



City of Portland City Manager Search Subcommittee Meeting

Tuesday, January 13, 2022 via Zoom

1. ZOOM INFO:

- a. This meeting will take place remotely using Zoom.

Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403A, that authorizes cities and towns to conduct meetings online. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be uploaded to portlandmaine.gov/livestream the next day.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82626241653?pwd=aUVPWjdZZG1IOG9PR2R2bXE2SytBQT09>

Passcode: 810707

Or One tap mobile :

US: +13017158592,,82626241653#,,, *810707# or
+13126266799,,82626241653#,,, *810707#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or
+1 346 248 7799 or +1 669 900 6833

Webinar ID: 826 2624 1653

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International numbers available: <https://us02web.zoom.us/j/82626241653?pwd=aUVPWjdZZG1IOG9PR2R2bXE2SytBQT09>

2. Call to order
3. Approve Minutes of previous meeting
 - a. Minutes from December 14, 2021 meeting
4. Review revised RFP
 - a. Review Revised RFP
5. Public Comment on RFP
6. Approve the revised RFP

7. New Business (5 minutes)
 - a. Discuss City Clerk Hiring Process
8. Schedule Next Meeting
9. Adjournment

City Manager Search Subcommittee Minutes
December 14, 2021

The December 14, 2021 City Manager Search Subcommittee meeting was called to order by Subcommittee Chair Kate Snyder at 8:07 AM on Zoom.

Mayor Kate Snyder (Chair) Councilor Pious Ali, Councilor Mark Dion, Councilor April Fournier and Tom Caiazzo (Interim Human Resources Director), Brendan O'Connell (Finance Director), Samantha Chapin, (Purchasing & Controls Manager) and Jessica Grondin (Communications Director) were present.

Motion to approve the minutes from the November 23, 2021 meeting. The motion was made by Councilor Ali and seconded by Councilor Fournier. Roll call vote Councilor Dion – yes, Councilor Ali – yes, Councilor Fournier - yes and Mayor Snyder – yes. Motion passed unanimously.

Mayor Snyder opened the meeting by discussing what an RFP would look like and at our next meeting on January 11, 2022 the intention is to include any comments from the committee today included in the next iteration of the draft RFP so we can engage public comment and then vote. At our next meeting the subcommittee would act on the RFP in order to put the RFP out for applications.

The meeting was turned over to Brendan O'Connell and Samantha Chapin to explain the documents in the agenda packet.

Brendan O'Connell went over the draft RFP and what the language represents. Brendan explained that the evaluation criteria was the area that we can really tailor the RFP to what the City of Portland wants.

Mayor Snyder went over her concerns with the draft RFP.

Councilor Dion brought up his concerns with putting a paragraph into the background that really expresses how diverse a City that Portland is.

Councilor Fournier stated that she agreed with Councilor Dion about the diversity piece. Councilor Fournier also expressed that she really liked the breakdown in the evaluation criteria from the Durham NC RFP. Brendan and Samantha explained that we can be as detailed or generic as we feel is necessary to get the RFP out for applications.

There was much discussion regarding the evaluation criteria and whether to expand and/or expound on the elements contained in the Portland draft RFP.

The next meeting date will be January 11, 2022. The City will make the necessary edits to the draft RFP and have that ready for the January 11, 2022 meeting.

Motion made to adjourn by Councilor Ali and seconded by Councilor Fournier. The motion passed unanimously. Meeting was adjourned by Chair Snyder at 8:42 AM.



City of Portland

Human Resources Department

Request for Proposal
Executive Recruitment Consulting Services
City Manager

RFP #220XX

November xx, 2021

Executive Recruitment Consulting Services – City Manager

Sealed proposals from firms interested in providing Executive Recruitment Consulting Services in the search for a new City Manager for the City of Portland shall be submitted electronically to bidssubmit@portlandmaine.gov with the name of the Proposer, Contract Name and RFP number in the subject line and will be received until 3:00 p.m. local time, **DAY/DATE**, at which time they will be opened and read. Proposals may also be submitted via USPS, UPS or FedEx to the City of Portland, Purchasing Rm. 103, 389 Congress St., Portland ME 04101. In-person submission is not currently allowed due to City Hall being closed to the public. It is the proposer's sole responsibility to ensure that their proposal is received prior to the date and time specified. Late, faxed or unsigned proposals shall not be accepted.

