

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
SECOND REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1778**

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S. P. 674

In Senate, January 8, 1980

Referred to the Committee on State Government. Sent down for concurrence and ordered printed.

Presented by Senator Gill of Cumberland.

MAY M. ROSS, Secretary of the Senate

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

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**RESOLVE, Authorizing Execution of Leasehold Agreement Between Department of Educational and Cultural Services and the City of South Portland Establishing a Greenbelt and Public Park Area on the Southern Maine Vocational-Technical Institute Campus as Part of the Spring Point Shoreway.**

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**Emergency preamble.** Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Resolves of 1977, chapter 42, authorized and directed the Department of Educational and Cultural Services and the City of South Portland to negotiate an agreement for the use of a portion of the Southern Maine Vocational-Technical Institute campus as a greenbelt area; and

Whereas, the resolve directed the parties to submit the results of the negotiations to the second regular session of the 108th Legislature for approval; and

Whereas, the parties have now completed the negotiations; and

Whereas, the construction and conservation work to be undertaken as a part of the project may be shared between the City of South Portland Parks and Recreation Department and the students at Southern Maine Vocational-Technical Institute; and

Whereas, only by designating this resolve as an emergency will the City of South Portland and Southern Maine Vocational-Technical Institute students be able to work on this project in the spring and summer of 1980, thereby maximizing the benefits to be made available to the public through this project; and

Whereas, failure to designate this resolve as an emergency will mean the loss of the 1980 construction season with the attendant increase in cost of construction and will postpone for another year the availability of the greenbelt and public park area to the general public; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Execution of leasehold agreement between Department of Educational and Cultural Services and the City of South Portland establishing a greenbelt and public park area on the Southern Maine Vocational-Technical Institute campus as a part of the Spring Point Shoreway authorized. Resolved:** That the Department of Educational and Cultural Services, acting by and through its commissioner, is authorized to enter into a long-term leasehold agreement with the City of South Portland for the establishment of a greenbelt and public park area on a portion of the Southern Maine Vocational-Technical Institute campus. A copy of the leasehold agreement is attached to this resolve and is labeled "Exhibit A."

The purpose of the leasehold shall be to permit the City of South Portland to construct, operate and maintain a so-called greenbelt and public park area to permit the general public to enjoy the scenic character and natural beauty of the Casco Bay shoreline adjacent to the Southern Maine Vocational-Technical Institute campus; provided that the operation and maintenance of the greenbelt and public park area shall be consistent with the present educational and vocational school use being made of the property. The lease shall provide for the preservation of the open space character of the Southern Maine Vocational-Technical Institute shore front on Casco Bay; the preservation generally of the remains of Fort Preble, including its walls, gun emplacements, bulkheads and prominent features for future restoration and historical interpretation as an integral part of the Spring Point Shoreway; the limitation of future physical expansion in this portion of the Spring Point Shoreway to presently planned additions to existing permanent buildings of Southern Maine Vocational-Technical Institute; and improvements to existing roads in this portion of the shoreway.

The greenbelt and public park area shall be constructed, operated and maintained according to the Spring Point Shoreway Plan dated February 14, 1978, as prepared by the Landscape Architect firm of Mitchell & DeWan, which plan is incorporated herein and made a part hereof; provided that the boundaries of the greenbelt and public park area as contained herein shall prevail where inconsistent with those contained in the plan; and provided further that there shall

be no obligation on the part of the State or the Department of Educational and Cultural Services to fund any portion of the greenbelt and public park area, except as may be specifically appropriated by the Legislature through the normal funding process.

The real property in question was conveyed to the State of Maine by 2 deeds from the United State of America, the first dated October 17, 1961, and the 2nd dated December 13, 1957, both of which require that the property be used for educational purposes. Therefore, approval from the Federal Government must be obtained before the commissioner may enter into the lease.

The premises to be leased is a certain lot or parcel of real property located in the City of South Portland, County of Cumberland, State of Maine, and being more particularly described as follows:

