

**WESTBROOK CITY COUNCIL
WORKSHOP AGENDA
MONDAY APRIL 1, 2019 AT 6:30 PM
WESTBROOK HIGH SCHOOL ROOM 114**

Westbrook City Council, chaired by Council President Gary Rairdon, will convene in a Workshop on Monday April 1, 2019 at 6:30pm, immediately prior to a regularly scheduled Council meeting. The agenda item(s) are as follows:

1. Temporary Construction and Access Easement Agreement at Saccarappa Park

AFTER RECORDING RETURN TO:

Nicholas J. Morrill, Esq.
Jensen Baird Gardner & Henry
P.O. Box 4510
Portland, Maine 04112-4510

**TEMPORARY CONSTRUCTION
AND ACCESS EASEMENT AGREEMENT**

This TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AGREEMENT (“Construction Easement”) is made this ____ day of _____, 2019, by and between the **CITY OF WESTBROOK**, a municipality organized and existing under the laws of the State of Maine, and having a mailing address of 2 York Street, Westbrook, Maine 04092 (the “City”), and **SAPPI NORTH AMERICA, INC.**, a corporation duly organized and validly existing under the laws of the Commonwealth of Pennsylvania, with a mailing address of P.O. Box 5000, 89 Cumberland Street, Westbrook, Maine 04098 (“Sappi”).

The City hereby grants to Sappi, a temporary access and construction easement on, over and under property in Westbrook, Cumberland County, Maine, being that certain lot located on Main Street commonly known as “Saccarappa Park” and further depicted on Tax Map 32, Lot 114 and on file with the City (the “Temporary Easement Area”).

- A. The rights and easements granted herein are as follows:
1. The right of Sappi to enter the Temporary Easement Area, with people, tools, materials, equipment, and machines, for the purposes of the removal of the Saccarappa Dam and the construction and installation of new fish passage facilities in the Presumpscot River (the “Work”).
 2. The right of Sappi to access the Temporary Easement Area shall also include the right to store on the Temporary Easement Area materials, equipment, machinery, tools, and other associated items necessary for the completion of the Work.
 3. Once Sappi commences construction activity, it shall diligently pursue the same to completion. Upon completing its construction activity, Sappi shall promptly restore the Temporary Easement Area to its original condition to the extent reasonably possible, consistent with any and all restoration requirements specified by the City.
- B. Notwithstanding anything to the contrary contained herein, the rights and easements herein granted are subject to the following:
1. The City expressly reserves and retains the right to use, or to grant to others the right to use, the surface and subsurface of, and air space above, the areas subject to the rights and easements herein granted, provided that such use shall not materially interfere with, in Sappi’s reasonable judgment, the exercise by Sappi of the rights and easements herein granted.

2. Whenever any work is performed by Sappi within the Temporary Easement Area pursuant to the provisions of a right or easement granted hereunder, such work (i) shall be performed in a safe, diligent and workmanlike manner, at Sappi's sole cost and expense, in compliance with all applicable laws, ordinances, and regulations, including, without limitation, any and all requirements of the City regarding land use approvals; and (ii) shall be performed in a manner that causes the minimum of interference with the flow of traffic on Main Street.
3. Sappi shall acquire or cause to be acquired by any contractor or agent appropriate liability insurance in an amount of no less than \$400,000 and shall name the City as an additional insured and Sappi shall indemnify, defend and hold the City harmless from and against any loss, cost, claim or expense (including attorney's fees) arising out of or related to its use of the Temporary Easement Area. The provisions of this paragraph shall survive the termination or earlier expiration of the term of this Construction Easement.

This Temporary Construction and Access Easement shall commence on May 1, 2019, and terminate upon the earlier of (i) the completion of the Work, or (ii) May 1, 2021, or at any point that the City determines it is in the best interest of the City to extinguish this Construction Easement for reasons such as, but not limited to, inactivity or inappropriate use of this Construction Easement or the Temporary Easement Area.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the City of Westbrook has caused this instrument to be executed and delivered in its name by Michael Sanphy, Mayor, hereunto duly authorized, this _____ day of _____, 2019.

CITY OF WESTBROOK

By: _____

Michael Sanphy
Its Mayor

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2019

Personally appeared before me the above-named Michael Sanphy, Mayor of the City of Westbrook, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said City of Westbrook.

Notary Public
Printed Name:
My Commission Expires: _____

IN WITNESS WHEREOF, _____, in his/her capacity as _____ of Sappi North America, Inc., has set his/her hand and seal this ____ day of _____, 2019.

SAPPI NORTH AMERICA, INC.

_____ By: _____
Print Name: _____
Title: _____

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2019

Personally appeared before me _____, in his/her capacity as _____ of Sappi North America, Inc., and acknowledged the foregoing instrument to be his/her free act and deed in said capacity.

Notary Public
Printed Name:
My Commission Expires: _____