Proposals shall remain open to acceptance for ninety (90) days from their opening.

Proposals include the City provided proposal form(s), being signed with the firm's name, and bearing the handwritten signature of an officer or authorized individual having the authority to bind the company to a contract by his/her signature.

The City is interested in receiving proposals from experienced executive search firms to assist in recruiting applicants for the position of City Manager.

The consultant shall provide a comprehensive scope of recruitment and hiring services, and will be charged with conducting a national search. Services include: conducting a robust community engagement process with the City (Council, staff, citizens) to clarify expected qualifications, skills, experience and leadership skills sought in a City Manager; preparation of a job announcement and recruitment materials; conduct preliminary interviews on selected candidates; coordinate any travel arrangements; conduct actual recruitment including scheduling, reviewing, and checking qualifications and references of candidates; conducting background checks; and assisting in all aspects of selection and hiring. The search process is anticipated to take place over the next six months.

QUESTIONS

Questions must be submitted in writing to the Purchasing Office and be received no later than five days prior to the RFP due date - these may be faxed to 207-874-8652 or e-mailed to slchapin@portlandmaine.gov. The Purchasing Office will be the only office issuing any changes to this Invitation. All changes, addenda, will be in writing and will be sent only to those firms on file in Purchasing as having received this document. **The City shall not be responsible for any oral interpretation given by City personnel or others.**

Copies of the above documents will be available by contacting the City of Portland Purchasing Office either via e-mail at JRL@portlandmaine.gov, or phone (207) 874-8654. Each prospective proposer will be required to obtain from the City each copy of the proposal forms.

Proposals from vendors not registered with the Purchasing Office may be rejected; receipt of this document directly from the City of Portland Purchasing Office indicates registration. Should a vendor receive this Request from a source other than the City Purchasing Office, please contact 207-874-8654 to ensure that your company is listed as a vendor for this RFP.

DRAFT

EQUAL EMPLOYMENT OPPORTUNITIES

CONSULTANT agrees to adhere to a policy of non-discrimination in all employment actions, practices, policies, procedures, phases, and conditions of employment. This shall include compliance with the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37 and all other applicable laws, including the Maine Human Rights Act, ordinances and regulations regarding equal opportunity and equal treatment. CONSULTANT specifically agrees that all employment-related decisions (including but not limited to hiring, discharge, transfers, promotions, discipline, training, job opportunities, and wage and salary levels) will be made without discrimination based on an individual's race or color, religion, age, sex (including pregnancy), sexual orientation, gender identity or expression, ancestry or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a claim or right under Maine's Workers' Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act, or any other protected group status as defined by applicable law. Provisions in applicable laws providing for bona fide occupational qualifications, business necessity, or age limitations will be adhered to by the CONSULTANT where appropriate.

INSURANCE REQUIREMENTS

Prior to the execution of an Agreement, the CONSULTANT will procure and maintain:

- Occurrence based Commercial General Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage, including completed operations coverage for no less than two years following completion of the Work;
- Occurrence-based Automobile Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage;
- Workers' Compensation Insurance coverage to the extent required by law, which shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees;

With respect to the Commercial General Liability and Automobile Liability Insurance, the CONSULTANT shall name the CITY as an additional insured for coverage for claims for which the City does not have governmental immunity, including, without limitation, those areas where government immunity has been expressly waived as set forth in 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the CITY. Prior to execution of this Agreement, the CONSULTANT shall furnish the CITY and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days' notice to the CITY of termination

of insurance from the insurance provider or agent. CONSULTANT shall also provide a copy of any endorsement naming the CITY as additional insured. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees. Upon CITY'S request, CONSULTANT shall provide CITY with a complete copy of any of the above-referenced policies. CONSULTANT shall be responsible for any and all deductibles and/or self-insured retentions (not to exceed \$10,000.00 without prior written approval of Corporation Counsel). CITY's acceptance or lack of acceptance of CONSULTANT's Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of the CONSULTANT's obligation to obtain and maintain such insurance as required by this agreement. If the CONSULTANT maintains broader coverage and/or higher limits than the minimum shown above, the CITY requires and shall be entitled to the broader coverage and/or higher limits maintained by the CONSULTANT. *(In the event that the CONSULTANT requires access to the City's network or if the CONSULTANT will be accessing or storing any sensitive City data, the City may also require CONSULTANT to carry cyber liability insurance).*