Beginning at a point on the edge of the seashore, said point being approximately sixty-five (65) feet distant on a course north  $29^{\circ} 14'$  west from the northerly corner of a certain lot or parcel of real property conveyed from Ametek, Inc. to the State of Maine by deed dated December 30, 1974, recorded in the Cumberland County Registry of Deeds in Book 3637, Page 291, said corner also being the easterly corner of a certain lot or parcel of real property conveyed by the General Electric Company to the City of South Portland by deed dated October 9, 1978, and recorded in the Cumberland County Registry of Deeds in Book 4336, Page 186; thence south  $29^{\circ} 14'$  east along land now owned by the City of South Portland sixty-five (65) feet to said corner (all courses herein are based upon magnetic north as of December 1979; the first course mentioned above is the same as the south  $49^{\circ} 01' 15''$  east course used in the two above-mentioned deeds, the descriptions in which are based upon true north); thence north  $89^{\circ} 47' 15''$  east forty (40) feet to a point on the southerly side of an existing traveled way; thence south  $40^{\circ} 12' 45''$  east on a course approximately seventy-five (75) feet distant from the present northeasterly side of the so-called Marine Sciences Building one hundred ninety-one and thirty hundredths (191.30) feet; thence south  $51^{\circ} 31' 45''$  east one hundred ninety-one and eighty hundredths (191.80) feet to the northerly corner of the present Machine Shop; thence south  $27^{\circ} 29' 05''$  east on a course approximately ten (10) feet distant from the present easterly side of said Machine Shop eighty (80) feet; thence south  $42^{\circ} 29' 05''$  east fifty-five (55) feet to the seaward side of Vocational Drive; thence by and along the seaward side of said Vocational Drive as it now exists on the following courses: south  $48^{\circ} 29' 05''$  east one hundred ninety (190) feet, thence south  $45^{\circ} 19' 05''$  east fifty (50) feet, thence south  $32^{\circ} 18' 25''$  east fifty (50) feet, thence south  $13^{\circ} 44' 05''$  east fifty (50) feet, thence south  $8^{\circ} 20' 55''$  west fifty-five (55) feet, thence south  $30^{\circ} 07' 35''$  west sixty-seven (67) feet, thence south  $42^{\circ} 37' 35''$  west eighty-four and ninety-eight hundredths (84.98) feet, thence south  $59^{\circ} 53' 15''$  west two hundred fourteen and ninety hundredths (214.90) feet to a point approximately ten (10) feet from the northeasterly side of the so-called Electricity and Electronics Building; thence south  $32^{\circ} 06' 45''$  east seventy-one and fifteen hundredths (71.15) feet; thence south  $58^{\circ} 17' 35''$  west forty-one and fifteen hundredths (41.15) feet; thence south  $31^{\circ} 42' 25''$  east fourteen and fifteen

hundredths (14.15) feet thence south  $57^{\circ} 58' 35''$  west one hundred fifty-six and ninety-four hundredths (156.94) feet; thence north  $32^{\circ} 06' 45''$  west thirty (30) feet; thence south  $57^{\circ} 53' 15''$  west seventy-nine (79) feet; thence north  $32^{\circ} 06' 45''$  west fifteen and three hundredths (15.03) feet to the seaward side of Vocational Drive as it now exists; thence south  $52^{\circ} 30' 55''$  west by and along the seaward side of Vocational Drive three hundred thirty-four and ninety-four hundredths (334.94) feet; thence south  $37^{\circ} 30' 25''$  east one hundred thirty-three and ninety-two hundredths (133.92) feet; thence south  $52^{\circ} 30' 55''$  west two hundred sixty and twenty-five hundredths (260.25) feet; thence north  $37^{\circ} 30' 25''$  west one hundred thirty-four and fifteen hundredths (134.15) feet to the seaward side of Vocational Drive; thence south  $52^{\circ} 30' 55''$  west sixty-three and forty hundredths (63.40) feet; thence south  $31^{\circ} 01' 05''$  east one hundred fifty-four and ten hundredths (154.10) feet; thence south  $58^{\circ} 52' 55''$  west seventy-eight and sixty-four hundredths (78.64) feet; thence south  $31^{\circ} 07' 05''$  east four (4) feet; thence south  $37^{\circ} 36' 35''$  west approximately three hundred forty-two and fifty-nine hundredths (342.59) feet to the northeasterly side of Beach Street; thence southeasterly by and along the northeasterly sideline of Beach Street approximately one hundred and fifty (150) feet to the shoreline; thence northerly, northeasterly, and westerly by and along the shoreline to the point of beginning.

EXCEPTING, HOWEVER, from the above-described premises the Spring Point Lighthouse and the stone jetty extending from the shoreline to said Lighthouse, the Aqualab II dock, the so-called Industrial Training Building and the so-called Industrial Training Office both of which are located near the shorepoint or base of said Aqualab II dock, the so-called Welding Shop, and two sewerage pumping stations owned by the City of South Portland.

ALSO, RESERVING, for the State of Maine, or its successors or assigns, a right-of-way or travel way for emergency and public service vehicles between the southeasterly side of the so-called Electricity and Electronics Building and the shoreline.

FURTHER RESERVING, for the State of Maine, or its successors or assigns, the right to continue to use existing buildings located within the above-described premises for educational and vocational school purposes and the right to perform such repair and maintenance work as is reasonably necessary.

Being a portion of the real property conveyed by the United States of America, acting by and through the Department of Health, Education and Welfare to the State of Maine by deed dated October 17, 1961 and recorded in the Cumberland County Registry of Deeds in Book 2638, Page 383; and a portion of the real property conveyed by the United States of America, acting by and through the Secretary of the Navy, to the State of Maine by deed dated December 13, 1957 and recorded in the Cumberland County Registry of Deeds in Book 2397, Page 196.

**EXHIBIT A**  
**LEASEHOLD AGREEMENT**

THIS LEASEHOLD AGREEMENT is made this       day of       , 1979, by and between the **CITY OF SOUTH PORTLAND**, a municipal corporation existing under the laws of the State of Maine and located in the County of Cumberland, State of Maine (hereinafter "CITY") and the **STATE OF MAINE**, acting by and through its Department of Educational and Cultural Services (hereinafter "STATE").

