



**GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET**



Meeting Date	01/06/2021	Department	City Council
Agenda Item	4.m Discuss an Option to Lease the Former Bailey Lot from Gardiner Main Street		
Est. Cost	\$360.00+/-		

Background Information

The City Council will recall that the Mayor had previously spoken of the possibility of the city leasing the former Bailey lot from Gardiner Main Street. This is the lot that most recently had a Brownfields clean-up established on it.

Gardiner Main Street met and has submitted a request to ask the City Council to consider leasing the property for the next six months at a rate of \$60 a month. Representatives of the city and GMS met to discuss property tax options for the organization and this lot, the benefits of leasing the lot to the city, the responsibility of maintenance during the winter months, and the request of GMS to be able to occasionally use the lot during the lease for pop-up events.

Attached is the GMS request and a copy of the existing lease that the city has with 1 Brunswick Trading LLC. The City Manager is recommending that the city enter into a lease agreement (similar to one attached) with GMS that will expire on June 30, 2021 at the rate of \$60 a month. This will allow GMS adequate time to process a request for property tax exemption and the lease will expire at the end of the city's fiscal year.

Requested Action	'I move to have the City of Gardiner enter into a lease agreement with Gardiner Main Street at the rate of \$60 a month, to expire no later than 6/30/2021, to also allow the City Manager to work with Gardiner Main Street to develop such agreement and to also authorize the City Manager to sign such agreement.'
City Manager and/or Finance Review	The City Manager recommends the above action.
Council Vote/ Action Taken	
Departmental Follow-Up	

City Clerk Use Only	1 st Reading _____	Advertised _____	EFFECTIVE DATE _____
	2 nd Reading _____	Advertised _____ w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____

Dear City Council,

As you may know, the property known as “The Bailey Lot” on Water Street is owned by Gardiner Main Street and was recently the site of a Brownfields clean-up project. The newly improved lot has been providing valuable parking to downtown shoppers – and even some city employees at times – over the past few months.

Gardiner Main Street recognizes that the lot has potential for additional development, as well as much value for serving our downtown businesses, residents and visitors. Some private parties have expressed interest in purchasing the lot at a moderate price, but our primary goal is to act as a steward for the lot, in both Gardiner’s and Gardiner Main Street’s best interests. We want to ensure that the lot’s future is agreeable to as many people as possible. As a local non-profit, however, Gardiner Main Street is not necessarily in the best position to run and maintain a parking lot, making this asset somewhat of a liability, with associated expenses and no revenue.

With winter upon us, we would hate to see the lot become unusable. Gardiner Main Street would like to ask City Council to consider a proposal, whereby the City might lease the Bailey Lot for use as public parking for a term of 6 months, at the rate of \$60 per month to help cover our property tax. Such an agreement would keep the lot available to the public and relieve Gardiner Main Street of the maintenance burdens while a more permanent solution is being devised. Gardiner Main Street may desire to hold occasional, scheduled, "pop up" events in the lot during the term of the lease, which we hope the City would allow.

Gardiner Main Street thanks City Council for any consideration they may give to this proposal.
Respectfully Submitted,

Dawn Thistle
President, Gardiner Main Street

ASSIGNMENT AND ASSUMPTION OF LEASE made the 16th day of March, 2015.

WITNESSETH that AUTA MAIN and MARIANNE ROTH (hereinafter referred to as ASSIGNOR), LESSOR in a certain Indenture of Lease with the INHABITANTS OF THE CITY OF GARDINER, LESSEE, dated January 27, 2009, for a certain portion of a building being a passageway, or Arcade, located on the Northerly side of Water Street, Gardiner, Maine, and being numbered 259 Water Street in said Gardiner (hereinafter referred to as the LEASE), for valuable consideration, the receipt of which is hereby acknowledged, HEREBY assign, transfer, grant and convey to I BRUNSWICK PROPERTIES, LLC (hereinafter referred to as ASSIGNEE), its successors and assigns forever, all of ASSIGNOR's right, title and interest in, to and under and with regard to the LEASE, to have and to hold the same unto ASSIGNEE from and after the date hereof.

ASSIGNEE hereby agrees to assume the LEASE and to perform all obligations of the landlord thereunder from and after the date hereof.

ASSIGNEE hereby agrees to recognize LESSEE's rights under the LEASE.

ASSIGNOR hereby represents and warrants the following: (a) all rent is paid through the date of this ASSIGNMENT, (b) there are no other promises or agreements, whether written or oral, with respect to the passageway, (c) ASSIGNOR has complete right and title to assign the LEASE, and that the same is not, as of the date hereof, encumbered, (d) the LEASE is and shall be a valid contract, (e) ASSIGNOR is not in default thereunder, and (f) to the best of ASSIGNOR's knowledge, there are no defaults on the part of any other party thereto.

ASSIGNOR hereby agrees to indemnify and hold ASSIGNEE harmless of and from any and all claims, liabilities, obligations, costs and expenses of any nature whatsoever, including, without limitation, reasonable attorneys' fees, arising out of any default on the part of ASSIGNOR pursuant to the LEASE up to the date of the assignment.

ASSIGNEE hereby agrees to indemnify and hold ASSIGNOR harmless of and from any and all claims, liabilities, obligations, costs and expenses of any nature whatsoever, including, without limitation, reasonable attorneys' fees, arising by reason of any default on the part of ASSIGNEE pursuant to the LEASE on and after the date of the assignment.