During the evaluation process, the Selection Committee and the City of Portland reserve the right to request additional information or clarifications from proposers. At the discretion of the Selection Committee, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The City reserves the right to waive any informalities in Proposals, to accept any bid or portions thereof (proposers are advised to note this and quote accordingly) and to reject any or all Proposals should it be deemed for the best interest of the City to do so. The City reserves the right to substantiate the proposer's qualifications, capability to perform, availability, past performance record and to verify that the proposer is current in its obligations to the City, as follows:

Pursuant to City procurement policy and ordinance, the City is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Proposers who are delinquent in their financial obligations to the City must do one of the following: bring the obligation current, negotiate a payment plan with the City's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful proposer. It is the custom of the City of Portland, Maine to pay its bills 30 days following equipment delivery and acceptance, and following the receipt of correct invoices for all items covered by the purchase order. In submitting Proposals under these specifications, proposers should take into account all discounts; both trade and time allowed in accordance with this payment policy and quote a net price. The City is exempt from the State's sales and use tax as well as all Federal excise taxes.

November xx, 2021

Samantha L. Chapin
Purchasing & Controls Manager

Background Information

The City of Portland (population: 68,408) is the largest city in Maine situated on Casco Bay in the southern Maine county of Cumberland. It is a regional economic and cultural hub for seacoast Maine and lies 100 miles north of Boston, Massachusetts. Settled in 1632, Portland has a total area of 69.44 square miles that has established itself as a highly desirable place to live and work.

The City of Portland has long been a welcoming city, a city that strives to be inclusive where everyone, from all backgrounds and experiences, can have a strong sense of belonging.

The City of Portland's racial, ethnic and linguistic make-up has changed dramatically, especially in the past 10 years. A major contributing factor is the arrival of immigrants, refugees and asylum seekers to Portland from many countries around the world, particularly the Central Lakes region in the African continent. Unlike the State of Maine, the Portland Public School district now has 24 percent of students who are black or African, 7 percent who are Asian, 6 percent who are Hispanic/Latino and 4 percent who identify themselves as multiracial. About 32 percent of students speak a primary language other than English at home. Of the 57 languages spoken, the five most spoken at home are French, Spanish, Somali, Arabic, and Portuguese (due to the rising population from Angola).

The City's Office of Economic Opportunity strives to support this strong sense of belonging in many aspects of City life, primarily through economic inclusion initiatives to support their financial stability through workforce development, skills training and entrepreneurship. Today, several of its key cornerstone initiatives are recognized as national best practices, most notably: its Portland Professional Connections Program (PPC) and its Natural Helpers Leadership Program. PPC connects internationally trained professionals with Portland based professionals in the same field/industry to expand their career advancement in their new City. While the Natural Helpers program connects the "mega-helpers" across Portland's immigrant communities to resources to help them support their own communities navigating such as finding a doctor, enrolling children in school, learning about recreation and cultural opportunities, childcare resources, job opportunities, legal services, transportation, housing, and more. The program further helps this population formalize their leadership skills, draw on their own lived experiences, connect with others in different communities and enhance their awareness of the many resources that exist in our city.

According to a [report](#) prepared by the City's Office of Economic Opportunity and the New American Economy, the immigrant population in the metro area increased 3.9% between 2011 and 2016, while the overall metro population grew 1.6%. During that same time, 75% of Portland's demographic growth was attributed to the immigrant population.

The City Manager's position along with the City Clerk and city attorney, are appointed by the City Council. The City Manager appoints and manages all other city department heads.

The City Manager is part of the Executive Department and is the chief administrative officer of the city. The manager's primary responsibilities include providing and maintaining the essential city services through the efficient and effective management and operation of the city under the direction of the mayor and City Council. The City Manager executes the policy direction set by the

Mayor and City Council, as well as citizen referendum, through the management of 13 city departments and approximately 1,400 employees.

