

William S. Kelly, Esq.  
Kristin Collins, Esq.

**KELLY & COLLINS, LLC**  
**ATTORNEYS**  
**96 High Street**  
**Belfast, Maine 04915**  
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(207) 338-2702  
(207) 338-0328 (fax)

September 12, 2013

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E. Street, S.W., Room 1034  
Washington, DC 20024

234879  
ENTERED  
Office of Proceedings  
September 23, 2013  
Part of  
Public Record



Re: City of Belfast, Maine – Notice of Exemption for Acquisition of Certain Assets of  
Belfast and Moosehead Lake Railroad Company  
Docket No. FD-35766

Dear Ms. Brown:

In reference to the above proceedings, please find the original and ten copies of a Verified Notice of Exemption pursuant to 49 C.F.R. § 1152.31 et. seq., for filing on September 13, 2013.

A fee exemption for this filing is requested pursuant to 49 C.F.R. § 1002.2(e)(1), as the City of Belfast is a municipality.

Thank you for your consideration.

KELLY & COLLINS, LLC

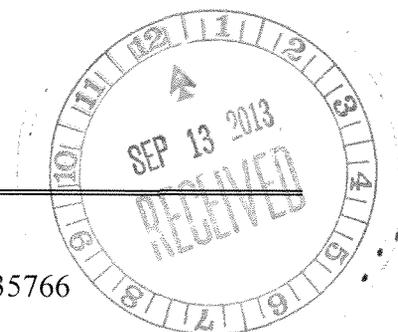
By: *Kristin M. Collins*  
Kristin M. Collins

Enc.

FEE RECEIVED  
September 23, 2013  
SURFACE  
TRANSPORTATION BOARD

FILED  
September 23, 2013  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD



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City of Belfast, Maine –	)	
Acquisition Exemption –	)	Finance Docket No. 35766
Certain Assets of Belfast and Moosehead	)	
Lake Railroad Company	)	

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**VERIFIED NOTICE OF EXEMPTION**

The City of Belfast, Maine, a noncarrier municipality, files this request pursuant to 49 U.S.C. §§ 10901 and 10502, and 49 C.F.R. §1150.31 *et seq.* for approval of its 2010 acquisition of certain right-of-way and trackage located within the City of Belfast, Maine and formerly held by the Belfast and Moosehead Lake Railroad Company.

**I. Procedural History / Basis for Filing**

In 2010, the City of Belfast, Maine (“the City”) purchased title to a portion of the Belfast and Moosehead Lake Railroad (“BMLRR”) running from Pierce Street in downtown Belfast to the Belfast/Waldo town line (MP 3.14) The City filed a Notice of Exemption (AB-1109-X) with the Board on June 25, 2013 to abandon a portion of the line, and it simultaneously sought a Certificate of Interim Trail Use so that the facility may be used as a public recreational trail.

The Surface Transportation Board (the “Board”) and the City recognized after the abandonment filing that the City had not previously sought or received Board approval of its acquisition of the subject portion of line. The Notice of Exemption proceeding remains pending under Docket Number AB-1109-X while the City files the present request. Through this Notice of Exemption, the City seeks to resolve any question as to the City’s standing and its right to

seek the Notice of Exemption in the abandonment proceeding, and to proceed with railbanking of the line.<sup>1</sup>

## **II. Ownership / Use History**

The BMLRR was chartered by the Maine Legislature in 1867 and built in 1870 with funds furnished by the City of Belfast and other municipalities along the line, with the City of Belfast continuing to own the controlling stock in the corporation through most of the 20<sup>th</sup> century.

In the early 1990s, private investors bought the controlling stock in the BMLRR from the City of Belfast. In 1995, the BMLRR sold to the State of Maine the portion of line running from the Belfast/Waldo Town Line at MP 3.14 (Station 1566+40.5) to Burnham Junction, and various operators have since run tourist traffic over the State's portion of line through a series of leases and operating agreements.<sup>2</sup> The last freight shipment ran on the portion of line subject to this Notice in approximately 1996. From that date until the present, the only traffic on the subject portion of this line has been closed-loop tourist excursions operated by a variety of lessees.