1. **Grant of Lease.** The STATE, acting by and through its Department of Educational and Cultural Services (hereinafter "DEPARTMENT"), hereby leases to the CITY to construct, operate, and maintain a so-called greenbelt and public park area on and over a certain portion of real property owned by the STATE and located in the City of South Portland and being more particularly described in paragraph 12 below.

2. **Term.** The term of the lease shall be for twenty (20) years and may be extended or renewed upon the same terms and conditions for additional twenty (20) year periods; provided, that the CITY must notify the DEPARTMENT or its successor in writing at least 180 days prior to the expiration of any term of said lease.

3. **Rental.** The CITY shall pay the STATE an annual rental of one dollar (\$1.00) and other valuable considerations as set forth herein which shall be payable on or before January 1 of each year.

4. **Purpose.** The purpose of this lease is to grant to the CITY the right to enter upon said real property with men and machines and the right to construct, operate, and maintain a so-called greenbelt and public park area to permit the general public to enjoy the scenic character and natural beauty of the Casco Bay shoreline adjacent to the Southern Maine Vocational-Technical Institute campus; provided, however, that the operation and maintenance of said greenbelt and public park area shall be consistent with the present educational use of said real property; and provided, further, that the operation and maintenance of said greenbelt and public park area shall be consistent with Resolves of 1980, chapter

The greenbelt and public park area shall be constructed, operated, and maintained according to the Spring Point Shoreway Plan dated February 14, 1978, as prepared by the Landscape Architect firm of Mitchell & DeWan, which said plan is incorporated herein and made a part hereof; provided, however, that the boundaries of said greenbelt and public park area as contained in paragraph 12 below shall prevail where inconsistent with those contained in said plan.

5. **Rights and Restrictions.** The use, occupancy, and maintenance of said real property shall be restricted for the establishment and maintenance of a greenbelt and public park area to be consistent, to the maximum extent possible, with the preservation and conservation of the scenic character and natural beauty of the

area and the existing vocational school use being made of said real property be Southern Maine Vocational-Technical Institute including existing facilities, buildings, docks, breakwaters, and easements within said area; provided, however, no new commercial or industrial activities, nor any new buildings or structures of any kind, nor advertising signs or displays of any kind shall be permitted on said real property except as are essential to and not inconsistent with the general purposes of this lease.

6. **Lease Committee.** A Lease Committee is hereby established consisting of three (3) members appointed by the DEPARTMENT and three (3) members appointed by the CITY. The Lease Committee shall adopt such reasonable written rules and regulations regarding hours of use, establishment of vehicular parking areas, preservation of scenic views, and such other matters as are necessary and convenient for the implementation of the lease agreement to the mutual satisfaction of both parties.

7. **City's Obligations.** The CITY shall employ a sufficient number of park personnel to control any additional pedestrian or vehicular traffic into said area, to provide additional waste collection service, and to assist in the control of possible vandalism and littering. The CITY shall also obtain all Federal, State, or local permits required by law for the operation and maintenance of said greenbelt and public park area. Any dispute as to the CITY'S compliance with its obligations under this paragraph shall be referred to the Lease Committee.

8. **Title to New Buildings.** Title to any new buildings or structures erected by the CITY under the terms of this lease shall remain in the CITY; provided, however, the CITY must obtain the written permission of the DEPARTMENT prior to construction of any new buildings or structures.

9. **Termination.** The STATE reserves the right to terminate this lease for any material breach of the terms hereof by the CITY if such breach has not been cured by the CITY within ninety days after receiving written notice thereof.

10. **Indemnification.** The CITY indemnifies and holds the STATE harmless from and against any loss or personal injury or property damage arising under the terms of this lease.

11. **Reservation of Rights.** The STATE reserves for itself, its successors and assigns, all rights as owner of said real property including the right to use said real property for all educational and other purposes not inconsistent with the terms of this lease; provided, however, the right of the general public to enter upon said real property to sue said greenbelt and public park area is expressly acknowledged.

12. **Demised Premises.** (Here insert property description.)

IN WITNESS WHEREOF, Ronald E. Stewart, City Manager of the City of South Portland, and Harold Reynolds, Commissioner of the Department of Educational and Cultural Services for the State of Maine, hereby place their hands and seals as of the date first written.

CITY OF SOUTH PORTLAND

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Ronald E. Stewart  
Its City Manager

STATE OF MAINE

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Harold H. Raynolds  
Its Commissioner of the Department of Educational and Cultural Services

**Emergency clause.** In view of the emergency cited in the preamble, this resolve shall take effect when approved.

STATEMENT OF FACT

The purpose of this resolve is to authorize execution of a leasehold agreement between the Department of Educational and Cultural Services and the City of South Portland to establish a greenbelt and public park area on the Southern Maine Vocational Technical Institute campus as a part of the Springpoint Shoreway.