Responsibilities of the City Manager:

In addition, the manager assumes responsibility for:

- Preparing and administering the annual budget
- Directing day-to-day operations
- Hiring, supervising, evaluating and disciplining personnel under their authority
- Developing and administering internal city policies and procedures
- Recommending policies or programs to the City Council
- Attending council meetings
- Ensures citizen complaints are handled in a timely and professional manner
- Represents the city and serves as a liaison of a variety of boards, organizations, committees, and commissions

The City has an Aa1 bond rating as of May 2021, and its taxable valuation is approximately \$14.6 billion. The FY 2022 General Fund Budget was approximately \$212 million. Enterprise funds are as follows:

Water and Sewer Enterprise funds appropriated another \$31.6 million together.
The Portland International Jetport funds appropriated \$23.9 million and the Fish Pier \$421,000.

Scope of Services

The City is seeking proposals from experienced executive search firms to assist in all aspects of the recruitment process for its next City Manager. Preferred consultants will demonstrate familiarity with qualifications required of local government executives, and will propose a plan for scheduling and conducting a national search; the selected firm will work closely with the City Council to assess the Council's goals and objectives for the recruitment process.

Administrative aspects of the search will be coordinated through the City's Finance and Human Resources Departments.

The scope of services is presented for reference – the final scope of work will be developed in consult with the City. Services to be provided by the consultant include but are not limited to:

1. Create a schedule of recruitment with a timeline of development of recruitment materials, screening, and interviews.
2. Develop a candidate profile for the City Manager by meeting with City Council, staff, and community members to obtain information regarding specific issues and opportunities facing the City, the desirable education, experience and background of the candidates, and identification of the management skills and style that are appropriate for the position.
3. Develop an inclusive strategy for implementing the City Manager recruitment, and identify potential contacts through personal outreach to encourage applicants from diverse

backgrounds to apply.

4. Review resumes for background and qualifications followed by interviews to clarify each applicant's experience and credentials and to prepare a written summary of preliminary candidates (10-15), for the position, with the most promising qualifications.
5. Evaluate candidates for serious consideration by conducting in-depth reference checks with individuals who are or have been in the position to evaluate the candidates' performance on the job. A short list of candidates shall be presented to the City Council.
6. Recommend and finalize a process with the City Council for interviews and coordinating candidates' participation in interviews.
7. Verify selected candidates educational and employment background, financial/credit, newspaper research and coordinating criminal and civil litigation checks.
8. Assist City Council in structuring the job offer (including a recommendation on compensation), the employment package and relocation (if applicable) with the finalist.
9. Maintain all correspondence and record-keeping throughout the process. Notify all applicants of final decision.
10. Reinitiate additional search and screening activities, at no fee to the City, if the first search effort in unsuccessful or successful candidates leave (via resignation or termination with or without cause) the employment of the City within one (1) year of placement.

Submittal requirements are intended to enable the City to make an objective comparison of each proposal, and to select a partner that best meets the City's stated objectives.

The selected partner will be expected to execute a consulting services agreement with the City immediately following selection. See sample agreement, pages 10-15.

COVER LETTER

The cover letter is the proposer's official letter transmitting the complete proposal to the City. The cover letter must include:

- the full name and address of the proposer's organization(s);
- the state of incorporation or in which it is licensed to operate; and
- the form of business, and the name and contact information for your organization.

The cover letter should identify who will be the lead consultant responsible for all aspects of the recruitment and be signed by an individual who is authorized to commit the proposer to the obligations contained in the proposal.

FIRM NARRATIVE & RECRUITMENT APPROACH

Provide a detailed description of your proposal, describing your approach to the scope of services and schedule. Include examples of successful community outreach processes you have incorporated into recruitments, noting approaches to keeping both the community and prospective candidates well informed as to the methodology and progress of the recruitment.

Information to be provided includes but is not limited to:

- Samples of recruitment materials used in past searches;
- A proposed timetable for this search;
- Three references of chairs of past search committees, with contact information;
- Calculation of total, not-to-exceed proposed consulting fee, broken down by task categories (e.g. leadership profile development; preliminary screening; final screening and interviews; etc.) Total fee shall be shown on attached Proposal Form, page 9 of this document.

FIRM EXPERIENCE AND PERSONNEL

Please include resumes, and respective roles, of individuals expected to provide consulting services.