The BMLRR's majority shareholder died in 2001 and the BMLRR proceeded to liquidate its assets. The BMLRR released the portion of line subject to the Notice of Exemption to Unity Property Management by deed dated October 17, 2003.<sup>3</sup> Unity Property Management, Inc. was a

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<sup>1</sup> The Board has previously approved acquisitions that already occurred, in order to allow the applicant to proceed with an abandonment request. *See V and S Ry., LLC – Acquisition and Operation Exemption – Colorado Dept. of Transp.*, FD 35664 (STB served Nov. 13, 2012).

<sup>2</sup> *See State of Maine, Dept. of Transp. – Acquisition Exemption – Certain Assets of Belfast & Moosehead Lake R.R.*, FD 32764 (ICC served Nov. 14, 1995). (Note that this decision and the related deed cite the correct station location, but incorrectly state that this station is located at the Belfast/Swanville town line. This station is actually located at the Belfast/Waldo town line.)

<sup>3</sup> See Release Deed dated October 17, 2003 and recorded in the Waldo County Registry of Deeds at Book 2880, Page 52 (attached as Exhibit A).

corporation formed in June 2003 to hold the assets of the BLMRR upon its dissolution. It never sought STB approval of its acquisition.

The BMLRR was officially dissolved on November 30, 2003, and Articles of Dissolution were recorded with the Maine Secretary of State on December 18, 2003. Unity Property Management continued to hold the railroad property from 2005 until 2010. While Unity Property Management did engage with other entities to operate tourist trains on the line, at no point did Unity Property Management or its lessees ever provide interstate freight or passenger connections.

The City Council authorized the City's acquisition of the BMLRR by vote at a public meeting held on June 29, 2010.<sup>4</sup> Unity Property Management conveyed the railroad property to the City of Belfast by Release Deed dated July 2, 2010.<sup>5</sup> This deed specifically described the portion of the railroad running from Pierce Street located in downtown Belfast to the Belfast/Waldo town line (MP 3.14). The State of Maine Department of Transportation was notified of this transaction and issued a release of its first right of refusal to purchase the transferred line, pursuant to 23 M.R.S.A. § 7105. However, the City of Belfast was not a railroad carrier and was not aware of any requirement to have the Board approve its acquisition. The City has never intended to provide, nor has it provided any freight service. Only tourist excursion operators have used the facility since the City acquired the line.

### **III. Information Regarding the Request**

The City of Belfast requests Board approval of its 2010 acquisition from Unity Property Management, LLC, of the portion of the BMLRR running from Pierce Street located in

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<sup>4</sup> See minutes of Council meeting, attached as Exhibit B.

<sup>5</sup> See Release Deed dated July 2, 2010 and recorded in the Waldo County Registry of Deeds at Book 3455, Page 156 (attached as Exhibit C).

downtown Belfast, Maine, to the Belfast/Waldo town line (MP 3.14). The City of Belfast intends to pursue its previously-filed Notice of Exemption and Request for Public Trail Use filed under Docket Number AB-1109-X for the portion of line running from MP 0.33 to MP 2.33 at City Point. There is currently no freight traffic using that portion of the line.

The City of Belfast was not a common carrier subject to the jurisdiction of the Board as of the date of its acquisition of the subject portion of line. It is a municipal entity that had never wholly owned, either in its own name or through a subsidiary, any active railroad lines. Likewise, the City has never provided, or held itself out to provide, freight railroad services. While the City of Belfast had formerly held a controlling share of stock in the BMLRR, the BMLRR remained a separate, private entity.

At the present time, the City of Belfast does not have the capacity to provide interstate connections for passengers or freight, and is under no operating agreement with any railroad carrier. No freight railroad service has been requested since approximately 1996. The City intends that for the foreseeable future, the only use that will be made of the portion of line not subject to the requested railbanking will be the existing tourist excursion railroad. The City does have a current lease agreement with Brooks Preservation Society, a nonprofit entity, by which Brooks operates a tourist excursion service from “City Point” (MP 2.33) to the Belfast/Waldo town line. Brooks Preservation Society continues northward on the line by agreement with the State of Maine. The City does not believe that Brooks Preservation Society would be considered an “operator” such that it would be required to join in this application pursuant to 49 CFR § 1150.3(c).

