side Treatment Plant**

**WHEREAS**, the City of Bridgeport Water Pollution Control Agency (WPCA) proposes to enter into a development agreement that will provide for the siting and construction of an anaerobic digester adjacent to the West Side Water Pollution Treatment Plant; and

**WHEREAS**, the WPCA has requested that the City obtain control of a 2.23 acre portion of the property (Release Parcel) currently leased (Captain's Cove Lease) to Captain's Cove Marina of Bridgeport, Inc. (Captain's Cove Marina); and

**WHEREAS**, Captain's Cove Marina has agreed to accept the sum of \$330,000 (Release Price) for the release of the Release Parcel from the Captain's Cove Lease, which sum was arrived at by competitive appraisal in accordance with Connecticut law; and

**WHEREAS** the proposed Seventh Amendment to the Captain's Cove Lease provides for the release of the Release Parcel for the Release Price and also provides the City's creation of an electricity and hot water easement in an area between the proposed digester site and the Aquaculture School that will facilitate the transfer of excess electricity and hot water from the digester operation to the school; and

**WHEREAS**, the WPCA has agreed to provide the landscaped buffer requested by Captain's Cove Marina to visually separate the digester from the activities and operations of Captain's Cove Marina;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Bridgeport that the attached Seventh Amendment to Lease is hereby approved and the Mayor or the Director of the Department of Public Facilities, or their designee, are authorized to execute the Seventh Amendment to Lease, to execute any and all other documents related thereto, and take all other necessary actions and do all other necessary things in furtherance of and consistent with this resolution



Report of Committee on Contracts Committee  
174-12

-2-

**RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON CONTRACTS**

\_\_\_\_\_  
Carlos Silva, Co-chair

*Michael J. Marella Jr.*  
\_\_\_\_\_  
Michael J. Marella Jr., Co-chair

*M. Evette Brantley*  
\_\_\_\_\_  
M. Evette Brantley

*James Holloway*  
\_\_\_\_\_  
James Holloway

*Susan T. Brannelly*  
\_\_\_\_\_  
Susan T. Brannelly

*Angel M. dePara, Jr.*  
\_\_\_\_\_  
Angel M. dePara, Jr.,

\_\_\_\_\_  
Richard Paoletto

## SEVENTH AMENDMENT TO LEASE

THIS SEVENTH AMENDMENT TO LEASE, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by and between **THE CITY OF BRIDGEPORT**, a municipal corporation located at 45 Lyon Terrace, Bridgeport, Connecticut ("Landlord") and **CAPTAIN'S COVE MARINA OF BRIDGEPORT, INC.**, a Connecticut corporation having an address at One Bostwick Avenue, Bridgeport, Connecticut 06605 ("Tenant").

### WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain lease dated as of July 1, 1982 (the "Original Lease"), as amended to date, including this Seventh Amendment, and when taken as a whole, are hereinafter collectively referred to as the "Lease"), for certain premises described in the Lease and generally located on Bostwick Avenue, Morris Street and St. Stevens Road, Bridgeport, Connecticut, also known as "Burr Creek Marina" or "Captain's Cove" (together, the "**Premises**"); and

WHEREAS, the Tenant is willing to release approximately 2.23 acres of property from the Premises described in the Lease in order to enable the planned improvements to the West Side Water Treatment Plant described herein and the Landlord is willing to pay fair market value for such release.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree to modify and amend the Lease as follows:

1. Release of Premises From Operation of the Lease. The Landlord seeks the use of approximately 2.23 acres of property described in **Exhibit A** attached hereto including a 15'-wide underground electric and hot water utility easement (the "**Release Parcel**"), which constitutes a portion of the Premises, for purposes of making improvements to the West Side Water Treatment Plant adjacent to the Premises operated by the City of Bridgeport Water Pollution Control Authority ("**WPCA**") in the form of an anaerobic digester system ("**Digester Project**") and seeks the Tenant's release of such Release Parcel from the operation of the Lease and its consent to such utility easement. The Tenant understands and agrees that the Landlord intends to grant to the WPCA an electric and hot water utility easement agreement in the form attached hereto as **Exhibit B** that will allow electric power and/or hot water generated by the Digester Project to be conveyed through the easement area to the Aquaculture School to reduce its utility costs. The improvements to be constructed on the Release Parcel constitute those certain improvements described in that certain Anaerobic Digester Design, Build, Finance and Operate Agreement approved or to be approved by the WPCA ("**Digester Agreement**").