The City will choose a consultant that will, in its judgement, provide the highest quality of recruitment consulting services for a competitive price. The selection process may include interviews where proposers will be asked to make presentations of their recruitment approach and services.

EVALUATION CRITERIA

Proposals will be evaluated according to the following:

CRITERIA	VALUE
Qualifications and Expertise, including: • Capacity of firm to generate the necessary outreach materials professional networking, social media and other outreach and candidate evaluation and to fulfill the project schedule • Number of similar projects completed, and the manner in which they were achieved; qualifications of staff • Evidence of having completed successful community engagement components of a City Manager search process	20
Evaluation of Project Manager/Team: • Past experience with similar projects • Understanding of proposed project	20
Competitive fee proposal • Firm, Fixed, Total Cost to the City for all Services	20
Completeness of Proposal, Methodology and Time frame: • Presentation of proposal • Narrative explanation of firm's understanding of the project objectives • A detailed description of the proposed process • Recruitment strategy and search plan • The time frame required to complete the process • Target dates for each phase/component	25
Past Performance and References • Prior experience • References	15

TOTAL	100
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SELECTION PROCESS

Proposals will be reviewed and evaluated by the City for responsiveness to this RFP.

The City may select one or more entities to invite to be interviewed, which will involve a presentation of the proposal and introduction to key staff. Additional questions regarding specific proposals may be asked at this time. Interviews will factor in the overall qualitative evaluation of Proposals.

Based upon all of the evaluation criteria and interview, the City may select a preferred consultant. The City reserves the right to negotiate with selected proposers to further refine the proposal(s). If the City is unable to reach agreement with its preferred consultant, the City may enter into negotiations with the team whose proposal was deemed to be next most advantageous to the City. Award of the contract is subject to appropriation. Contract documents will include a standard City agreement, this RFP, and the proposal.

The City reserves the right to undertake such investigation as it deems necessary to evaluate the proposals. The City reserves the right to request additional information as part of this selection process. The City of Portland also reserves the right to reject any or all submissions, to waive technical or legal deficiencies, to proceed or not with any proposal or process, and to negotiate such terms and conditions of any proposal or contract that may be in the best interest of the City. The City reserves the right to terminate or amend this process at any time.

PROPOSAL FORM**** THIS SHEET MUST BE INCLUDED IN YOUR PROPOSAL ****

The undersigned hereby declares that he/she or they are the only person(s), firm or corporation interested in this proposal as principal, that it is made without any connection with any other person(s), firm or corporation submitting a proposal for the same, and that no person acting for or employed by the City of Portland is directly or indirectly interested in this proposal or in any anticipated profits which may be derived there from.

The undersigned hereby declares that they have read and understand all conditions as outlined in this Request for Proposals, and that the proposal is made in accordance with the same.

The proposer acknowledges the receipt of Addenda numbered _____

COMPANY NAME: _____

PRINT NAME & TITLE: _____

ADDRESS: _____

EMAIL ADDRESS: _____

PHONE NUMBER: _____ FAX NUMBER: _____

TYPE OF ORGANIZATION – INDIVIDUAL, PARTNERSHIP, CORPORATION:

STATE OF INCORPORATION, IF APPLICABLE: _____

FEDERAL TAX IDENTIFICATION NUMBER (Required): _____

AUTHORIZED SIGNATURE: _____

DATE: _____

NOTE: Proposals must bear the handwritten signature of a duly authorized member or employee of the organization submitting a proposal.

Total Fee: _____ (Points Award Basis)

Please attach fee breakdown.

**AGREEMENT BETWEEN THE
CITY OF PORTLAND
AND**

THIS AGREEMENT is entered into this ____ day of _____, 2022, by and between the **CITY OF PORTLAND**, a body politic and corporate (hereinafter the “**CITY**”), and _____, a Maine corporation with a mailing address of _____ (hereinafter the “**CONSULTANT**”).