#### **IV. Information Regarding the Applicant**

##### Name and Address

The City of Belfast, Maine  
131 Church Street  
Belfast, ME 04915

##### Designated Representative

Kristin M. Collins, Esq.  
Kelly & Collins, LLC  
96 High Street  
Belfast, ME 04915  
(207) 338-2702

#### **V. Eligibility for Exemption / Public Interest**

49 U.S.C. § 10502 authorizes an exemption from full review under Section 10901 where such review is not necessary to carry out the transportation policy of Section 10101 and the transaction is of limited scope. The scope of the 2010 transaction was minor, given the less than three mile length of the line, as well as the lack of any freight railroad service being performed on the line.

The City of Belfast acquired the subject portion of line with the express goal of ensuring continued public use of the rail corridor. The City Council continues to believe that the most publicly beneficial use of the rail corridor at the present time is for a combined tourist rail and recreational trail use. If the City's current Notice of Exemption in the abandonment docket and Certificate of Interim Trail Use requests are approved, the City intends that recreational trail use will be made of the portion of line running from Milepost 0.33 to Milepost 2.33, and excursion rail use will continue to be made of the remainder of the line. The City Council's plans have been developed following a great deal of public input received at several public hearings both prior to and following its acquisition of the line. If the railbanking request is approved, the entire

portion of the City-owned line will remain available for interstate freight or passenger traffic if such use becomes necessary.

**VI. Map**

A map of the portion of line acquired in 2010 is attached as Exhibit D.

**VII. Environmental and Energy Review**

No environmental assessment is required for these proceedings pursuant to 49 C.F.R. Part 1105.6(c)(2). However, the City already submitted an Environmental and Historic Report to the Office of Environmental Analysis as part of its filings under Docket No. AB-1109-X. The Office of Environmental Analysis issued a favorable Environmental Assessment on July 19, 2013.

**VIII. Certification Regarding Revenues**

The City of Belfast derives only de minimus revenue from the use of the subject portion of line, and such amount does not exceed the threshold that would classify the City as a Class III carrier.

**IX. Public Notice**

A summary of the proposed notice for publication in the Federal Register is attached as Exhibit E.

**X. Filing Fee Waiver**

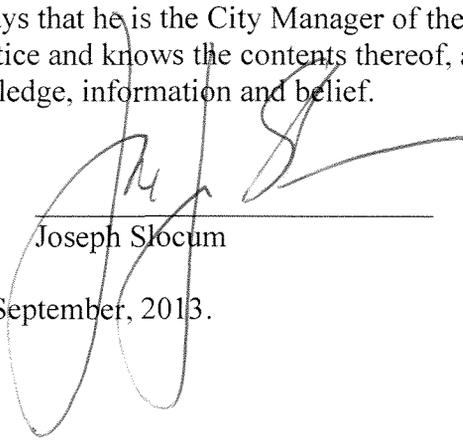
Waiver of the filing fee is requested pursuant to 49 C.F.R. § 1102.2(e)(1).

**XI. Verification**

STATE OF MAINE

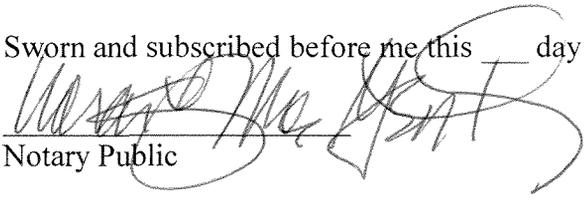
WALDO, ss.

Joseph Slocum, being duly sworn, deposes and says that he is the City Manager of the City of Belfast, Maine, that he has read the foregoing Notice and knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.



\_\_\_\_\_  
Joseph Slocum

Sworn and subscribed before me this \_\_\_\_\_ day of September, 2013.



\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**NORA E. MCGRATH**  
**Notary Public, Maine**  
**My Commission Expires February 27, 2019**

No Transfer Tax Paid

KELLY & ASSOCIATES, LLC, 96 High Street • Belfast, ME 04915

### RELEASE DEED

**BELFAST AND MOOSEHEAD LAKE RAILROAD**, a Maine Corporation having a place of business in Unity, Maine, for valuable consideration, hereby release to **UNITY PROPERTY MANAGEMENT**, a corporation organized under the laws of Maine with its principal place of business in Unity, Waldo County, State of Maine, with a mailing address of P.O. Box 165, Unity, Maine, all its right, title and interest in and to all real property, together with all the buildings and fixtures located thereon located in **Belfast**, Maine, more particularly described as follows, to wit:

Parcel One:

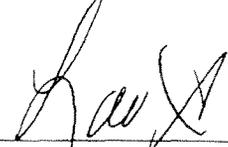
A certain parcel beginning on the south side of Pierce Street, Belfast, Maine, and continuing north 2.97 miles, more or less, to the city line between the City of Belfast and the Town of Waldo, ranging in width from 17 feet to 100 feet, containing 40.6 acres, more or less, depicted on Map 8 as a portion of Lot 84 in the tax records for the City of Belfast and further referenced in Book 1665, Page 246, Waldo County Registry of Deeds.

