



## **CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

Pursuant to Section 2-492 of the Code of Ordinances I am pleased to appoint Justin MacCutcheon of 3 Marilyn Court, Woburn, to the position of Deputy Auditor for the City of Salem. Mr. MacCutcheon will complete the remainder of an unexpired two-year term to conclude January 31, 2024.

Mr. MacCutcheon comes to Salem from the City of Woburn, where had been the Deputy Auditor since 2017. Prior to his time with the City of Woburn, Mr. MacCutcheon worked at Boston University's School of Medicine as a grants manager and, previous to that, at the Massachusetts Institute of Technology as a financial coordinator and staff accountant. Mr. MacCutcheon earned his Bachelor's degree in accounting from Newbury College and is finishing a MBA in Accounting from Southern New Hampshire University. In addition to being proficient with Munis and familiar with GFOA standards and public financial management best practices, Mr. MacCutcheon has extensive accounting skills and experience in auditing.

Many of you had the opportunity to meet Mr. MacCutcheon in person as he attended the Administration and Finance Committee's FY2023 budget hearings. As you know, we have been without a Deputy in the Finance Department for an extended period of time and we are very excited to welcome Mr. MacCutcheon to the Salem team and get him underway in this important role.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



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Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

I am pleased to appoint Ms. Michelle Bettencourt of 5 Beachmont Road to the Council in Aging Board to complete the remainder of a three-year term to expire February 1, 2025. Ms. Bettencourt will be taking the seat previously held by Donna Clifford. I hope you will join me in thanking Ms. Clifford for her nearly two decades of service to the COA.

Ms. Bettencourt is a licensed realtor with Nina-Soto Realty and has worked closely with older adults in our community on their housing needs and challenges. She has been a realtor for the last year eight years and, previous to that, worked as a business specialist and office coordinator at Brigham and Women's Hospital and in development for UMass-Amherst. Ms. Bettencourt earned her Bachelor's degree in Finance from UMass-Amherst and will bring additional expertise in fundraising and organizing to the Board and its efforts.

I strongly recommend confirmation of Ms. Bettencourt to the COA Board. We are fortunate that she is willing to serve our community in this capacity and lend her dedication and passion to the Board and its work.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



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Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

I reappoint, subject to City Council confirmation, Alexandra Piñeros Shields of 7 Bristol Street to the Registrars of Voters for a term of 3 years to expire June 23, 2025.

I recommend confirmation of this reappointment and ask that you join me in thanking Dr. Piñeros Shields for her continued dedicated service and commitment to our community.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



## **CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

I reappoint, subject to City Council confirmation, Maureen McKinnon of 93 Canal Street #1 to the Commission on Disabilities for a term of 3 years to expire June 27, 2025.

I recommend confirmation of this reappointment and ask that you join me in thanking Ms. McKinnon for her continued dedicated service and commitment to our community.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



**CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

June 23, 2022

To the City Council  
City Hall  
Salem, Massachusetts

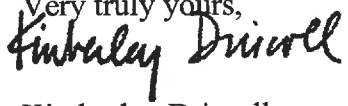
Ladies and Gentlemen of the Council:

Enclosed herewith is a request to transfer Six Hundred Eighty-Three dollars and Ten Cents (\$683.10) of outstanding Fiscal Year 2021 invoices to be paid from the Fiscal Year 2022 Informational Technology Department budget.

Department	Vendor	Amount
Information Technology	Gov Connection Inc.	\$683.10
	Total:	\$683.10

This order is necessary to cover the costs to pay for invoices from prior Fiscal Year. MGL Chapter 44 Section 64 allows for a municipality to pay for prior fiscal year invoices using current fiscal year appropriation by a two-thirds vote of the City Council.

I recommend passage of the accompanying Order.

Very truly yours,  
  
Kimberley Driscoll  
Mayor



# CITY OF SALEM

In City Council,

Ordered:

June 23, 2022

Per MGL Chapter 44 Section 64 which allows for a municipality to pay for prior fiscal year invoices using current fiscal year appropriations by two-thirds vote of the City Council we request the sum of Six Hundred Eighty-Three Dollars and Ten Cents (\$683.10) of outstanding Fiscal Year 2021 invoices is hereby allowed to be paid from the Fiscal Year 2022 Information Technology Department budget as listed below in accordance with the recommendation of Her Honor the Mayor.

Department	Vendor	Amount
Information Technology	Gov Connection Inc.	\$ 683.10
<b>Total</b>		<b>\$ 683.10</b>



# CITY OF SALEM, MASSACHUSETTS

OFFICE OF INFORMATION TECHNOLOGY

98 Washington Street  
Salem, Massachusetts 01970  
978-825-3608

June 14, 2022

Dear Mayor Driscoll,

The City of Salem IT department is requesting payment on a prior year invoice in the amount of \$683. The included copy of the invoice shows an amount of \$21.35 in Sales Tax. Since we are a tax-exempt organization, this will not need to be paid.