WITNESSETH:

WHEREAS, the CITY is in need of Executive Recruitment Consulting Services for the purposes of hiring a new City Manager and did advertise a Request for Proposal dated _____ (hereinafter, the “Request for Proposals”), a copy of which is attached as Exhibit A and made a part hereof; and

WHEREAS, the CONSULTANT has the requisite knowledge and technical ability to perform the required services and has submitted a proposal dated _____, a copy of which is attached as Exhibit B and made a part hereof; and

WHEREAS, after due consideration, the CITY decided to award this contract to CONSULTANT;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The CONSULTANT will furnish the services, materials, supplies, equipment and labor (hereinafter the “Work”) in accordance with the specifications contained in the Request for Proposals and the CONSULTANT’s Proposal.

The restatement in this document of any term of the Request for Proposals or Proposal shall not be deemed to waive any term not so restated. If any disagreement is found between the Request for Proposals or the Proposal and this document, then this document shall govern; and the Request for Proposals shall govern over the Proposal, to the extent they disagree; provided, however, that this document and its attachments shall be construed to be supplemental to one another to the extent possible.

2. The CONSULTANT covenants and agrees that all Work performed and furnished hereunder shall be in accordance with all applicable professional standards.

3. Prior to the execution of this Agreement, the CONSULTANT shall, at its own expense, procure and maintain:

- Occurrence-based Professional Liability Insurance for errors, omissions and negligence, in the amount of One Million Dollars (\$1,000,000.00) per claim.
- Occurrence based Commercial General Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage, including completed operations coverage for no less than two years following completion of the Work;
- Occurrence-based Automobile Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage;
- Workers' Compensation Insurance coverage to the extent required by law, which shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees;

With respect to the Commercial General Liability, Pollution Liability and Automobile Liability Insurance, the CONSULTANT shall name the CITY as an additional insured for coverage for claims for which the City does not have governmental immunity, including, without limitation, those areas where government immunity has been expressly waived as set forth in 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the CITY. Prior to execution of this Agreement, the CONSULTANT shall furnish the CITY and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days' notice to the CITY of termination of insurance from the insurance provider or agent. CONSULTANT shall also provide a copy of any endorsement naming the CITY as additional insured. A certificate that merely has a box checked under "Addl Insr," or the like, or that merely states the City of Portland is named as an Additional Insured, will not be acceptable. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees. Upon CITY'S request, CONSULTANT shall provide CITY with a complete copy of any of the above-referenced policies. CONSULTANT shall be responsible for any and all deductibles and/or self-insured retentions (not to exceed \$10,000.00 without prior written approval of Corporation Counsel). CITY's acceptance or lack of acceptance of CONSULTANT's Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of the CONSULTANT's obligation to obtain and maintain such insurance as required by this agreement.

4. To the fullest extent permitted by law, the CONSULTANT shall defend, indemnify and hold harmless the CITY, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorney's fees arising out of or resulting from the performance of this Agreement, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use

therefrom, and (2) is caused in whole or in part by any negligent act or omission of the CONSULTANT, anyone directly or indirectly employed by it, or anyone for whose act it may be liable. Such obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the CITY which otherwise exists. The extent of the indemnification provision shall not be limited by the provision for insurance in this Agreement. CONSULTANT's obligations under this paragraph shall survive termination of this Agreement. Notwithstanding anything to the contrary herein, CONSULTANT shall have no upfront duty to defend the CITY, other than for claims covered through CONSULTANT's General Liability and Automobile Liability policies, but CONSULTANT shall reimburse the CITY for all of its attorneys' fees and costs of defense to the extent of CONSULTANT's indemnity obligation herein, whether or not such fees and costs are covered by available insurance.

5. The CONSULTANT shall perform the work to the satisfaction of the Director of the Department of Human Resources (hereinafter, the "Director") who will have the right of inspection at all times, and whose approval and acceptance of the work will be a condition precedent to payments by the CITY under this Contract. The CONSULTANT acknowledges and agrees that such inspection is for purposes of approving payment alone and such inspection shall not be deemed to impose any duty or liability upon the CITY to supervise any aspect of or approve the quality of the Work.
6. Time is of the essence in the performance of this Agreement. Upon receipt of executed contracts and insurance as required, the CITY will promptly send an executed contract to the CONSULTANT, which will commence work as soon as reasonably possible. The CONSULTANT agrees to complete the entire work by _____. The time set for such completion may be extended only by written consent of the Director.
7. In the event of any dispute as to the amount, nature or scope of the work required under this Contract, the design and judgment of the Director or designee will be final and binding.
8. For performance of all the terms and conditions of this Agreement, the CITY will pay the CONSULTANT _____ Dollars (\$_____) which will include any expenses.
9. The CONSULTANT shall keep accurate records of all services performed under this Agreement and shall submit such information to the CITY on a monthly basis. Payment for such Work shall be made to the CONSULTANT not more than thirty (30) days after receipt of an invoice and acceptance of the Work by the Director or designee.
10. The CITY agrees to furnish or provide access to the CONSULTANT to any information or material in its possession which is relevant to the CONSULTANT's performance hereunder and CITY staff will cooperate with CONSULTANT. The CONSULTANT will not, without the CITY's written consent, disclose, or permit disclosure, by any officer, employee, or agent or subcontractor of CONSULTANT, of any information or material furnished or generated under this Agreement. The CONSULTANT shall be entitled to rely upon the accuracy of such information. The provisions of this Article shall not apply to information