Parcel Two:

A certain parcel located on Oak Hill Road, Belfast, Maine, containing 5.50 acres more or less, with 1,137 feet of frontage, more or less, on Oak Hill Road, depicted on Map 8 as Lot 44 in the tax records for the City of Belfast and further referenced in Book 1665, Page 246, Waldo County Registry of Deeds, and Book 1952, Page 77, Waldo County Registry of Deeds.

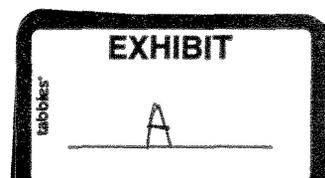
In witness whereof I set my hand this 17<sup>th</sup> day of October, 2003.

BELFAST AND MOOSEHEAD LAKE RAILROAD

by: 

Lawrence, J. Sterrs, Chairman of the Board of Directors, duly authorized

\_\_\_\_\_  
Witness

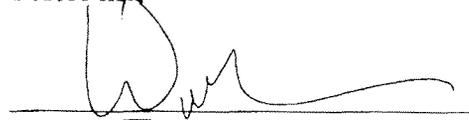


October, 17<sup>th</sup> 2003

STATE OF MAINE  
COUNTY OF WALDO, SS.

Then personally appeared before me the above named Lawrence J. Sterrs, in his capacity as Chairman of the Board of Directors of the Belfast and Moosehead Lake Railroad, and acknowledged the foregoing instrument to be his free act and deed in said capacity.

Before me,



Notary Public / Attorney at Law

WILLIAM S. KELLY, ESQ.

WALDO SS: RECEIVED

Jan 09, 2006  
at 09:30:57A  
ATTEST: Deloris Page  
REGISTER OF DEEDS

**CITY OF BELFAST  
SPECIAL CITY COUNCIL MEETING  
Belfast City Hall  
June 29, 2010  
7:00 P.M.**

Mayor Ash called the meeting to order.

**Present:** Mayor Walter Ash, Jr., Councilors Marina Delune, Roger Lee, Eric Sanders, Michael Hurley and Lewis Baker, City Manager Joseph Slocum and City Clerk Roberta Fogg.

City Clerk Fogg led the assembly in the Pledge of Allegiance.

**Adoption of Agenda**

Councilor Hurley, seconded by Councilor Sanders, made a motion to adopt the agenda as presented/amended. This was unanimously voted 5-0.

**Business**

**Discussion and action on the City of Belfast purchasing the railroad line extending to the Waldo town line, with financial assistance from the Coastal Mountain Land Trust.**

City Manager Slocum updated the council on a title search completed by Attorney Lee Woodward. He explained the railroad taking and what that determination would mean to the City of Belfast if we were to purchase this railroad line. He updated the council the proposed agreement between the City and Coastal Mountain Land Trust. If we go forward with this purchase we are making a commitment to develop a trail and continue the rail for the long term.

Councilor Lee asked if the council wants to approve the purchase do you have language for that motion.

Councilor Lee, seconded by Councilor Hurley, made a motion to approve the City of Belfast's acquisition of a rail corridor from Unity Property Management from the northern terminus of what is commonly referred to as the Penobscot McCrum Property to the Waldo Town Line (approximately 2.97 miles), for the purposes of preserving the rail corridor and also to developing a trail along that corridor in partnership with Coastal Mountain Land Trust, with an expectation that the Trust will provide \$100,000.00 of the \$200,000.00 purchase price and will further help raise funds to develop the trail with the City. This motion includes the authorization for City Manager to spend \$200,000.00 from the City's Undesignated Fund balance to acquire this rail corridor on behalf of the City and to pursue a memorandum of understanding with the Coastal Mountain Land Trust consistent with this motion. Councilors Delune, Lee, Sanders and Hurley, in favor. Councilor Baker opposed. Motion passed 4-1 after discussion.