The Tenant is willing to remove the Release Parcel from the operation of the Lease in consideration of the Release Price (defined below). The revised description of the Premises following the removal of the Release Parcel is also described in **Exhibit A** attached hereto together with a map that shows the Release Parcel in two (2) sections, the first called "Proposed Anaergia, Inc. Site" and the second called "Access Road", and the remainder of the Premises after the release being called "Capt.'s Cove Seapot (sic) Lease Boundaries" on said map. Both the Release Parcel and the remainder of the Premises after the release thereof shall be set forth and described in an A-2 survey that shall be substituted for the map that is part of Exhibit A upon completion of such survey. Tenant shall have the right to review Exhibit A and the proposed Easement Agreement attached as Exhibit B prior to their recording in the Bridgeport Land Records.

2. Release Price; State Reimbursement; Application of Release Price to Rent.

- (a) The Landlord has conducted written appraisals of the Release Parcel and the parties have agreed that the Release Parcel has a fair market value of Three Hundred Thirty Thousand (\$330,000.00) Dollars ("**Release Price**"). The parties agree that the Premises subject to the Lease after the removal of the Release Parcel is described in Exhibit B attached hereto.
- (b) The Release Price for the Release Parcel shall be applied to the Tenant's Rent due under the Lease through the month prior to the date of execution of this Seventh Amendment and any balance remaining of the Release Price shall be promptly paid to the Tenant.

3. Approval of Seventh Amendment. This Seventh Amendment shall be deemed to be effective upon (a) the WPCA's approval of the Digester Agreement and its execution by the parties thereto, (b) the acceptance of this Seventh Amendment by vote of the City Council, and (c) upon the execution by the parties and delivery of a fully-executed original of this Seventh Amendment to the Tenant, but not otherwise.

4. Lease Not Otherwise Amended. Except for those provisions of the Lease amended or supplemented by this Seventh Amendment, the Lease shall

otherwise remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed this agreement on the date first above written.

**CAPTAIN'S COVE MARINA, INC.**

\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:  
duly authorized

**CITY OF BRIDGEPORT**

\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_  
Bill Finch, Mayor

## Exhibit A

### Description of Release Parcel

The Release Parcel consists of approximately 101,076 square feet or approximately 2.33 acres of property owned by the City of Bridgeport and leased to Captain's Cove Marina of Bridgeport, Inc. shown on the attached map.

Said Release Parcel is to be removed from the Lease of Captain's Cove Marina of Bridgeport, Inc. and added to the current site of the West Side Water Treatment Plant. The Release Parcel and the remaining leasehold of Captain's Cove Marina of Bridgeport, Inc. after such release is set forth on the attached map and called "Capt.'s Cove Seapot (sic) Lease Boundaries", which Release Parcel and the remainder of the Premises after release to be set forth and described in an A-2 survey now being prepared that shall be reviewed by the parties and attached hereto upon completion.