The invoice was missed and then thought to be paid. Given the best of efforts there are numerous reasons why this invoice was missed:

- when the original PO was carried over last June the PO amount was doubled in error and gave the appearance that the invoice was paid.
- The invoices for this vendor get sent only by email and they often go to junk mail.
- there was a change in our account representative at the vendor.
- this occurred during the pandemic when it was difficult to have easy access to the account reps and verify the state of our account.

The invoice is for a software renewal service. Connection is a reseller of this product. The City of Salem used the subscription for the time period that was billed and should pay for the service.

Thank you for your consideration,

Roberta Gansenberg  
Deputy CIO



## **CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

The enclosed Order appropriates \$35,537.31 from Free Cash for the purposes of negotiated stipends for members of the Salem Police Superior Officers Association for their participation in the City's ongoing body-worn cameras roll-out. Similar stipends for members of the Patrol Officers Association had been previously approved and funded.

To ensure we meet our obligations for these payments pursuant to our Memorandum of Agreement with the union, I recommend adoption of the enclosed Order. If you have any questions, please contact Finance Director Anna Freedman.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



# CITY OF SALEM

In City Council,

**Ordered:**

June 23, 2022

That the sum of Thirty-Five Thousand Five Hundred Thirty-Seven Dollars and Thirty-One Cents (\$35,537.31) is hereby appropriated from the "Fund Balance Reserved for Appropriation – Free Cash" account (1-3245) to the account listed below to fund the April 19, 2022, memorandum of agreement with the Salem Police Superior Officers Association effective July 1, 2021, in accordance with the recommendation of Her Honor the Mayor.

Retro Wages Account (Human Resources)	11521-5161	\$35,537.31
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## **CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

The enclosed Order appropriates \$173,000 from Free Cash to fund one-time payments to City employees who are members of our local AFSCME union and Firefighters union. These one-time payments were included as conditions of both unions' most recent collective bargaining agreements.

To ensure we meet our obligations for these one-time payments pursuant to the contracts, I recommend adoption of the enclosed Order. If you have any questions, please contact Finance Director Anna Freedman.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



# CITY OF SALEM

In City Council,

Ordered:

June 23, 2022

That the sum of One Hundred Seventy-Three Thousand Dollars (\$173,000.00) is hereby appropriated from the "Fund Balance Reserved for Appropriation – Free Cash" account (1-3245) to the account listed below to fund FY2022 one-time payments pursuant to the contract settlements reached with AFSCME Council 93, AFL-CIO, Local 818 and Local 172, IAFF (Salem Firefighters) in effect as of July 1, 2021, in accordance with the recommendation of Her Honor the Mayor.

Retro Wages Account (Human Resources)	11521-5161	\$173,000.00
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## **CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

The enclosed Orders accept MGL Chapter 40, Section 13E, establishing a Special Education Stabilization Fund (SESF) as had been discussed with the Council's Committee on Administration and Finance at its meeting of June 9, 2022 with the Superintendent and myself, and subsequently transfers \$550,000 from the School department's FY22 budget to the new fund. The Orders have received the unanimous approval of the School Committee and now require the City Council's approval to become effective.

As you may be aware, pursuant to MGL Chapter 40, Section 5B, special reserve accounts such as the SESF are allowed by Massachusetts General Law to permit savings to be set aside by municipalities. The SESF will enable a strategic approach to planning for unforeseeable special education costs for the district and provide stability in the delivery of public education services that could otherwise be adversely impacted by unanticipated expenses. The SESF will allow for the payment of unbudgeted, unforeseen special education expenses in a given fiscal year, without forcing cuts to other school services during that year.

I recommend adoption of the enclosed Orders and invite you to contact Finance Director Anna Freedman should have you have any questions regarding them.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



# CITY OF SALEM

In City Council,

**Ordered:**

June 23, 2022

That the City accept the provisions of Massachusetts General Laws Chapter 40, Section 13E, in order to establish a Special Education Stabilization Fund to be utilized in upcoming fiscal years, to pay for unanticipated or unbudgeted costs of special education, out-of-district tuition or transportation in accordance with the recommendation of Her Honor the Mayor.



# CITY OF SALEM

In City Council,

June 23, 2022

Ordered:

That the sum of Five Hundred Fifty Thousand (\$550,000.00) is hereby appropriated from the FY2022 School Department appropriation, special education tuition expense, to the following fund in accordance with the recommendation of Her Honor the Mayor.

Description	Amount
Special Education Stabilization Fund	\$550,000.00
<b>Total</b>	<b>\$550,000.00</b>



**Memo:** Salem City Council

**From:** Stephen Zrike

**RE:** Request to Establish a Special Education Stabilization Fund

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**Purpose:**

The School Department is requesting City Council approval to establish a Special Education Stabilization Fund, in accordance with MGL Ch. 40 Section 13E, for the purpose of supporting unanticipated and unbudgeted special education costs that might arise from year to year. As you know precise special education funding is difficult to predict or project given the changing nature of needs of mandated special education services, and especially for students in out-of-district placements that require tuition charges and transportation costs. Establishing this reserve would ensure that we have adequate resources to provide mandated services to our students with disabilities while maintaining the integrity of our core efforts to improve student learning across the system. It is important that our special needs students receive the educational experience they deserve without compromising critical district-wide programs and the funding for curriculum materials, technology, and extracurricular activities.