Uexor  
3/11/11 12:00 PM  
YM 111 21 10111

<b>EXHIBIT</b>
B

tabbies

Scott Dickerson, resident of Lincolnville and representative of Coastal Mountain Land Trust explained what their concept is, to get people with bikes, strollers, and handicapped access along the trail. Phase one would be approximately 8' to 10' wide to the former bridge at the Beaver Tail.

Councilor Delune asked to amend the motion that there is an expectation that Coastal Mountain Land Trust to donate a \$100,000.00 toward the purchase of this property. Councilor Lee and Councilor Hurley accepted amendment to their original motion.

Mayor, Councilors, City Manager, Scott Dickerson, Coastal Mountain Land Trust and Russ Barber, resident of Belfast representing Brooks Preservation Society discussed the purchase of the railroad line.

(Manager's note on the motion: It is anticipated that the City will acquire the rail corridor and pay the full \$200,000 purchase price before July 2, 2010 when the Purchase and Sale agreement entered into by the City with Unity Property Management expires. Following that, a Memorandum of Understanding, presently in draft form, will be entered into with Coastal Mountain Land Trust. The City expects that Memorandum to be approved by the Trust Board on July 20<sup>th</sup>, 2010. The City will then work out a reasonable time with the Trust for the payment by the Trust to the City of the \$100,000 contribution toward the purchase price.)

**Discussion and action on authorizing the City Manager to expend funds pending final adoption of the 2010-2011 budget.**

City Manager Slocum explained that we would need authorization to expend funds for necessary expenses from July 1<sup>st</sup> until the budget is adopted at the July 20<sup>th</sup> Council Meeting.

Councilor Baker, seconded by Councilor Sanders, made a motion to authorize the City Manager to expend funds pending final adoption of the 2010-2011 budget. This was unanimously voted 5-0.

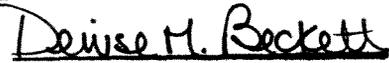
**Other Business - None**

**Adjourn**

Councilor Sanders, seconded by Councilor Lee, made a motion to adjourn at 7:34pm. This was unanimously voted 5-0.

Attested:   
Roberta L. Fogg, City Clerk

I HEREBY CERTIFY THAT THE ABOVE  
IS A TRUE COPY OF INFORMATION  
ON THE RECORD WHICH IS IN MY  
OFFICIAL CUSTODY.

ATTEST   
CITY CLERK, BELFAST MAINE

**RELEASE DEED**

**Know All Persons by These Presents** that **UNITY PROPERTY MANAGEMENT, INC.** a/k/a **UNITY PROPERTY MANAGEMENT**, a Maine Corporation having its principal offices in the Town of Unity, County of Waldo, State of Maine,

in consideration of one dollar and other valuable considerations

paid by the **INHABITANTS OF THE CITY OF BELFAST**, a Municipal Corporation located in the County of Waldo, State of Maine, and whose mailing address is 131 Church Street, Belfast, Maine 04915,

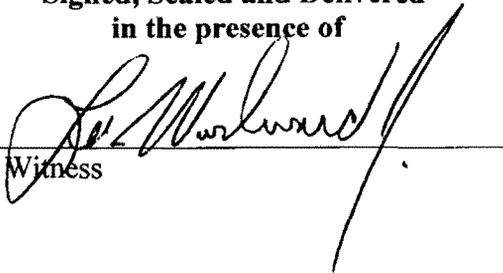
the receipt whereof it does hereby acknowledge, does hereby **give, grant, bargain, sell and convey** and forever **releases** unto the said Inhabitants of the City of Belfast, its successors and assigns forever,

All right, title and interest in and to that certain lot or parcel of land, together with improvements thereon, situated in the City of **BELFAST**, County of Waldo, State of Maine, more particularly bounded and described in Schedule A, attached hereto and made a part hereof.

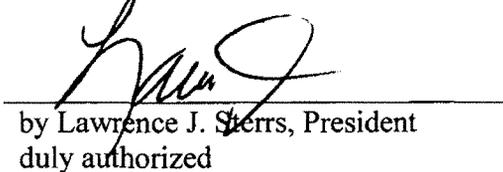
**To have and to hold** the aforementioned and bargained premises, with all the privileges and appurtenances thereof, to the said Inhabitants of the City of Belfast, its successors and assigns, to its use and behoof forever.

