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January 18, 2023

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VIA HAND DELIVERY

Chairman Daniel Haley, Jr.
Portland Harbor Commission
1 Marine Trade Center
Portland, Maine 04101

Re: Additional documentation in support of
Annual COLA Pilotage Rate Increase Request 2023
Portland Pilots, Inc.

Dear Chairman Haley:

This letter follows our prior letter and submissions dated January 9, 2023, regarding Portland Pilots, Inc.'s annual request for a Cost of Living Adjustment ("COLA") to the pilotage rates and fees applicable in the Port of Portland. You have asked for a document that shows Portland Pilots' income, expenses, and projected 2023 budget. As we have done in the past, we used the template that was provided to us by the Harbor Commission and enclose it here for your review. You have also asked for additional information pertaining to the financial documents previously submitted and information pertaining to outstanding loans. We enclose each here for your review. **Exhibit "F"** is the income, expense, and projection for 2023; and **Exhibit "G"** is the information pertaining to your additional requests.

The enclosed documents are presented to the Commission in confidence and under seal, since they contain confidential "trade secret" information pursuant to the Maine Uniform Trade Secrets Act (10 M.R.S. § 1542) and otherwise not discoverable under the Freedom of Access Act ("FOAA"). *See also Bryant v. Town of Wiscasset*, 2016 Me. Super. LEXIS 306, *20 ("[W]here the public has had full and fair opportunity to comment on an application, a municipal agency does not violate due process by permitting the applicant to submit additional ex parte comments to the municipal agency without providing further opportunity to the public to comment." Citing *Duffy v. Town of Berwick*, 2013 ME 105, ¶ 1, 82 A.3d 148, 151 ("ex parte communication between the [town's] Planning Board and permit applicant did not require the Court to vacate the Board's decision") and *Cunningham v. Kittery Planning Bd.*, 400 A.2d 1070, 1073-79 (Me. 1979).

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We further ask that the documents are not photocopied or disseminated electronically in any way.

Thank you for your attention to this matter. We look forward to seeing you (via Zoom) at the Workshop scheduled for January 31.

Respectfully,

Thompson Bowie & Hatch, LLC

By: 

Twain Braden, Esq.

Counsel for Portland Pilots, Inc.

cc: Portland Pilots, Inc. (*via email*)