The Special Education Stabilization Fund would initially be capitalized with existing surplus special education general appropriation funds that would otherwise be returned to the city of Salem's "General Fund" at the end of FY2022. Transferring these funds to the proposed Stabilization Fund would preserve those funds for future use to mitigate unanticipated and unbudgeted special education costs.

**Reference to the Law (MGL Ch. 40 Section 13E):**

"Any school district which accepts this section, by a majority vote of the School Committee and a majority vote of the legislative body or, in the case of a regional school district by a majority vote of the legislative bodies in a majority of the member communities of the district, may establish and appropriate or transfer money to a reserve fund to be utilized in the upcoming fiscal years, to pay, without further appropriation, for unanticipated or unbudgeted costs of special education, out-of-district tuition or transportation. The balance in such reserve fund shall not exceed 2 percent of the annual net school spending of the school district.

Funds shall only be distributed from the reserve funds after a majority vote of the School Committee and a majority vote of the Board of Selectman or City Council, or, in the case of a regional school district by a majority vote of the Board of Selectmen or City Council in a majority of the member communities of the district.

The district treasurer may invest the monies in the manner authorized in Section 54 of Chapter 44 and any interest earned thereon shall be credited to and become part of the fund."

**DESE Advisory on Special Education Stabilization:**

<https://www.doe.mass.edu/finance/circuitbreaker/stabilization.html>

**Request:**

- That the Salem City Council vote to establish a stabilization fund for the purpose of special education in accordance with **(MGL Ch. 40 Section 13E)**.
- That the Salem City Council vote to appropriate the sum of \$550,000 from the School Department Budget to the Special Education Stabilization Fund

<b>Part I</b>	ADMINISTRATION OF THE GOVERNMENT
<b>Title VII</b>	CITIES, TOWNS AND DISTRICTS
<b>Chapter 40</b>	POWERS AND DUTIES OF CITIES AND TOWNS
<b>Section 13E</b>	SCHOOL DISTRICT RESERVE FUNDS TO PAY FOR UNANTICIPATED OR UNBUDGETED COSTS FOR SPECIAL EDUCATION, OUT-OF-DISTRICT TUITION OR TRANSPORTATION

Section 13E. Any school district which accepts this section, by a majority vote of the school committee and a majority vote of the legislative body or, in the case of a regional school district by a majority vote of the legislative bodies in a majority of the member communities of the district, may establish and appropriate or transfer money to a reserve fund to be utilized in the upcoming fiscal years, to pay, without further appropriation, for unanticipated or unbudgeted costs of special education and recovery high school programs, out-of-district tuition or transportation. The balance in such reserve fund shall not exceed 2 per cent of the annual net school spending of the school district.

Funds shall only be distributed from the reserve funds after a majority vote of the school committee and a majority vote of the board of selectman or city council, or, in the case of a regional school district by a majority vote of the board of selectmen or city council in a majority of the member communities of the district.

The district treasurer may invest the monies in the manner authorized in section 54 of chapter 44 and any interest earned thereon shall be credited to and become part of the fund.



## **CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

Office of the Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

The Sustainability and Resiliency Department, in conjunction with Salem Public Schools, recently completed an evaluation of the feasibility of solar panels for the Collins Middle School and the Saltonstall School. Based on the findings from that analysis, and with the support of the School Committee, I am requesting that the City Council vote to authorize me to execute solar agreements for these two locations, including the Power Purchase Agreement (PPA) and Lease and the Notice of Lease for both the Collins Middle School and the Saltonstall School.

Given the combined financial savings of these installations, which exceed \$640,000 over the next twenty years, as well as the environmental benefits of clean, emission-free energy, the School Committee voted on March 7, 2022 to advance both projects. Therefore, I request the Council adopt the enclosed Order authorizing me to facilitate and execute the PPA and Lease documents for these installations. If you have any questions about this request, please contact our Director of Sustainability Jenna Ide.

Sincerely,

Kimberley Driscoll  
Mayor  
City of Salem



# CITY OF SALEM

In City Council, June 23, 2022

## Ordered:

The Mayor is hereby authorized to execute solar agreements including the Power Purchase Agreement, Lease, Notice of Lease and all documents necessary to facilitate the installation of solar panels at the Collins Middle School and the Saltonstall School.

**Salem Public Schools  
Salem School Committee  
Meeting Minutes  
March 7, 2022**

On March 7, 2022 the Salem School Committee held its regular School Committee meeting at 7:00 PM using the Zoom platform.

**Members Present:** Mayor Driscoll, Ms. Mary Manning, Mr. Manny Cruz, Ms. Amanda Campbell, Dr. Kristin Pangallo, Ms. Beth Anne Cornell, and Mr. James Fleming

**Others in Attendance:** Superintendent Stephen Zrike, Assistant Superintendent Kate Carbone, Chelsea Banks, Liz Polay-Wettengel, Marc LeBlanc, Linda Farinelli, Adam Colantuoni

**Call of Meeting to Order**

Mayor Driscoll calls the meeting to order at 7:01pm and requests a call of attendance. She explained the Public Participation Policy 6409 and also explained the availability of Spanish interpretation.