**In Witness Whereof**, the said Unity Property Management, Inc., a/k/a/Unity Property Management, has hereunto caused this instrument to be signed and sealed by Lawrence J. Sterrs, its President, duly authorized, this 20<sup>th</sup> day of the month of July, 2010.

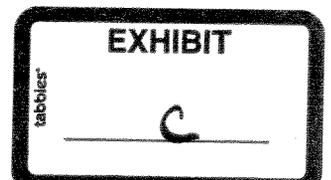
Signed, Sealed and Delivered  
in the presence of

  
Witness

Unity Property Management, Inc.  
a/k/a Unity Property Management

  
by Lawrence J. Sterrs, President  
duly authorized

**"MAINE REAL ESTATE  
TRANSFER TAX PAID"**

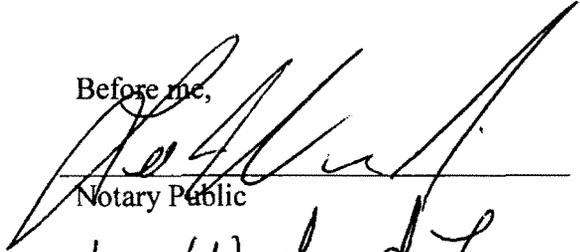


State of Maine, County of Waldo

7-2, 2010

Then personally appeared the above named Lawrence J. Sterrs and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said corporation.

Before me,



Notary Public

Lee Woodward Jr.

Printed Name

My Commission Expires 1-1-2010

LW/ch  
RE-Belfast-Unity Property Management, Inc. to Belfast rd

## SCHEDULE A

All right, title and interest in that certain lot or parcel of land, together with improvements thereon, including but not limited to, railroad tracks, rail beds, bridges, ties and related improvements, in the City of Belfast, County of Waldo, State of Maine, commencing northerly of Pierce Street at the northerly line of lands of Penobscot McCrum, LLC, as described in Waldo Registry Book 2590, Page 96, and Waldo County Land Co., LLC, recorded in Waldo Registry Book 2913, Page 159, and continuing northerly two and ninety hundredths (2.90) miles, more or less, to the city line between the City of Belfast and the Town of Waldo. The premises herein conveyed is that portion of Lot 84 on Tax Map 8 as is located northerly of the aforementioned Penobscot McCrum/Waldo County Land Co. properties and southerly of the Waldo town line. The strip of land herein conveyed ranges in width from approximately sixty-six (66) feet in width to one hundred (100) feet in width and is a portion of that premises conveyed to Unity Property Management by deed from the Belfast and Moosehead Lake Railroad, dated October 17, 2003, recorded in Waldo County Registry of Deeds Book 2880, Page 52.

The premises herein conveyed is further depicted upon plans entitled "Right-of-Way and Track Map - Belfast & Moosehead Lake R. R. Operated by the Maine Central Railroad Company," Section V-II, Sheets 30, 31, 32 and 33, such plans being on file at the Waldo County Registry of Deeds.

For historical title purposes, reference may be had to those two awards issued by the Waldo County Commissioners in the County of Waldo Record Book 5, Pages 31 and 191, together with that deed from the Maine Central Railroad Company, dated January 12, 1927, recorded in Waldo County Registry of Deeds Book 381, Page 379.

