

CALAIS CITY COUNCIL
AUGUST 3, 2017

A special meeting of the Calais City Council was held this date in the Council Chambers of the Calais City Building at 6:00 p.m.

Present was Mayor Howard presiding over Councilors Geel, Sherrard, Rogers, Mingo, Moreside, and Nixon.

Attendance

The first agenda item was the consideration of accepting a DEPSRF Program Grant/Loan for the next project required within the City's CSO Master Plan. This project is along Palmer Street and includes about 3100 LF of sewer. The DEP has offered the City a 73.96% grant as follows:

Grant - \$809,862
Grant - 5,000
Loan - 285,138

Total - \$1,100,000

DEP SRF Grant/Loan

On a motion by Councilor Rogers and a second by Councilor Geel, it was unanimously voted to accept this Grant/Loan.

The City Manager then informed the Council that he intends to fill the vacant fulltime EMT position. There was no opposition from Council.

EMT Position

The next agenda item is the acceptance of the Seavey/Young Proposal for Waterfront Pavilion, McAllister Building, and Sarsaparilla Building. Following a brief discussion, it was moved by Councilor Nixon and seconded by Councilor Mingo to enter into a Purchase and Sale Agreement for the Waterfront Pavilion located at the corner of North and Union Street, and a loan agreement and Promissory Note in the amount of \$165,000 with conditions set forth in the agreement which requires the repair and restoration of the Sarsaparilla and McAllister Buildings. Voting in favor of this motion were Councilors, Geel, Sherrard, Rogers, Mingo, Moreside and Nixon. Mayor Howard was opposed. Motion carried.

Seavey/Young Proposal

INSERT PROPOSAL DOCUMENTS

The City Manager informed the Council that the International Festival Parade will indeed be held on both sides of the border.

International Festival Parade

PURCHASE AND SALE AGREEMENT

1. This agreement is made between Seavey & Young, LLC ("Buyers") and the City of Calais ("Sellers").
2. Subject to the terms and conditions hereinafter set forth, Sellers agree to sell and Buyers agree to buy real property, situate in the City of Calais, County of Washington, located at the corner of North Street and Union Street in said Calais, as described in a deed recorded in the Washington County Registry of Deeds at Book 4268, Page 246.
3. Buyers and Sellers agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or binds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, sump pump and electrical fixtures are included with the sale except for the following:

4. The following items of personal property are included with the sale at no additional cost, in "as is" condition with no warranties: _____

5. For such Deed and conveyance Buyers agree to pay the total purchase price of \$130,000.00. The purchase price shall be paid upon delivery of the Deed, according to the terms of financing as set forth herein.

This purchase and sale agreement is SUBJECT TO THE FOLLOWING CONDITIONS:

6. A deed, conveying good and merchantable title in accordance with the Standards of Title adopted by the Maine Bar Association shall be delivered to Buyers and this transaction shall be closed and Buyers shall pay the balance due and execute all necessary papers on _____ (closing date) or before, if agreed in writing by both parties. If Sellers fail to convey in accordance with the provisions of this paragraph, then Sellers may elect to have a reasonable period of time, not to exceed 14 calendar days, from the time Sellers are notified of the defect, unless otherwise agreed to in writing by both Sellers and Buyer, to remedy the title. If, at the later of the closing date set forth above or the expiration of such reasonable period of time (if so elected by Sellers) Sellers fail to convey in accordance with the provisions of this paragraph, this Agreement shall become null and void, in which case any money paid to Sellers shall be returned to Buyers, and the parties shall be relieved of any further obligations hereunder.
7. A determinable fee interest in the property shall be conveyed by a release deed, and shall be free and clear of all encumbrances except covenants, conditions, easements and restrictions of record which do not adversely affect the continued current use of the property.

Buyer(s) initials ____ Seller(s) initials ____

8. Unless otherwise agreed in writing, possession and occupancy of the property shall be given to Buyers immediately at closing. Said property shall be in substantially the same condition as at present. Buyers shall have the right to view the property within 24 hours prior to closing.
9. If the property is damaged or destroyed prior to closing, Buyers may either terminate this Agreement and be refunded any money paid to Sellers, or close this transaction and accept the property, as is.
10. Sellers and Buyers will each pay their transfer tax as required by the State of Maine.
11. Sellers makes no warranties regarding the condition, permitted use or value of Sellers' real or personal property, or any representations as to compliance with any federal, state, or municipal codes, including, but not limited to, fire, life safety, electrical and plumbing. Buyers are encouraged to seek information from professionals regarding any specific issue or concern. This Agreement is subject to the following investigations, with results being satisfactory to Buyers:

INVESTIGATION TYPE	YES	NO	RESULTS REPORTED TO SELLER
a. General Building	___	___	within ___ days
b. Chimney	___	___	within ___ days
c. Environmental Scan	___	___	within ___ days
d. Sewage Disposal	___	___	within ___ days
e. Air Quality	___	___	within ___ days (including but not limited to asbestos, radon, etc.)
f. Water Quantity	___	___	within ___ days
g. Water Quality	___	___	within ___ days (includ. but not limited to radon, arsenic, lead, etc.)
h. Square Footage	___	___	within ___ days
i. Mold	___	___	within ___ days
j. Lead Paint	___	___	within ___ days
k. Arsenic Treated Wood	___	___	within ___ days
l. Pests	___	___	within ___ day
m. Zoning	___	___	within ___ days
n. Flood Plain	___	___	within ___ days
o. Code Conformance	___	___	within ___ days
p. Insurance	___	___	within ___ days
q. Lot size/acreage	___	___	within ___ days
r. Other _____	___	___	within ___ days

All investigations will be done by persons chosen and paid for by Buyers and in Buyers' sole discretion. If the result of any investigation or other condition specified herein is unsatisfactory to Buyers, Buyers will declare this Agreement null and void by notifying Sellers in writing within the specified number of days, and any earnest money deposit will be returned to Buyers. If the result of any investigation or other condition specified herein is unsatisfactory to Buyers in Buyers' sole discretion, and Buyers wishes to

Buyer(s) initials ___ ___ Seller(s) initials ___ ___

pursue remedies other than voiding the Agreement, Buyers must do so to full resolution within the time period set forth above, otherwise this contingency is waived. If Buyers do not notify Sellers that an investigation is unsatisfactory within the time period set forth above, this contingency is waived by Buyers. In the absence of investigation(s) mentioned above, Buyers are relying completely upon Buyers' own opinion as to the condition of the property.

12. Buyers will also acquire the Sarsaparilla Building, so called, as described in a deed recorded in the Washington County Registry of Deeds at Book 4263, Page 28, and will give Seller a mortgage deed for the Sarsaparilla Building
13. Upon Buyers' acquisition of the Sarsaparilla Building and the closing if this Purchase and Sale Agreement, Seller will also convey to Buyers by Quit Claim deed, a determinable fee interest in the McAllister Building, so called, as described in a mortgage deed of record in the Washington County Registry of Deeds at Book 3175, Page 166.
14. This Agreement is subject to Financing.
 - a. This agreement is subject to Buyers obtaining financing from Sellers buy means of a forgivable mortgage for \$165,000.00, upon terms and conditions as set forth in a Loan Agreement and Promissory Note and two Mortgage Deeds to be signed by the parties.
 - b. Buyers are obligated to notify Sellers immediately if Buyers are unable or unwilling to proceed under the terms of the financing.
15. In the event of default by either party, the other party may employ all legal and equitable remedies, including without limitation, termination of this Agreement and forfeiture or return of the earnest money.
16. Any representations, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.
17. This Agreement shall extend to and be obligatory upon the successors and assigns of Sellers, and the heirs, personal representatives, successors, and assigns of Buyers.
18. This Agreement may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original and faxed signatures are binding.
19. Sellers represent that the property does not contain a septic system within the Shoreland Zone.
20. This Agreement is a binding contract when signed by both Buyers and Sellers and when that fact has been communicated to all parties, which shall be the Effective Date. As used in this Agreement, the term "days" includes Saturdays, Sundays and state/federal holidays. Deadlines in this Agreement expressed as "within x days" shall be counted from the Effective Date and shall end at five o'clock, p.m., Eastern Time on the last

Buyer(s) initials ____ Seller(s) initials ____

day counted. Deadlines in this Agreement expressed as a specific date shall end at five o'clock, p.m., Eastern Time on such date.

21. Buyers authorize the disclosure of the information herein by Sellers to lenders, inspectors, contractors, and other professionals involved in the transaction necessary for the purpose of closing this transaction.

A copy of this Agreement is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. This is a Maine contract and this contract shall be construed according to the laws of Maine.

Buyers' mailing address is: P.O. Box 1013 Calais, ME 04619.

Buyer: Seavey & Young, LLC

By: _____
David Seavey, its _____ Gary Young, its _____

Sellers' mailing address is: P.O. Box 413 Calais, ME 04619.

Seller: City of Calais

By: _____
Jim Porter, City Manager

Buyer(s) initials _____ Seller(s) initials _____

LOAN AGREEMENT AND PROMISSORY NOTE

\$165,000

August __, 2017
Calais, Maine

WHEREAS, it has been determined by the City of Calais that an economic emergency or unique opportunity exists which warrants funding to secure economic benefits or avoid or remedy economic losses by preserving and restoring significant aspects of the City's historic downtown storefronts and infrastructure; and

WHEREAS, Seavey & Young, LLC, hereinafter referred to as Borrower, has specified that this funding will be used to finance the repair and restoration of the Sarsaparilla building and the McAllister building; and

WHEREAS, the City of Calais has authorized an expenditure of up to \$165,000 for the purpose of making a loan to Borrower under such terms and conditions as may be prescribed by the City.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements, the parties agree as follows:

For Value Received, the undersigned Borrower, promises to pay to the City of Calais, a municipal corporation, the principal sum of One hundred sixty-five thousand dollars (\$165,000.00) together with interest thereon, according to the rules of the Economic Development Loan fund, for two and one-half (2½) years.