**Attendance**

The school committee secretary called the attendance.

Ms. Campbell	Present
Ms. Cornell	Present
Mr. Cruz	Present
Mr. Fleming	Present
Ms. Manning	Present
Dr. Pangallo	Present
Mayor Driscoll	Present

**New Business**

***Deliberation and vote to enter into a Power Purchase Agreement with SolectEnergy for solar installations at Saltonstall and Collins Middle School***

Mr. Fleming makes a motion to adopt this agreement and installation. Mr. Cruz seconded. Mr. Fleming notes a consensus of the B&G committee that it was a good deal and a great transition for powering the city.

Ms. Campbell	Yes
Ms. Cornell	Yes
Mr. Cruz	Yes
Mr. Fleming	Yes
Ms. Manning	Yes
Dr. Pangallo	Yes
Mayor Driscoll	Yes

Motion carries 7-0



## **CITY OF SALEM, MASSACHUSETTS**

Kimberley Driscoll  
Mayor

June 23, 2022

Honorable Salem City Council  
Salem City Hall  
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

Enclosed please find a resolution to authorize a tax increment exemption (TIE) agreement between the City of Salem and 5 Broad Street, LLC. The partners of 5 Broad Street LLC (previously Charing Cross Realty) comprise the team that was selected and approved by the City Council to redevelop the property that houses the former Senior Center at 5 Broad Street. A TIE is an instrument authorized by the Commonwealth's Housing Development Incentive Program (HDIP) and works in a similar manner to tax increment financing (TIF) agreements for commercial projects, in that it allows a municipality to forgo a portion of property taxes on the new growth resulting from a completed housing project. There is no net loss in tax revenues collected, but rather a slower uptick to collecting on the full value. The HDIP program is currently available to Gateway Cities as a means to help address the high cost of constructing housing. In this instance, there is also an additional value of preserving and restoring a historic structure in our community.

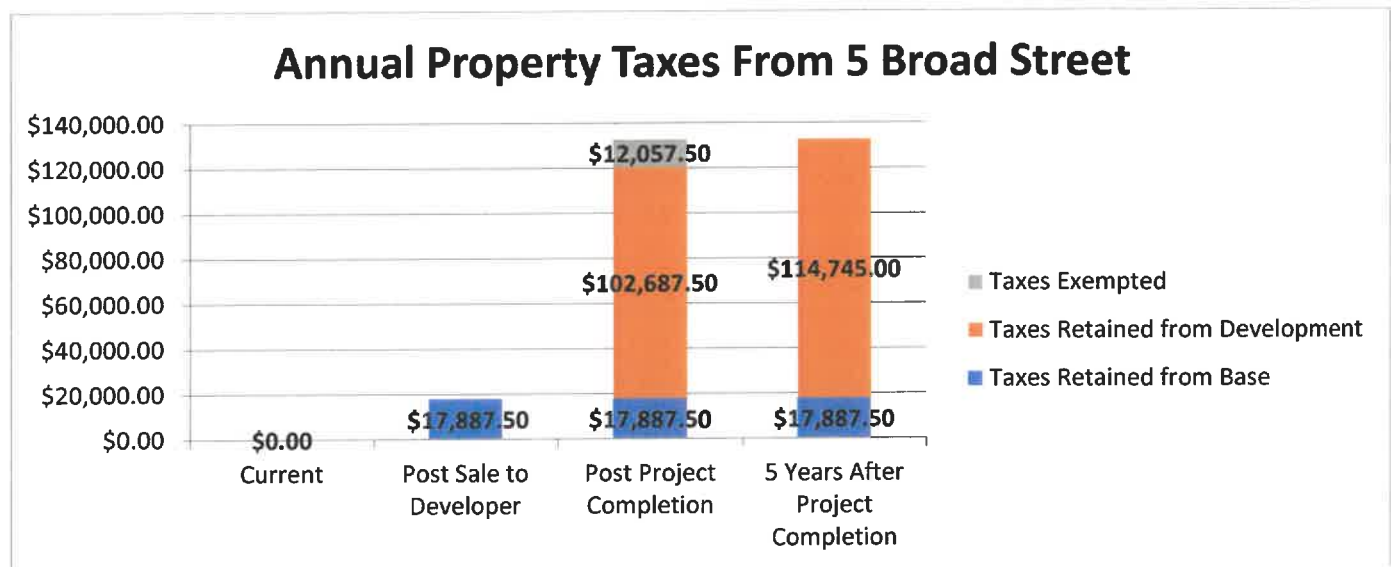
HDIP allows eligible projects to seek tax credits from the Commonwealth. In order to do so, the developer must first enter into a TIE agreement with its sponsor municipality. Therefore, this is a necessary step for the developer of 5 Broad Street to pursue state tax credits. The City has negotiated a TIE agreement with 5 Broad Street, LLC for the minimum allowable tax abatement and length of time: 10 percent over five years. In April 2019, the Salem Redevelopment Authority unanimously voted to recommend that the City Council select the developer for the sale and reuse of the property at 5 Broad Street. The project is currently being reviewed by the Planning Board. The proposed project consists of 16 condominium units and on-site parking, 10% of which will be affordable consistent with our current inclusionary zoning policy.