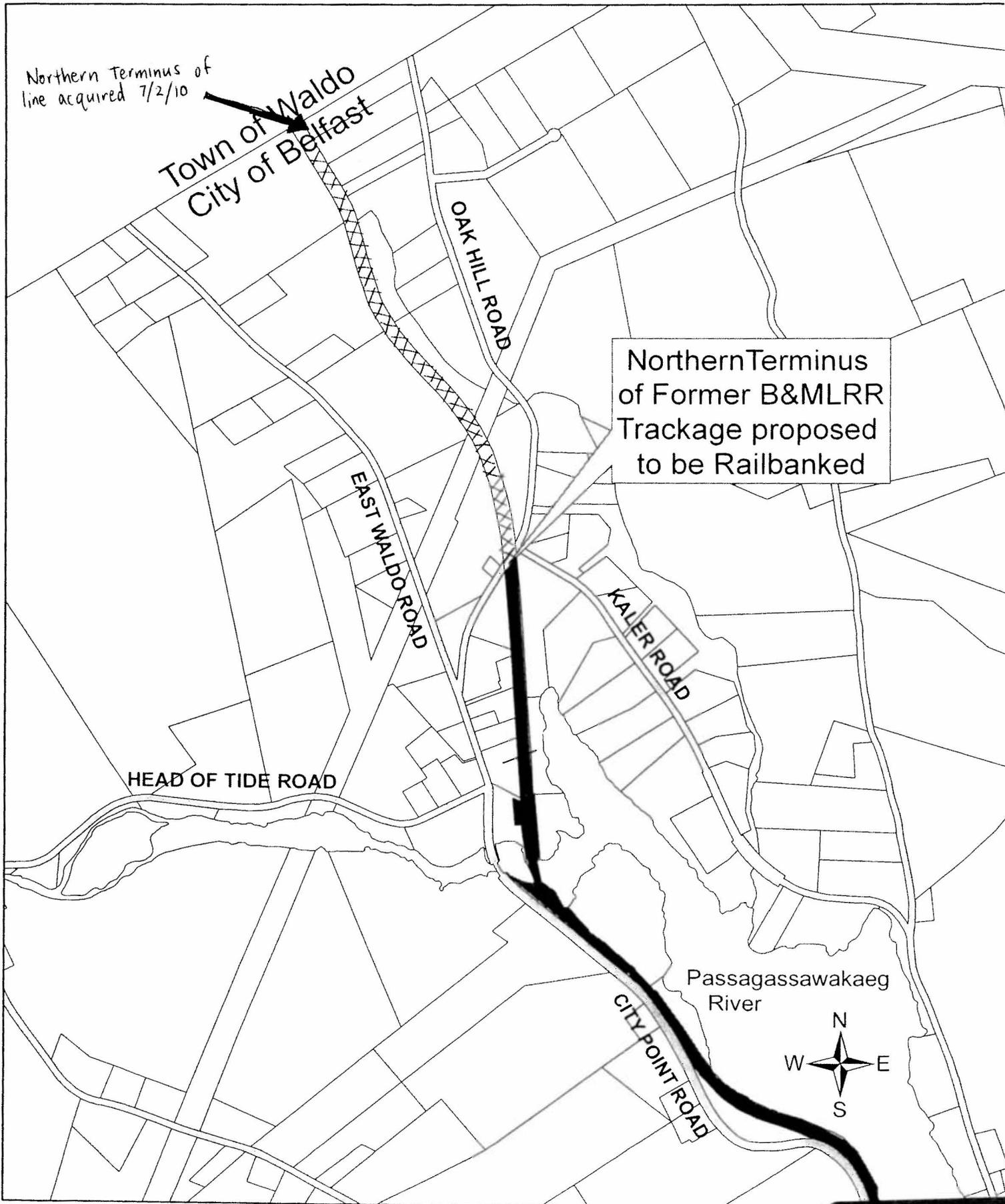
It is meant and intended to describe and convey and does hereby convey all that portion of Parcel One as described in the Release Deed from Belfast and Moosehead Lake Railroad to Unity Property Management, dated October 17, 2003, recorded in Waldo Registry Book 2880, Page 52, as lies northerly of the Penobscot McCrum/Waldo County Land Co. properties.