which is published or comes into the public domain through no fault of the CONSULTANT or is required to be disclosed by law.

The following shall be requirements of this Agreement:

- (a) All data collected shall be treated as confidential material and shall be disclosed *only* to authorized CITY representatives;
 - (b) The CONSULTANT shall not disclose or permit disclosure of any information or material furnished and/or generated under this Agreement without the CITY's prior written consent; and
 - (c) All documents, data, studies, estimates, summaries and any other work or material developed under this Agreement shall be the property of the CITY and shall be promptly delivered to the appropriate Department Contact person upon completion of a particular service/assignment or upon the request of the CITY.
11. The CITY may terminate this Agreement for cause by written Notice to the CONSULTANT. In the event of such termination, the CONSULTANT shall not be entitled to any further payment under this Agreement from the date of receipt of said Notice.
 12. The CITY shall have the right to terminate this Agreement at any time for its convenience with prior written Notice to the CONSULTANT. If the Agreement is terminated by the CITY for convenience, the CITY shall pay the CONSULTANT for all Work performed and all materials purchased pursuant to this Agreement prior to receipt of such Notice.
 13. Out of concern for the public, CITY employees and the CONSULTANT's employees, all work performed by the CONSULTANT shall be in conformance with applicable local, state, and federal laws, ordinances, rules and regulations.
 14. CONSULTANT agrees to adhere to a policy of non-discrimination in all employment actions, practices, policies, procedures, phases, and conditions of employment. This shall include compliance with the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37 and all other applicable laws, including the Maine Human Rights Act, ordinances and regulations regarding equal opportunity and equal treatment. CONSULTANT specifically agrees that all employment-related decisions (including but not limited to hiring, discharge, transfers, promotions, discipline, training, job opportunities, and wage and salary levels) will be made without discrimination based on an individual's race or color, religion, age, sex (including pregnancy), sexual orientation, gender identity or expression, ancestry or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a

claim or right under Maine's Workers' Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act, or any other protected group status as defined by applicable law. Provisions in applicable laws providing for bona fide occupational qualifications, business necessity, or age limitations will be adhered to by CONSULTANT where appropriate.

15. No waiver of any breach of any one or more of the conditions of this Agreement by the CITY shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.
16. This Agreement and its attachments represents the entire and complete agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the subject matter of this Agreement. This Agreement cannot be amended except by written instrument executed by the CITY and CONSULTANT.
17. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court.
18. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. A signature in a pdf or electronic document shall be considered the equivalent of an original signature.
19. CONSULTANT warrants and represents that it has the full right and authority to enter into this Agreement, that there is no impediment that would inhibit its ability to perform its obligations under this Agreement, and that the person signing this Agreement on behalf of CONSULTANT has the authority to do so.
20. CONSULTANT may not assign its rights or obligations under this Agreement without the CITY's prior written consent.

IN WITNESS WHEREOF, the said **CITY OF PORTLAND** has caused this Agreement to be signed and sealed by _____, its City Manager, thereunto duly authorized, and _____ has caused this Agreement to be signed and sealed by _____, its _____, thereunto duly authorized, as of the day and date first above written.

WITNESS:

CITY OF PORTLAND

By: _____

Its City Manager

WITNESS:

By: _____

Its: _____

Approved as to form:

Approved as to funds:

City Corporation Counsel's Office

City Finance Director