The Assessor estimates that the base value of the property with the building post-sale will be \$1.35 million. He further estimates that the anticipated investment in the building will increase the property value by \$7.75 million. The City will collect approximately \$735,000 in total over a six-year period. As you may recall, the proceeds from the sale of this property, in conjunction with the annual tax revenue increase, is an essential part of the funding scheme necessary for the costs of the new Mayor Jean Levesque Community Life Center. When the TIE expires, the City

Salem City Hall • 93 Washington Street • Salem, Massachusetts 01970  
p: (978) 619-5600 • f: (978) 744-9327 • [www.salem.com/mayor](http://www.salem.com/mayor)

will collect approximately \$132,000 per year in taxes from the property. The TIE, over five years, would provide a tax exemption of a projected \$60,287.50 on this incremental assessed value according to the following schedule:

Term Year	Exemption	Incremental Assessed Value	Exempted Property Taxes	Estimated New Property Taxes	Estimated Base Tax Bill	Total Annual Taxes Paid
1	10%	\$7,750,000.00	\$12,057.50	\$102,687.50	\$17,887.50	\$120,575.00
2	10%	\$7,750,000.00	\$12,057.50	\$102,687.50	\$17,887.50	\$120,575.00
3	10%	\$7,750,000.00	\$12,057.50	\$102,687.50	\$17,887.50	\$120,575.00
4	10%	\$7,750,000.00	\$12,057.50	\$102,687.50	\$17,887.50	\$120,575.00
5	10%	\$7,750,000.00	\$12,057.50	\$102,687.50	\$17,887.50	\$120,575.00
6	0%	\$7,750,000.00	\$0.00	\$102,687.50	\$17,887.50	\$132,632.50
		<b>Total</b>	<b>\$60,287.50</b>		<b>Total</b>	<b>\$735,507.50</b>



I believe that this is a positive investment for Salem. Relative to the total amount of net new revenues possible from this project, \$60,287.50 is a small amount to ensure a high-quality project gets built on a currently dormant, yet prominent site and that a historic structure is property upgraded and preserved.

I ask that you authorize me to execute it on the City's behalf. If you have any questions, please contact Deputy Planning Director Amanda Chiancola.

Sincerely,

*Kimberley Driscoll*

Kimberley Driscoll  
Mayor  
City of Salem

## RESOLUTION

**WHEREAS**, the City of Salem has been in negotiation with 5 Broad Street LLC regarding a development consisting of fifteen units of market rate housing, one unit of affordable housing reserved for families earning less than 60 percent of median area income at 5 Broad Street;

**WHEREAS**, 5 Broad Street LLC has applied for certification under the Massachusetts Housing Development Incentive Program created by Chapter 40V of Massachusetts General Laws;

**WHEREAS**, the project proposed by 5 Broad Street LLC meets the minimum requirements of the Housing Development Incentive Program and the local objectives of the City of Salem's Housing Development Zone Plan;

**WHEREAS**, the proposed project is located at 5 Broad Street, Salem, MA, which is within the boundaries of the City of Salem's designated Housing Development Zone;

**WHEREAS**, the City of Salem has agreed to offer 5 Broad Street LLC a Tax Increment Exemption Agreement. Said agreement is hereby approved by the City Council;

**WHEREAS**, 5 Broad Street LLC is investing \$7.6 million to create 16 total units of housing;

**NOW, THEREFORE, BE IT RESOLVED** that the Salem City Council hereby approves the Certified Project Application of 5 Broad Street LLC and forwards said application to the Massachusetts Department of Housing and Community Development for its approval and endorsement.

Further, the Salem City Council authorizes the Mayor to execute the Tax Increment Exemption Agreement between the City of Salem and 5 Broad Street LLC. Said agreement will provide for an exemption on property taxes based on the growth portion in assessed valuation of the property for a period of five (5) years, beginning the first full fiscal year after the final residential Certificate of Occupancy is issued for the new building at 5 Broad Street, and in accordance with the schedule below:

Term	Exemption %
1	10%
2	10%
3	10%
4	10%
5	10%

Said exemption being in accordance with the requirements and regulations established, which govern the implementation of such Tax Increment Exemption Agreements.

## HOUSING DEVELOPMENT INCENTIVE PROGRAM

### TAX INCREMENT EXEMPTION AGREEMENT

between

CITY OF SALEM, MASSACHUSETTS

and

5 Broad Street LLC

This Agreement is made this \_\_\_\_ day of \_\_\_\_, 2022 by and between the City of Salem, acting through its Mayor Kimberley Driscoll ("Municipality"), with a principal address of City Hall, 93 Washington Street, Salem, MA 01970 and 5 Broad Street ("Sponsor") a Massachusetts Limited Liability Corporation with a principal address of 420 Lafayette Street, Salem MA 01970.