LW/ch  
RE-Schedule A-Unity to Belfast

WALDO SS: RECEIVED

Jul 02, 2010  
at 02:49P  
ATTEST: Deloris Puse  
REGISTER OF DEEDS

# FORMER B&MLRR TRACKAGE PROPOSED TO BE RAILBANKED

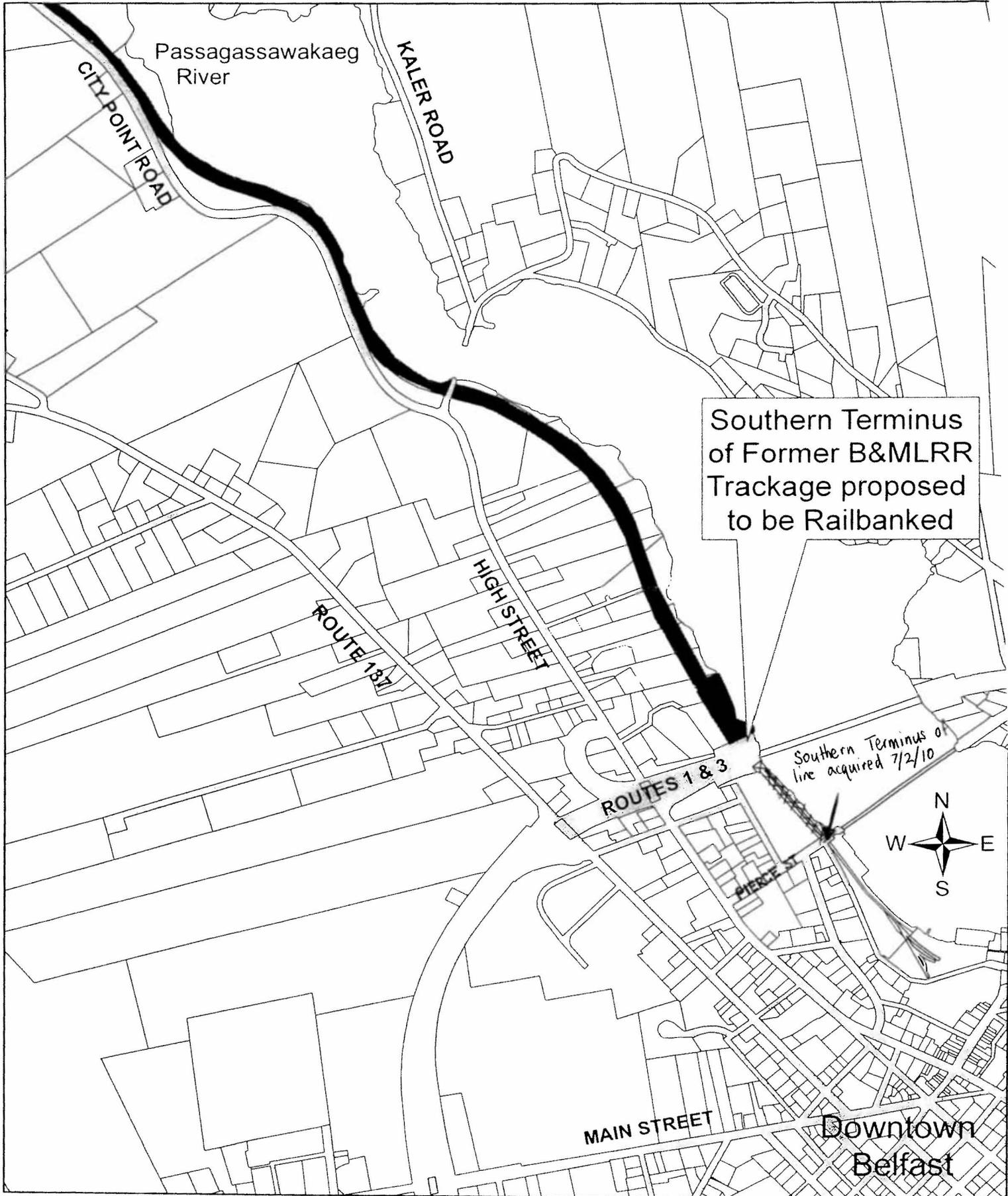


APRIL 2013 1,000 500 0 1,000 2,000 3,000 Feet BE



**EXHIBIT**  
D

# FORMER B&MLRR TRACKAGE PROPOSED TO BE RAILBANKED



SURFACE TRANSPORTATION BOARD

*Notice of Exemption*

FINANCE DOCKET NO. 35766

THE CITY OF BELFAST, MAINE – ACQUISITION EXEMPTION – CERTAIN  
ASSETS OF BELFAST AND MOOSEHEAD LAKE RAILROAD COMPANY

The City of Belfast, Maine has filed a notice of exemption to approve its 2010 acquisition of certain assets of the Belfast and Moosehead Lake Railroad Company's line between Pierce Street in downtown Belfast, Maine (MP 0.33) and the Belfast/Waldo town line (MP 3.14).

Comments must be filed with the Board and served on Kristin M. Collins, Esq., Kelly & Collins, LLC, 96 High Street, Belfast, Maine 04915, (207) 338-2702.

The notice is filed under §1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