Principal shall be payable at Calais, Maine, or such other place as the holder hereof may designate in writing as follows: Payment shall be due and payable within two years and six months of the date of this note, unless Borrower satisfactorily performs the following covenants and agreements:

1. Borrower shall immediately stage the McAllister building and start repair and restoration of the front of the building;
2. Borrower shall immediately stage and stabilize the North Street side of the Sarsaparilla building and start repair and restoration of the North Street side of the building;
3. Within six construction months of the date of this note, Borrower shall complete repair and restoration of the areas of both buildings that face pedestrian walkways;
4. Within two years and six months of the date of this note, Borrower shall complete repair and restoration of the building envelopes of both buildings;
5. Repair and restoration includes ensuring that the buildings are structurally sound, completing all brick work and tuck point repairs, replacing all windows, and repair or replacement of the roofs of both buildings;
6. Borrower shall provide and maintain at its own expense casualty and hazard insurance coverage insuring the Sarsaparilla building, the McAllister building and the Visitor Center building sufficient to pay the City the entire outstanding principal balance and accrued interest, with such insurance payable to the Borrower and the

- City as their interests may appear. Evidence of such coverage will be provided to the City upon written request;
7. Loan funds shall be used by Borrower to pay for costs directly related to the repair and restoration of the Sarsaparilla building and the McAllister building (Borrower may be reimbursed with loan funds for expenses incurred in acquiring the Sarsaparilla Building);
 8. Borrower shall provide, upon written request, copies of all contracts entered into by Borrower for activities covered by the loan monies
 9. Borrower shall comply with the terms and provisions of two Mortgages of even date given to secure this note;
 10. Borrower shall provide the City with periodic updates of the progress of the repair and restoration work contemplated by this agreement and shall allow the City, its agents, or representatives scheduled and unscheduled access to the buildings at all reasonable times, to inspect and monitor the progress of the work and compliance with this Agreement;
 11. Borrower shall perform all repair and restoration work in full compliance with all applicable federal, state and local laws without limitation;
 12. Borrower shall indemnify, defend, and hold harmless the City of Calais and its agents, officers and employees from any liabilities, claims, suits, judgments, and damages arising as a result of the performance of the obligations under this Agreement. Borrower's liability under this Agreement shall continue after termination of the Agreement with respect to any liabilities, claims, suits, judgments and damages resulting from acts occurring prior to the termination of this Agreement;
 13. Borrower shall provide, at or prior to the time of execution of this Agreement, documentary evidence that it is duly incorporated, in good standing in the state of its incorporation, authorized to do business in the State of Maine, and authorized to borrow money; and evidence shall be provided that the person(s) executing the Agreement and any supporting documents is/are authorized to act on behalf of Borrower in the transaction;
 14. Borrower shall not sell, transfer, convey, lease or otherwise dispose of the Sarsaparilla building, the McAllister building, or the Visitor Center building, or of any part thereof, without the consent of the City until Borrower has performed all other obligations under this Agreement, including payment of all unforgiven principal and interest amounts due.

Earlier payment may not be made. This loan is not transferable.

Upon Borrower's satisfactory performance, as determined by the City, of all these covenants and agreements within the stated timeframes, the balance due on the note shall be forgiven. Failure to pay all unforgiven principal and interest when due or to perform any other covenant or agreement herein shall constitute a default which shall render the full balance of the note due at the option of the holder at any time thereafter. Failure to exercise this option in the event of a default shall not constitute a waiver of the right to exercise said option in the event of any subsequent default. In the event of a default, Borrower shall be liable to the City of Calais for its costs and expenses, including reasonable attorney fees, in exercising its rights under or enforcing the terms of this Agreement.

Changes to this Agreement will not be effective or binding unless in writing and signed by the City and Borrower. If any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such determination will not affect the remaining provisions of this Agreement. Any representations, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

Presentment, demand, protest and notice are hereby waived.

This note is secured by two Mortgages of even date to be recorded in the Washington County Registry of Deeds.

SEAVEY & YOUNG, LLC

BY: _____
David Scavey
its: _____

BY: _____
Gary Young
its: _____

CITY OF CALAIS

BY: _____
Jim Porter, City Manager

(Witness)

(Witness)

(Witness)

There being no further business to come before the City Council at this time, it was moved by Councilor Moreside, seconded by Councilor Rogers, and unanimously voted to adjourn this meeting at 6:30 p.m.

ATTEST: 
Theresa M Porter, City Clerk