#### Section 1 – Agreement

The Municipality and the Sponsor, for good and valuable consideration of the covenants and agreements herein contained, hereby make this agreement regarding a Tax Increment Exemption ("TIE") pursuant to the Housing Development Incentive Program (HDIP), M.G.L. c. 40V and the regulations promulgated thereunder at 760 CMR 66.00 ("HD TIE"), with respect to the Property as herein defined.

#### Section 2 – Definitions

Each reference in this Agreement to the following terms shall be deemed to have the following meanings:

<i>Act:</i>	M.G.L. c. 40V as may be amended from time to time.
<i>Area Median Income:</i>	The median income for households within the metropolitan area that includes Salem, as defined in the annual schedule of low- income limits published by the U.S. Department of Housing and Urban Development, adjusted for household size.
<i>Completion:</i>	Temporary or permanent certificates of occupancy have been issued for the entire Project.
<i>DHCD:</i>	Department of Housing and Community Development
<i>Event of Default:</i>	An "Event of Default" as defined in Section 5 below.
<i>Final Certification:</i>	Determination by DHCD that the Sponsor has completed the construction of the Property, consistent with the Construction Plans, including 16 condominiums, 15 of which will be defined as Market Rate Residential Units ("MRRUs"), as set forth in the Act and the Regulations, and one (1) will be deed restricted affordable.
<i>Fiscal Year:</i>	An annual period of July 1 through June 30.
<i>HD Project:</i>	A Certified Housing Development Project as defined in the Act and the Regulations.

<i>HD Zone:</i>	The Housing Development Zone adopted by Salem City Council on the 13 <sup>th</sup> of April, 2017, and approved by DHCD as evidenced by a Certificate of Approval dated 7 <sup>th</sup> of June, 2017, and recorded with the Southern Essex District Registry of Deeds, Book 35972, Page 153, amended by the Salem City Council on the 10 <sup>th</sup> of December, 2018, and approved by DHCD as evidenced by a Certificate of Approval dated the 31 <sup>st</sup> of January, 2019, and recorded with the Southern Essex District Registry of Deeds, Book 37331, Page 16.
<i>MRRU:</i>	Market Rate Residential Unit(s) as defined at Section 3.B.1.
<i>Property:</i>	5 Broad Street, Salem, MA 01970 as shown in Exhibit 1 “Map of Property” and further described in Exhibit 2 “Legal Description of Property.”
<i>Regulations:</i>	760 CMR 66.00.
<i>Construction Plans:</i>	The materials submitted for Conditional Certification pursuant to 760 CMR 66.05(3)(a) and approved by DHCD.
<i>Sponsor:</i>	5 Broad Street, LLC with an address at 420 Lafayette Street, Salem MA, its successors and assigns.

### **Section 3 – Sponsor’s Covenants**

**A. New Construction of the Property:** Sponsor will undertake the new construction of the Property in accordance with the work and schedule set forth in the Redevelopment Plans.

**B. Market Rate Residential Units:** There shall be a total of sixteen (16) owner-occupied condominiums in the Project comprised of six (6) one-bedroom condominiums, ten (10) two-bedroom condominiums of which fifteen (15) shall be Market Rate Residential Units with all MRRUs priced consistently with the market.

**C. Marketing:** Sponsor shall cause the MRRU to be marketed in a manner that is consistent with the strategies, implementation plan, and affirmative fair housing efforts set out in the Construction Plans.

**D. HD Project Certification:** Sponsor shall take all actions reasonably necessary to obtain Final Certification of the Property as an HD Project including but not limited to submitting applications to DHCD for Preliminary Certification, Conditional Certification, and Final Certification consistent with the requirements of the Act and the Regulations.

### **Section 4 – Tax Increment Exemption (“TIE”)**

Municipality agrees to grant the Sponsor an exemption to the real property taxes due on the Property pursuant to G.L. c.59 according to the following terms:

**A. Base Value:** Salem Assessor’s Office lists 5 Broad Street with a FY2022 value of \$1,298,100.

**B. MRRU Percentage:** Ninety Percent (94%) of the sixteen condominiums on the Property will be designated as Market Rate Residential Units (MRRUs). Fifteen (15) of the sixteen (16) condominiums will be marketed as MRRUs. The MRRU Percentage shall be confirmed as required in paragraph F,

below. One (1) condominium shall be designated as affordable housing units set aside for families earning an income of no more than 60% of the area median income.

**C. Exemption Percentage:** Commencing on the Effective Date as defined in Section 6(a) below, the Exemption Percentage shall be as follows:

<b>Year 1</b>	<b>10%</b>
<b>Year 2</b>	<b>10%</b>
<b>Year 3</b>	<b>10%</b>
<b>Year 4</b>	<b>10%</b>
<b>Year 5</b>	<b>10%</b>

**D. The Increment:** As defined at 760 CMR 66.06(1)(b)(2).

**E. Calculation:** For each Fiscal Year during the term of this Agreement, the HD TIE shall be determined by applying the Exemption Percentage to the property taxes on the Increment.