**EASEMENT AGREEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, CITY OF BRIDGEPORT, a municipal body corporate and politic, having an address at 999 Broad Street, Margaret E. Morton Government Center, Bridgeport, Connecticut (hereinafter called "Grantor") and the CITY OF BRIDGEPORT WATER POLLUTION CONTROL AUTHORITY, a municipal water pollution control authority created under the laws of the State of Connecticut, having an address at 695 Seaview Avenue, Bridgeport, Connecticut (hereinafter called "Grantee") hereby agree as follows:

The Grantor for the consideration of ONE DOLLAR (\$1.00) and other valuable consideration received to its full satisfaction which is hereby acknowledged, does hereby give, grant, bargain, sell and confirm unto the Grantee, and the Grantee does accept, subject to the terms and conditions set forth in this Agreement, the non-exclusive right, privilege and authority to maintain, operate, repair and replace the following facilities (the "**Grantee's Facilities**") within the Easement Area (the "**Easement Area**") more particularly described on **Exhibit A** attached hereto, which Easement Area is shown on the Survey (the "**Survey**") referred to in **Schedule A** attached hereto: underground electric and hot water service facilities and appurtenances thereto. The Easement Area, as shown on the Survey, is located on property of the Grantor leased to Captain's Cove Marina of Bridgeport, Inc. With respect to the Grantee's Facilities, as they currently exist or as the same shall exist at any time in the future, such Grantee's Facilities are and shall be and remain the property of said Grantee.

THE GRANTOR AND THE GRANTEE HEREBY FURTHER AGREE AS FOLLOWS:

A. The Grantee shall have, subject to the restrictions and limitations herein set forth, the non-exclusive right to lay, construct, alter, remove, upgrade, change the size of and location of Grantee's Facilities, and add additional Grantee's Facilities (collectively the "Alterations" and individually an "Alteration") provided, however, any such future Alterations shall be subject to the prior written approval of the Grantor and further provided that any such future Alterations shall not interfere with or hinder the use of the Easement Area by the operator of Captain's Cove Marina and other uses now or in the future encumbering and located within the Easement Area pursuant to recorded easements (the "Other Facilities"); and

B. At any reasonable time or times, upon reasonable notice to the Grantor (except in the case of emergencies) and the operator of Captain's Cove Marina, Grantee shall have the right and authority to enter upon the Easement Area at such point or points as the Grantee may deem expedient or necessary for the purpose of inspection, maintenance and repair of the Grantee's Facilities within the Easement Area, as they currently exist or subsequently exist and are consented to by the Grantor and the operator of Captain's Cove Marina. The Grantee shall hold the Grantor and the operator of Captain's Cove Marina harmless and indemnified from any loss, damage, liability or responsibility resulting from, relating to or arising out of the Grantee's exercise of its rights set forth in this Easement Agreement including reasonable attorneys' fees and court costs.

C. The Grantee covenants that the rights granted to the Grantee hereunder including rights of access, inspection, installation, maintenance, repair, restoration and replacement shall be exercised by the Grantee, so far as practicable, with consideration for the convenience of the Grantor and the operator of Captain's Cove Marina at any reasonable time or times upon reasonable notice except in emergencies and without doing any damage or injury to the Easement Area, other property of the Grantor, the operator of Captain's Cove Marina, or the Other Facilities within the Easement Area, and the Grantee will, upon completion of any such work it undertakes, replace, repair and restore said Easement Area, the Grantor's and the operator of Captain's Cove Marina's surrounding property and the Other Facilities to the same condition as existed before the undertaking of said work by the Grantee.

D. The Grantor covenants for itself and its successors and assigns that it will not at any time disturb or damage said Grantee's Facilities or any part thereof or at any time disturb or damage the facilities of the operator of Captain's Cove Marina or any part thereof and that it will not construct or approve the construction of any improvement within, under, through or across the Easement Area which will interfere with the Grantee's Easement rights pursuant to this Agreement or interfere with the rights of the operator of Captain's Cove Marina without the prior written approval of the Grantee and the operator of Captain's Cove Marina, respectively.

E. The Grantor herein reserves the right to itself, its successors and assigns, and the operator of Captain's Cove Marina to use and continue to use the land within, under, through, or across the Easement Area for any uses or purposes which do not violate the terms hereof or interfere with the use of the Easement Area by the Grantee in accordance with this Agreement.

F. In the exercise of its Easement rights hereunder, the Grantee shall comply with all applicable laws and governmental rules and regulations.