This ASSIGNMENT may be signed in multiple counterparts, and when each party has signed and delivered one such counterpart or copy thereof, each counterpart or copy shall be deemed an original and, when taken together with the other signed counterparts or copies, shall constitute one integrated contract, which shall be binding upon and effective as to all parties. Facsimile signatures of the parties shall have the same effect as original signatures.

IN WITNESS WHEREOF the parties hereto have executed the foregoing instrument, in any number of counterpart copies, each of which counterpart copies shall be deemed an original for all purposes, as of the day and year first above written.

ASSIGNOR:

By: *Auta Main*
Auta Main

By: *Marianne Roth*
Marianne Roth

ASSIGNEE:

1 BRUNSWICK PROPERTIES LLC

By: *[Signature]*

Name: Peter Hassell Johnson, Jr.

THIS INDENTURE made the 27th day of January, 2009:

WITNESSETH; That AUTA MAIN and MARIANNE ROTH of Gardiner, County of Kennebec, State of Maine, hereinafter referred to as LESSOR, do hereby lease, demise and let unto the INHABITANTS OF THE CITY OF GARDINER, a body corporate duly organized and existing under the laws of the State of Maine and located at said Gardiner, hereinafter referred to as LESSEE, a certain portion of a building being a passageway, or Arcade, locate on the Northerly side of Water Street, Gardiner, Maine, and being numbered 259 Water Street in said City of Gardiner; being a portion of the premise described in the deed from Gardiner Savings Institute to Jeffrey B. Cole and Eva M. Cole dated February 12, 2002 and recorded in Book 6814 page 033 in the Kennebec Registry of Deed.

TO HOLD for a period of twenty-five (25) years from the first day of August 2008 yielding and paying therefore a rental in an amount equal to ninety (90%) percent of the real estate taxes as assessed on the present existing building in which the Arcade is located, and is a part of.

LESSOR shall pay when due all real estate taxes assessed against the premises demised herein.

LESSEE further agrees that it will purchase and maintain an insurance liability policy with limits not less than One Hundred Thousand (\$100,000.00) Dollars for any one person or Four Hundred Thousand (\$400,000.00) Dollars for any group of people, for any personal injuries or other claims that may arise from the public use of the passageway; that it shall light and maintain lighting of said passageway, and it shall make necessary repairs to said passageway.

LESSOR, shall be co-named in said policy of insurance as the "ASSURED". LESSEE further agrees to save the LESSOR harmless from any action of law or equity arising from the public use of said passageway to the limit of all applicable insurance.

And the said LESSEE promises to quit and deliver up the premises to the Lessor, or their attorney, peaceable and quietly at the end of the term aforesaid, in as good order and condition (reasonable use and wearing thereof or inevitable accident excepted) as the same are, or may be put into by the said LESSOR, and not make or suffer any waste thereof; and that it will not assign this Lease or underlet the premises or any part thereof, without the consent of the LESSOR, in writing on the back of this Lease. And the LESSOR may enter to view and make improvements, and to expel the LESSEE if it shall fail to pay the rent aforesaid, whether said rent to be demanded or not, or if it shall make or suffer any strip or waste thereof, or shall fail to quit and surrender the premises to the LESSOR at the end of said term, in manner aforesaid, or shall violate any of the covenants in this Lease by said LESSEE to be performed; or if the estate hereby created shall be taken from the LESSEE by process of law, or if the LESSEE shall be adjudicated a bankrupt or insolvent, or if any assignment shall be made of LESSEE'S PROPERTY for the benefit of creditors, and the LESSOR may immediately or at any time thereafter

) enter the expel the Lessee or those claiming under it and remove it or their effects and without prejudice to any other remedies for arrears or rent or breach of covenant, and upon such entry said term shall cease.

And the premises shall not be occupied, during the said term for any purpose usually denominated extra hazardous as to fire by insurance companies.

PROVIDED, that in case the building upon said premises, or any part thereof, during said term, be so destroyed or damaged by fire or other unavoidable casualties, as to be unfit for occupation or use, then the rent hereinbefore reserved, or a fair and just proportion thereof, according to the nature and extent of the damages sustained, shall be suspended or abated until the said premises shall have been rebuilt and put in proper condition for use and occupation by the said LESSOR; or these presents shall, at the election of either the said LESSOR or the said LESSEE, its successors or assigns, upon written notice thereof to be given within thirty days after such destruction, thereby be determined and ended.

) THIS LEASE, with all its terms and conditions, shall be automatically renewed for one additional term of twenty-five (25) years, provided, however either the Lessor or the Lessee may terminate this lease at the end of the original term by written notice served upon the other party hereto not later than 120 days prior to the expiration of the original term: mailing of said written notice to the LESSOR by ordinary mail shall constitute valid service for the purpose of this instrument.

STATE OF MAINE
Kennebec, ss.

January 27, 2009

Personally appeared the above-named Jeffrey Kobrock in his said capacity and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Inhabitants of the City of Gardiner.

Before me,

Kathleen L. Cutler
Notary Public

Justice of the Peace

My Commission Expires Dec 6, 2014

KATHLEEN L. CUTLER
Notary Public, Maine
My Commission Expires December 6, 2014