**F. Confirmation or Amendment of Calculation:** Upon Completion, and prior to applying for Final Certification of the Project, the Sponsor and Municipality shall file a "Tax Increment Exemption – Confirmation of Calculation" in the form attached as Exhibit 3 ("TIE Confirmation"). To the extent that the dates or figures in the TIE Confirmation differ from those set forth in this Agreement, the contents of the TIE Confirmation shall control and shall be deemed to have amended this Agreement.

## **Section 5 – Default**

**A. Event of Default:** An "Event of Default" shall arise under this Agreement upon the occurrence of any one or more of the following events:

**1. Breach of Covenant Prior to Final Certification:** Subject to the limitations set forth in the Regulations at section 66.05(4)(b), Sponsor defaults in the observance or performance of any material covenant, condition, or agreement to be observed or performed by Sponsor pursuant to the terms of this Agreement, and the continuance of such default for sixty (60) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of sixty (60) days, then Sponsor shall have such additional reasonable period of time, not to exceed sixty (60) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial sixty (60) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

**2. Breach of Covenant Subsequent to Final Certification:** Subject to the limitations set forth in the Regulations at Section 66.05(5), and as determined by DHCD, Sponsor's conduct is materially at variance with the representations made in its Rehabilitation Plans; such variance is found to frustrate the public purposes that Final Certification was intended to advance, and continuance of such default for sixty (60) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within

said period of sixty (60) days, then Sponsor shall have such additional reasonable period of time, not to exceed sixty (60) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial sixty (60) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

**3. Misrepresentation:** Any representation made herein or in any report, certificate, financial Statement, or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.

## **B. Rights on Default**

**1. Prior to Final Certification:** Upon the occurrence of an Event of Default prior to Final Certification, then this Agreement shall become null and void.

**2. Subsequent to Final Certification:** Upon the occurrence of an Event of default subsequent to Final Certification, then:

**a. Revocation of Certification:** Pursuant to the terms of the Act, the Municipality, may, at its sole discretion, request that DHCD revoke the Final Certification of the Project, such revocation to take effect on the first day of the fiscal year in which DHCD determines that a material variance commenced.

**b. Termination of Agreement:** Upon revocation of certification, this Agreement shall become null and void as of the effective date of such revocation.

**c. Recoupment of Economic Benefit:** Upon revocation of certification, the Municipality may bring a cause of action against Sponsor for the value of any economic benefit received by Sponsor prior to or subsequent revocation.

## **Section 6 – Miscellaneous**

**A. Effective Date:** The effective date of the HD TIE shall be July 1<sup>st</sup> of the first Fiscal Year following Final Certification of DHCD's Final Certification of the HD Project pursuant to the requirements of the Act and regulations, which date is anticipated to be in 2023. The Effective Date shall be confirmed as required in Section 4 Paragraph F above.

**B. Terms of Agreement:** This Agreement shall expire upon the Municipality's acceptance of the annual report, as required below, for the final Fiscal Year for which the Municipality is granting the TIE.

**C. Reporting:** Sponsor or the Condo Association, in the event that Sponsor delegates this responsibility, shall submit reports to the Municipality no later than thirty (30) days after June 30 of each fiscal year for the term of this Agreement. Each report shall contain the following information:

1. Until Completion, the status of construction in relation to the schedule contained in the Construction Plan;

2. Until Completion, the status of marketing in relationship to the Construction Plans; and

3. For each condominium, the number of bedrooms in the unit, whether it was sold as of the most recent fiscal year and the sale price.

**D. Assignment:** The Municipality and the Sponsor agree that, following the sale of the Property or the sale of the final condominium, the Sponsor shall transfer ownership and control of the Property to the condominium association to be organized and formed in the future. The rights and obligations of this Agreement shall inure to the benefit of any entity succeeding to the interests of the Sponsor by sale or merger.

**E. Notices:** Any notice, request, instruction or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier, receipt confirmed or sent by certified or registered mail, postage prepaid, as follows, and shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified or registered mail, three (3) business days after the day on which mailed or, if sent by overnight courier, on the business day after delivered to such courier.

1. Municipality: \_\_\_\_\_

2. Sponsor: \_\_\_\_\_

3. Copy to DHCD: All such notices shall be copied to DHCD at:

Department of Housing and Community Development  
100 Cambridge Street, Suite 300  
Boston, MA 02124  
ATTN: HDIP Program Coordinator

4. Change of Address. Either party may change the address to which notices are to be sent to it by giving them written notice of such change of address to the other party in the manner herein provided for giving notice.

**F. Modifications:** No modification or waiver of any provision of this Agreement, nor consent to any departure by the Sponsor therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of the Municipality, in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege.

IN WITNESS WHEREOF, the Sponsor has caused this Agreement to be duly executed in its name and behalf and its seal affixed by its duly authorized representative, and the Municipality has caused this Agreement to be executed in its name and behalf and its seal duly affixed by Mayor Kimberly Driscoll as of the day and year first above written.