G. The Grantor shall have no liability for any acts or activities performed or carried out by the owners or operators (other than the Grantor) of the Other

Facilities within the Easement Area and the Grantee herein shall look solely to such other owners or operators of the Other Facilities in the event that any such owners or operators cause any interference or damages to the Grantee's Facilities or rights hereunder.

H. This Easement is made under and shall be construed in accordance with the laws of the State of Connecticut.

TO HAVE AND TO HOLD the said rights, privileges, and authority unto the said Grantee, its successors and assigns forever, to its own proper use and behoof.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF BRIDGEPORT

\_\_\_\_\_  
\_\_\_\_\_

By: Bill Finch  
Its: Mayor

CITY OF BRIDGEPORT  
WATER POLLUTION CONTROL  
AUTHORITY

\_\_\_\_\_  
\_\_\_\_\_

By: Bill Robinson  
Its: Acting General Manager

STATE OF CONNECTICUT     )  
  ) ss: Bridgeport     Date:             , 2013  
COUNTY OF FAIRFIELD     )

Personally appeared, **Bill Finch, Mayor** known to me to be the person who executed the foregoing document and acknowledged before me that he is duly

authorized and did execute same, as his free act and deed, and the free act and deed of the City of Bridgeport in such capacity.

---

Name  
Notary Public/Commissioner of the  
Superior Court  
My Commission Expires

STATE OF CONNECTICUT)

) ss: Bridgeport  
COUNTY OF FAIRFIELD )

Date: , 2013

Personally appeared Bill Robinson, Acting General Manager, City of Bridgeport Water Pollution Control Authority, known to me to be the person who executed the foregoing document and acknowledged before me that he is duly authorized and did execute same, as his free act and deed, and the free act and deed of the City of Bridgeport Water Pollution Control Authority in such capacity.

\_\_\_\_\_

Name  
Notary Public/Commissioner of the  
Superior Court  
My Commission Expires