CITY OF SALEM

5 Broad Street, LLC

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Kimberley Driscoll, Mayor

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William Luster

Duly Authorized

### Legal Description of Lot B-1

A certain parcel of land situated in the City of Salem, County of Essex, Commonwealth of Massachusetts, depicted as Lot B-1 on a "Broad Street Cemetery & Senior Center" by Hancock Associates recorded in the Southern Essex District Registry of Deeds in Plan Book 466, Page 57, described as follows.

Beginning at the northeasterly corner of the premises herein described at a point on the southerly sideline of Broad Street, thence running

S30°08'41"E a distance of 110.21 feet; thence turning and running

S68°28'17"W a distance of 311.81 feet; thence running

Southwesterly along a curve turning to the left with an arc length of 29.80 feet, with a radius of 20.00 feet; thence turning and running

Northeasterly along a curve turning to the right with an arc length of 65.84 feet, with a radius of 55.00 feet; thence running

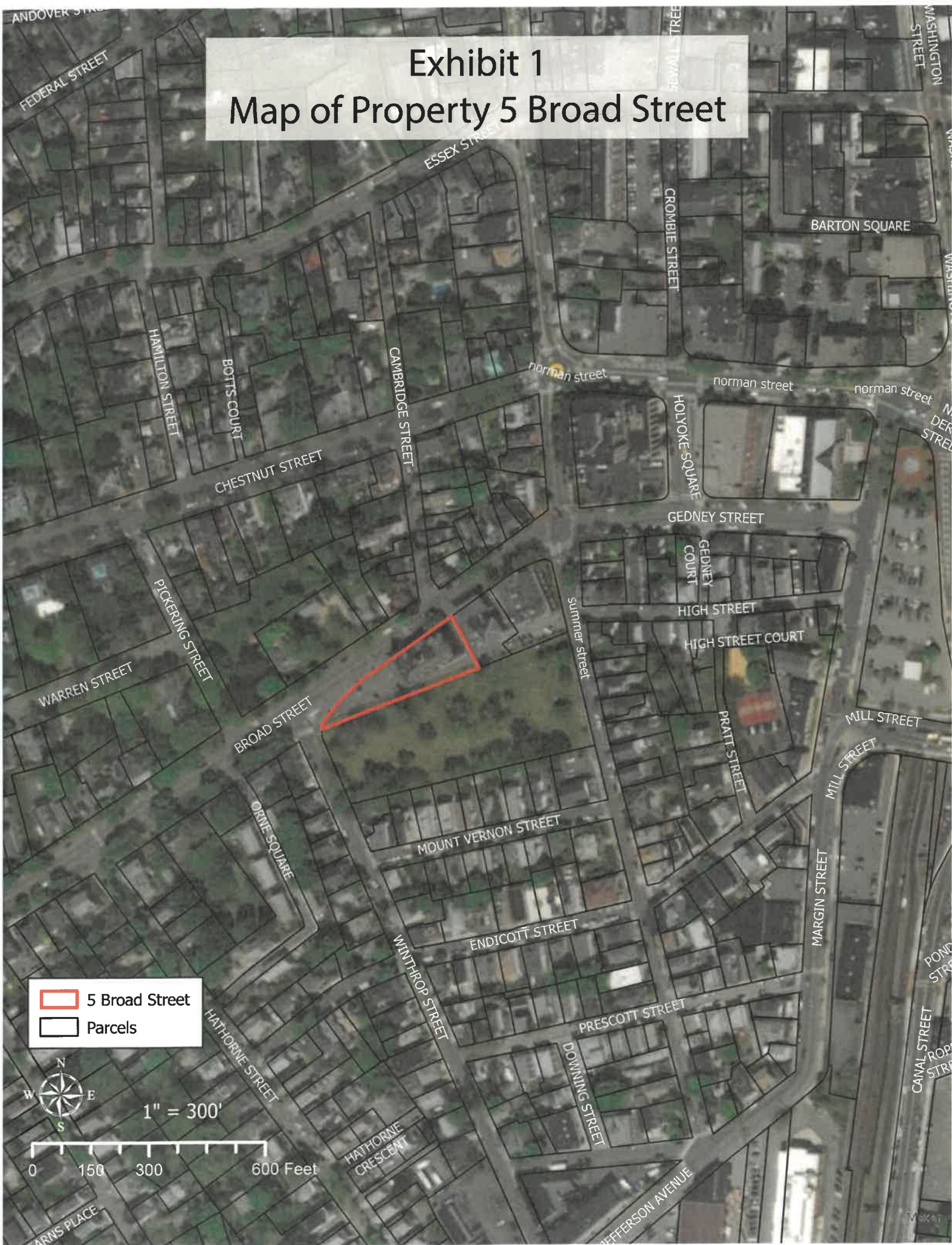
N51°40'31"E a distance of 178.03 feet; thence turning and running

N53°48'51"E a distance of 109.43 feet to the point of beginning.

Containing an area of 21,148 Square Feet, more or less.

# Exhibit 1

## Map of Property 5 Broad Street



5 Broad Street

Parcels



1" = 300'

0 150 300 600 Feet