|

## SCHEDULE A

### EASEMENT AREA DESCRIPTION

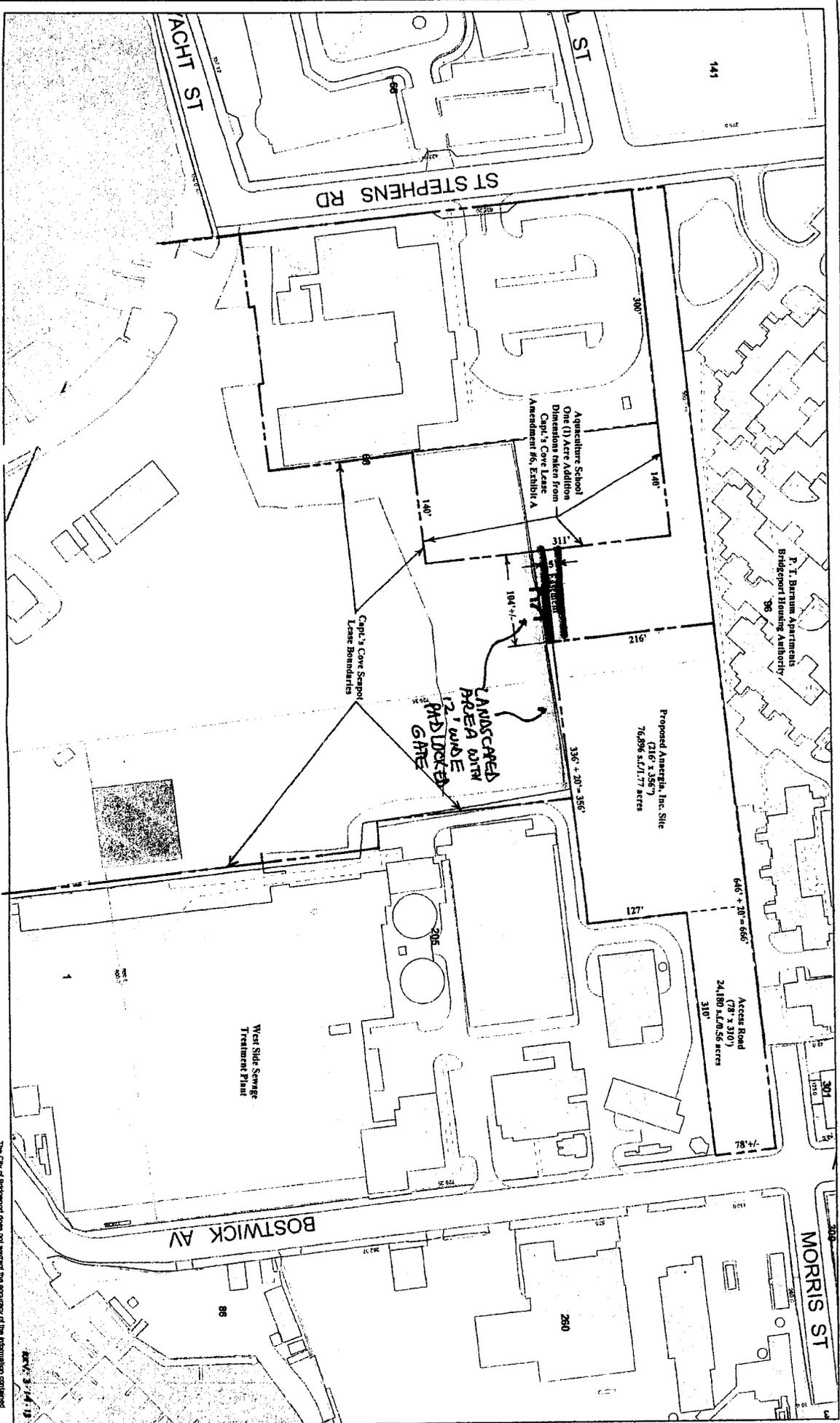
ALL THAT CERTAIN piece or parcel of land shown and designated as "15' Easement" on an A-2 survey prepared by \_\_\_\_\_, entitled "  
", dated \_\_\_\_\_, Scale: \_\_\_\_ = \_\_\_\_\_, attached hereto that shall  
be filed in the office of the Bridgeport Town Clerk (the "Survey") to which Survey  
reference is made for a more particular description of said Easement Area.



City of Bridgeport, Connecticut  
 Geographic Information System  
<http://ci.bridgeport.ct.us/gis>



The City of Bridgeport does not warrant the accuracy of the information contained hereon. It is the user's responsibility to verify the accuracy of any data used in this system. The City of Bridgeport is not responsible for any errors or omissions in this system or for any consequences arising from the use of the information. The City of Bridgeport is not responsible for any damage to property or personal injury resulting from the use of this system. The City of Bridgeport is not responsible for any loss of data or information. The City of Bridgeport is not responsible for any delay in the delivery of this system. The City of Bridgeport is not responsible for any loss of profit or business. The City of Bridgeport is not responsible for any loss of time. The City of Bridgeport is not responsible for any loss of opportunity. The City of Bridgeport is not responsible for any loss of reputation. The City of Bridgeport is not responsible for any loss of honor. The City of Bridgeport is not responsible for any loss of respect. The City of Bridgeport is not responsible for any loss of dignity. The City of Bridgeport is not responsible for any loss of self-respect. The City of Bridgeport is not responsible for any loss of pride. The City of Bridgeport is not responsible for any loss of honor. The City of Bridgeport is not responsible for any loss of respect. The City of Bridgeport is not responsible for any loss of dignity. The City of Bridgeport is not responsible for any loss of self-respect. The City of Bridgeport is not responsible for any loss of pride.



REV. 3/14/13



RECEIVED  
CITY CLERK'S OFFICE  
2013 OCT 21 P 3:26  
ATTEST  
CITY CLERK